

REGULAR MEETING

Salute to Flag: 8:043pm

OPENING STATEMENT:

This is the Regular Meeting of the Wanaque Board of Adjustment and adequate notice has been given and it has been duly advertised by the placement of a notice in the Herald News and the Suburban Trends on January 11, 2017 respectively, and a notice thereof has been posted on the bulletin board in the Municipal Building in the Borough of Wanaque and a copy thereof has been on file with the Borough Clerk

ROLL CALL: Chairman Jack Dunning, Vice Chairman Bruce Grygus, Members Peter Hoffman, Donald Ludwig, Michael Levine and Bridget Pasznik, and Attorney Ronald Mondello and Engineer Christopher Nash

ABSENT: Member Barry Hain

Member Frank Covelli arrived at 8:07pm

Application #ZBA2017-01 & 02 – Agostino Properties, LLC
18 Railroad Avenue & 20 Railroad Avenue Block 236.01/Lots 26 & 21)

OPPONENT’S EXHIBITS

- O-1 Photo Taken at 8:45am on April 4, 2018 Showing Budweiser Tractor Trailer on Erie Avenue in Front 11 Erie Avenue**
- O-2 Photo Taken at 8:45am on April 4, 2018 Showing Budweiser Tractor Trailer on Turning Onto Erie Avenue**

Edward Martin, Esq., 52 Skyline Drive, Ringwood, New Jersey on behalf of the Applicant, Agostino Properties, LLC.

Michael Walker, Esq., on behalf of adjacent property owner, Kidd Realty LLC., and my office is in Ringwood, New Jersey, and his property is identified as Block 236, Lot 21.01 .

Attorney Mondello: Any idea where we left off Attorney Martin?

Attorney Martin stated we have had two prior meetings and during those times I have had Mr. Agostino testify as well as two experts, my Professional Planner and my Professional Engineer. That testimony, at the last hearing, did include Attorney Walker cross-examining the professionals. However, since that time we have submitted a new set of plans and I would like to recall Engineer Houser to explain what changes were made to the plan.

Attorney Mondello stated I do believe this makes the most sense. Engineer Houser remains sworn in.

Attorney Martin questioned Engineer Houser that he did testify at the last meeting, is that correct?

Engineer Houser answered yes.

Attorney Martin questioned since that time, am I correct that your firm has revised the site plan that had originally been submitted to the Board regarding this matter?

Engineer Houser answered yes.

Attorney Martin asked Engineer Houser to describe all of the changes and the additions, etc. that you have made to the plan since the last version.

Engineer Houser's Testimony:

Referring to Plan dated February 12, 2018, Engineer Houser stated based on feedback from the last time we were here in December, we made several updates and changes to the plan.

i. First we had the surveyor, Mr. John Miceli, update the survey that was used as a base for the plan to include topographic information. The property is very flat, yet there are subtle changes in it and we wanted to show the existing contours of the property, so that was added to this plan.

ii. Also we added some stormwater measures. There were some concerns expressed by the public over the runoff that could be created by improving the parking lot, because currently it's compacted gravel and now we are going to be paving it. We added a stormwater drywell to the middle of the parking lot area. It is a 7' diameter almost 4' deep seepage pit surrounded by gravel with an open grate that runoff from the paved parking lot will run into. This pit was sized to handle the increase in the runoff rate that will be generated by converting the gravel to pavement, which is negligible. It is actually less than 10% increased based on the conversion. We have also included an overflow pipe from that seepage to the catch basin that is located in Erie Avenue. This is the one stormwater improvement.

iii. We also improved the lighting situation there by adding two new light fixtures. One is a wallpack light that will be mounted on the northeast corner of the main building approximately 10' off the ground. The second light will be a traditional street light that is proposed along the eastern portion of the property line in the middle parking spot that will be a light pole that is 15' high. That lighting provides an average of 1-1/2 foot candles across the parking lot. I do want to point out that the plans you are looking at, on the second page, has the foot candles that will be produced from this lighting. When this analysis was done, we failed to account for the fact that we have 2 – 6' high fences going

along each property line on the site. What is shown on this plan is some lighting that is leaking over onto the neighboring property but, in fact, when we redid the analysis with the 6' fence, the foot candles at the surface are actually zero on the properties to the east and to the west.

Attorney Mondello stated so no leakage. Engineer Houser answered no.

Member Levine questioned the light pole is 15' high and the fence is 6' but there is going to be no leakage?

Engineer Houser answered it is shielded LED light.

Member Covelli questioned shielded on the backside?

Engineer Houser answered correct.

Member Covelli commented I am one of those Home Depot guys, so 1-1/2 foot candle how is that equal to a lumen because Home Depot likes to train you on lumens?

Engineer Houser answered I don't know the exact conversion necessarily, but the max intensity is 5.8. As a parking lot standard you want an average of about 1/2 foot candle as well. The maximum directly under the light is 5.6 foot candles, which is fairly bright and secure. That is standard for a commercial parking lot.

Engineer Nash, referring to the conversion of a foot candle to lumens, stated the convention in the industry is foot candles.

Member Levine to Member Covelli, if you go to page 2 of the drawing, it gives you the lumens per lamp.

iv. The final addition to the plan is we're proposing some landscaping. Previously, in the northeast corner we were just going to keep it lawn, now we added some shrubs and some plantings. We actually added a red maple and nine shorter shrubs that have a max height of 24", a beehive holly and a sunny delight boxleaf to spruce up the area a bit.

Engineer Houser continued so the three main changes that you are looking at compared to what we had in December are we've added some measures to address stormwater; we have added some measures to increase the safety of the parking lot by adding lighting; and we've added some plantings to enhance the aesthetics of the property. Other than that, the addition of the topography on the site plan and spot shots has little effect though it is necessary to address the stormwater.

Attorney Martin questioned in addition to the issues you just discussed, the last time we were here there was discussion regarding the accuracy of the number of parking spaces, do you recall that questioning?

Engineer Houser answered yes.

Attorney Martin questioned, to the best of your understanding, is there an ordinance or any kind of guideline in Wanaque with regard to parking relative to rooming houses?

Engineer Houser answered no.

Attorney Martin questioned were you able to locate any other standard from any other town regarding that issue; the parking requirements relative to rooming houses?

Engineer Houser answered yes. As you can imagine just like Wanaque, not a lot of town ordinances necessarily have specific provisions to address rooming houses and boarding houses. Through some research we were able to find some other municipalities that did have standards:

a. Haledon had a specific chapter that addresses rooming houses where it indicates that in that zone where it is allowed every owner of a licensed premises shall provide one off-street parking space for every two roomers. This is essentially 1/2 parking spot per room, which is the standard that we utilized.

b. Wayne has a rather broad zone called Continuing Care Retirement Community which specifically includes boarding houses. Again, their accessory parking is 1/2 space per bed, which is again consistent with the standards that we've identified on the plan.

c. Vernon Township has another zone and it is considered Residential Health Care Facility which specifically calls out board home or other home for sheltered care, which has a standard of one spot per 2,000 square feet. Our boarding rooms are going to occupy approximately 4,000 square feet. If we applied that standard, you would be looking at two spaces.

Member Levin questioned how does that fit in with the parking spaces allocated or required for the restaurant and bar, which is part of the structure?

Engineer Houser answered, as previously testified, the restaurant use requires 1 stall per 4 seats plus 1 stall for 2 employees. There are 46 seats and 10 employees and we determined that there needed to be 11-1/2 stalls for the seating and 5 stalls for the employees. We are not changing the restaurant here. The restaurant and bar is what it is. We were comparing the parking for a residential apartment compared to a board house.

Member Levin commented add the residential parking to that and the amount you have allocated what was the final figure?

Engineer Houser answered the final for Lot 26 is a total of 21 stalls and for Lot 21 a total of 6 stalls are required.

Attorney Mondello questioned what's the requirement and what's the deficit?

Engineer Houser answered 27 in total are required for the two lots and we 12 spaces identified on the plan. The previous apartment usage required eight stalls and using the standard of 1/2 space per roomer or per room eight stalls are required.

Attorney Martin stated he had no further questions for Engineer Houser and concluded his direct examination.

Attorney Mondello: Do any Board Members have questions for Engineer Houser?

Member Hoffman questioned can you identify the 12 spots? I can find 9 on the back lot. Where are the other 3?

Engineer Houser answered there are 7 on the side, the 1 handicapped spot, there is another 1 immediately adjacent to the handicapped spot.

Member Hoffman stated where it says employee parking, which is 9.

Engineer Houser answered correct, and behind the building, if you were to continue south, in there. There is sufficient space for 2 employees to park and then off of Railroad Avenue there is sufficient for two additional employees.

Chairman Dunning commented technically you have 13.

Engineer Houser answered yes.

Chairman Dunning questioned where the handicap spots, if somebody parks next to that, how does anybody access to the two employee spaces to the east of the building?

Engineer Houser answered you don't. That is why we only characterized as 12. We didn't actually count that as a space. That signage or striping indicated employee parking only.

Chairman Dunning questioned how does a handicap vehicle get out of that lot?

Engineer Houser answered it would be tight, but I believe they can make the maneuver.

They would have to k-turn out to the right towards the garage.

Vice Chairman Grygus commented they could probably do a k-turn within that striped area in front of the garage.

Engineer Houser stated yes.

Chairman Dunning commented depending on the size of the vehicle. That is the problem with all of these parking schematics we look at. We are looking at sub-compact spots and we've got a Ford F-150 that is 20' long.

Member Ludwig stated with the handicapped spot behind the building that one also has the hashtag area to go in and out and you could use that.

Engineer Houser stated it is definitely a tight spot. Right now there is no organization to the parking lot. People can park wherever they want. We are trying to organize it and make it as safe as possible.

Member Covelli questioned are you including the framed garage for parking in your calculations?

Engineer Houser answered no. The reason is you really can't get in and out of that garage if the other spots are full.

Chairman Dunning commented the door faces the wrong way.

Member Covelli questioned, on the light fixture on the pole, and the wallpack, are there timers on those lights or are they staying on all night?

Engineer Houser commented they could be put on timers. We don't have that specified here.

Member Covelli commented I am thinking of the light stanchion because it is by the neighbors. It is not well illuminated there now. It is a positive you are illuminating it, unless you are someone sleeping at 2am and doesn't like the illumination. With that said, you might have people coming in and out where you might want the wallpack so that people aren't stumbling around back there. Maybe the compromise is the light fixture has a timer.

Vice Chairman Grygus questioned what are the parking stall dimensions?

Engineer Houser answered 9 x 18.

Chairman Dunning questioned are you seeking a variance for the width of 24' for the driveway area of that parking lot? I believe the Borough standard is 25'. I don't see it listed that is why I am asking.

Engineer Houser questioned is that a variance or a design waiver?

Chairman Dunning commented I will let the Engineers battle that one out.

Attorney Mondello commented I think it is a design waiver.

Chairman Dunning stated if they need a variance, let's address it so it doesn't come up later after the fact.

Engineer Nash commented that it needs to be noted that it doesn't comply with the ordinance.

Vice Chairman Grygus commented I thought our ordinance was 10 x 20.

Chairman Dunning commented I believe that the Borough standard has never been changed so technically you need a variance to go to the 9 x 18 even though that is the accepted State standard.

Engineer Nash commented when you are seeking relief on anything, you really need an explanation that fits why you're not conforming. In this particular case, the 20' dimension, for instance, the front of the car is going to overhang the grass area by 2', if you will, so that's fine. I could see the 20' dimension being compromised and I don't have an issue with that. A 9' parking stall is adequate. It is tighter when residential where people are getting out of their cars with packages you are just that much closer to the car next to you. The other test is that it's low turnover. If it is a high turnover situation, you'd like to have the spaces a little more comfortable because you are going in and out/in and out. People go in and they stay there, they leave for the day and it's open and then they come back at night so from that perspective, I would be in favor of it being a 9' dimension.

Member Levine commented you still have the restaurant and bar.

Engineer Nash stated it is a low turn around; it's not Quick Chek.

Member Ludwig stated by rights with his 9' depth, he could almost have paved the 10' depth or even 11' and put bumpers at the 9' space. The curb and the pavement are acting like a buffer would if the parking stalls were longer. The fence to me is almost where the end of parking spot would be.

Engineer Nash stated they have a grass area there which is the current way you'd want it. It is a low impact design in terms of the stormwater runoff.

Member Covelli stated he also has storage for snow removal.

Engineer Nash commented I have some questions on the drainage. Did you perform a perc test where the seepage pit is?

Engineer Houser answered no we did not.

Engineer Nash stated then your calculations then just assume that it's a holding tank. Did your calculations assume any of the voids in the stone around it?

Engineer Houser answered yes. We did take a 40% void ratio in the stone as part of the capacity.

Engineer Nash stated so you don't have any idea how the soils are in the area? Do you know if the two adjacent homes have basements?

Engineer Houser answered I do not know.

Engineer Nash questioned does anybody know? My point is you are taking water and injecting it in the one spot in the ground and you know how water is, it is going to find somewhere out. If there is a basement next door to this thing, it might find its way into a basement. The reason why I am asking all of these questions because it was designed without the knowledge of where the water is going to go. At least, if you had a perc test done, and it is a favorable perc in terms that it drains quickly and drains down, but if it isn't going to drain quickly down, then it is going to want to go horizontal, and that's not good.

Engineer Houser commented I will tell you that the buildings on each adjacent property that the distance between the two of them is about 70'. The edge of the stone in the seepage

pit is 27' from the property to the west and it is 33' from the property to the east. Not that is a direct correlation, but when you propose seepage pits for a septic system, the standard separation distance between a basement wall and the edge of the seepage pit is 30'. I am 27', but I actually have enough room where I can slide this and split the difference and be 30' from each basement.

Engineer Nash commented I understand when you are designing a septic system you have much greater knowledge of the soil conditions, plus if the conditions aren't favorable, you're excavating out and putting favorable soil in. You designed this with blinders on so it is just a question mark. I would like to see a perc test done at that location. It is a standard thing to do. I'm not asking for anything outrageous.

Attorney Mondello stated to the Applicant, the Engineer is basically saying, "you are doing it", subject to whether or not the case gets approved. If it gets denied, you don't have to do it.

Engineer Nash stated you designed the tank for a ten year storm. Did you look at the other storms and do you have reductions, not that you need to comply with it?

Engineer Houser answered we did not. It is not a major stormwater project.

Engineer Nash stated I totally agree it is not a major project. I was just asking if you looked at it. You are right there, have all the numbers right there, and just poking two extra numbers in to see where you fall, that's all.

Engineer Houser stated I don't have that handy.

Engineer Nash questioned what is the reduction in the ten year storm?

Engineer Houser answered we did a modified rationale method.

Engineer Nash stated you have a ten year design, so what is the reduction in the ten year storm? The ordinance in a major development would require the runoff rate to be 75% of the existing.

Engineer Houser answered we didn't do that in house.

Engineer Nash questioned what is the volume difference?

Engineer Houser answered, from a volume perspective, the required storage is 689 gallons.

Member Covelli questioned that is the capacity of the tank?

Engineer Houser answered no. The capacity of the tank is larger than that. It's actually 1,040 gallon capacity. If you were to have that ten year storm event, which is 1" per hour.

Engineer Nash commented the other major reason why you do a perc test is to find where the water table is. If you dig down and the water table is 2' down or 3' down, and his system is lower than that, he is trying to count volume but it's not going to be there. Water is always going to be in it. The groundwater will always be in the bottom of his tank if his tank is below the water table, but he doesn't know where it is. He can't answer that question.

Engineer Houser commented that is accurate and fair. If there was a high water table or if it's just pure clay, instead of putting in a drywell, we would put in a catch basin and probably pipe it to the public storm sewer directly.

Engineer Nash commented that is correct. He is not required to provide detention; they are providing it voluntarily and in response to some comments from the last meeting.

Member Covelli doesn't believe a perc test is an unreasonable request, nor a financial burden to have someone do that test. It is a value to know what we gain from the test.

Member Ludwig commented knowing the soil in the area there is not that much of a risk to do the test.

Engineer Nash stated you look at that table and know that the numbers are quite small, but there is engineering calculations as to the hundred year storm and there is basic information he doesn't know. This information is less valid because he doesn't have the knowledge of the soil conditions or the water table.

Member Covelli commented Wanaque tends to perc really well; it is like a sieve under there, but you can find it out yourself.

Chairman Dunning questioned you have this graded so there is no runoff to any neighbor? Engineer Houser answered correct. The grade over that seepage pit is at 244.1, the corners of the parking lot to the east are 244.5 and 244.4 and the spot elevations to the west are 244.7 and 244.3. We have an approximately 2" to 4" pitch to the middle of the parking lot, and pitched to the road. We had that surveyed and actually it was full of debris and sediment and we had the DPW come out and clean it out so we'd get the bottom elevation on that.

Member Covelli stated clearly there is a curb line on the eastern side of this parking lot, is there a curb on the western side?

Engineer Houser answered no, we don't have curbs on either side. The curb is actually along Erie Avenue.

Member Covelli stated so the parking lot just ends onto the grass area. Are you putting in parking stops to stop someone from driving through the fence on the eastern side?

Engineer Houser answered we don't propose parking stops.

Engineer Nash commented typically you put the wheel stops in to prevent the car from hitting something. Here is what I would suggest is an adequate width between the edge of the parking lot and the fence so I don't see the need for them. There is also a safety hazard with them too; tripping hazard.

Engineer Houser commented there is 6.7' from the edge of the pavement to the fence.

Engineer Nash stated to me it is adequate.

Chairman Dunning stated your shrubbery at the end of the parking lot on Erie, is that going to block the line of sight exiting that lot?

Engineer Houser answered no.

Vice Chairman Grygus questioned the maple won't either. What is the canopy on the maple?

Engineer Houser answered branching is 7' above finished grade with a 3" to 4" caliper to start.

Member Covelli stated now that I understand there is no curbing on that eastern end, would the Applicant consider adding any kind of shrubbery along there at certain intervals in that grass area?

Applicant Agostino answered probably not because if I have to plow there and I wouldn't want to be pushing the snow up onto the bushes and hedges. I would rather just have the grass area.

Attorney Mondello: Any other questions from the Board Members? Attorney Walker cross?

Attorney Walker commented I am going to be brief. The issues that were raised will be more effectively dealt with by our expert witness.

Attorney Walker questioning Engineer Houser: Based upon your calculation of the parking, you indicated that between the two lots you require 27 spaces, is that correct?

Engineer Houser answered yes.

Attorney Walker questioned and you are providing 12?

Engineer Houser answered yes.

Attorney Walker questioned you are 15 short, is that correct?

Engineer Houser answered correct.

Attorney Walker questioned have you made any provisions at all for deliveries to and from the tavern?

Engineer Houser answered there is no loading zone *per se*. There is a loading zone that is off of Railroad Avenue which would require some coordination between where the employees park and the delivery vehicles. Keep in mind, it is an existing restaurant and bar and is currently receiving deliveries. The fact that we are having a boarding house or rooming house I don't anticipate any deliveries other than an UPS or FedEx.

Attorney Walker stated I am talking about deliveries to the tavern. Does that impact on any of the parking other than the employee parking that you indicated?

Engineer Houser answered.

Attorney Walker questioned can you designate where on the plan the trucks would both ingress and egress and also circulate in the parking area?

Engineer Houser answered that would be in the driveway off of Railroad Avenue in the southwest corner of the property.

Attorney Walker questioned, in terms of the trucks that would perform deliveries, would they be typically what is called eighteen wheelers?

Engineer Houser answered I don't think so, maybe box trucks.

Attorney Walker questioned are there any eighteen wheelers that deliver to the site at all. Applicant Agostino answered no.

Attorney Walker commented I have nothing else with respect to Engineer Houser.

Attorney Mondello: Residents within 200' questions on Engineer Houser's testimony.

Richard Purcella, 13 Erie Avenue

With regard to the drainage, you said there was a drainage pit and an overflow going into the sewer. Do you realize that sewer that you had cleaned out is a dummy sewer? It connects to no borough sewer system. It is just a 3' deep pit that fills up with debris and they come and clean it out every so often. So there is no overflow there at all.

Member Covelli stated he is not surprised by this. There are a number of those around this borough.

Mr. Purcella commented it was put there years ago because the street floods. Whenever it rains, Erie Avenue on the side of the street where the parking lot is and my house is, just floods all the way up the street. They put a drainage grate in there which doesn't really work because it fills up so quickly. Overflow from what I am gathering from the water

that they are talking about, that 4' deep septic hole you want to put in the ground, is going to fill up as fast as this thing fills up.

Mr. Purcella questioned the lights that you are putting on, where are they going exactly? Engineer Houser answered there is a wallpack light is going 10' up on the building and then there is one that will be 15'.

Mr. Purcella questioned now with the 6' fence I could see that not affecting the ground floor, but what about the people that are sleeping upstairs on the second floor which is right on the property line?

Member Covelli stated that was my question with regard to them being put on a timer. I happen to live on a street where my neighbor is JCP&L; they leave the light on all night so I know what it is like.

Mr. Purcella commented we have a JCP&L light on the street which is dimmer light, but that goes into the living room of my house. I can imagine what a regular light is going to do for my second floor bedroom.

Mr. Purcella commented on the bumpers for the fencing. Now my other neighbor can probably vouch for this that there are no bumpers over there and they destroyed the fence on a regular basis. So I can imagine the fence that's going to go on my property line, which I have no problem with, I can see these trucks backing in or out, I have pictures here that I want to give the Board because pictures are worth a thousand words. Attorney Mondello asked Mr. Purcella to show them to Attorney Martin and he will pass them up to us.

Mr. Purcella commented one picture is of an eighteen wheeler that was parked in the driveway there yesterday, that backs in there. I don't know how this man is going to fit into a 24' entrance where he almost took out my dogwood tree on my property the other day. That's only one truck but there are many others that go in there on a regular basis.

Attorney Mondello: Attorney Martin you want to say something?

Attorney Martin commented I have no objection to Mr. Purcella continuing, but this is his testimony now. In other words, later we are going to have a public portion and I don't know if he should be allowed to come back and do this again.

Mr. Purcella stated I can wait until the end if you want.

Attorney Mondello commented this is a period for questions and you did start out asking questions.

Mr. Purcella stated my questions is about the bumpers and the reason why I was suggesting they be put in there because they are going to destroy the fence.

Attorney Mondello stated the questions is any reason why you couldn't install bumpers so that the fence doesn't get destroyed? Answer is yes or no.

Engineer Houser answered with the proximity of the edge of the pavement to the fence, I don't see a benefit to it.

Mr. Purcella stated the fence along the property line where they are going to back in to.

Chairman Dunning questioned your side or the neighbor's side?

Mr. Purcella answered my side, the east side.

Member Hoffman stated there is a 6' or 7' berm between the edge of the parking lot and your fence. The contention is that 6.7' spacing would stop the cars from hitting the fence. I am assuming that's correct.

Mr. Purcella commented I'm just trying to make it not look like downtown Paterson. Member Hoffman commented would it be possible to put a small curb so that as people are pulling into the parking area, they would feel the difference between the grass and pavement.

Vice Chairman Grygus commented that if you are going to put anything, a curb is going to be better than the bumpers. Also if you have a heavy rain, 3" or 4" , definitely nothing would run towards his house.

Member Hoffman commented even if it is 1" tall and give him that extra 1" of protection for flooding.

Attorney Mondello gave Mr. Purcella back his pictures and stated there will be a portion where you can testify and then you can tell us what they are.

Do you have any questions for Engineer Houser?

Mr. Purcella answered no.

Chairman Dunning questioned does your house have a basement?

Mr. Purcella answered yes, that is what I am worried about. On that side where the fencing is the chimney has a clean out, which you open the door which if ever water goes in it goes right into my basement. I don't remember how below grade this parking lot is going to be?

Engineer Houser answered it is roughly what it is today. It is subtle. It is not like we are raising it up one foot, or dropping it one foot, we are talking inches.

Mr. Purcella stated that is a concern.

Member Hoffman questioned how high is your clean out?

Mr. Purcella answered right on the ground. Otherwise, I have a concrete sidewalk that goes around that part of the house, it is right on the concrete.

Engineer Houser commented that I will tell you that, as proposed, the closest cars in the parking lot, where it is going to be paved, are 6" less then (too many people speaking at once to hear the rest of the comments).

Dan Huntsinger, 16 Erie Avenue I live across the street from Mr. Purcella.

Mr. Huntsinger questioned you said you were going to be paving?

Engineer Houser answered yes.

Mr. Huntsinger questioned if there would be designated spots for the residents that will be marked like say condo complexes?

Attorney Mondello answered my recollection is no. That was testimony before. No they won't be marked.

Mr. Huntsinger questioned that some people come to the bar a little bit early on a Friday night, if they are occupying the spots and the residents come home from work, who has the right to the spot and how is that handled. Will the residents be forced to park on the street? Without any designation, there is no priority to the people who actually live there; residents of the place versus customers.

Attorney Martin stated I don't believe that is an engineering question and Engineer Houser agreed.

Attorney Mondello doesn't know who can answer that question. I don't even know if Mr. Agostino can answer it. It seems the logical answer is that they are going to wind up parking on the street, I guess.

Vice Chairman Grygus believes that their testimony was that hardly anyone there has a car that lives. Historical occupancy has been very few have had a vehicle, that doesn't mean they can't. That was a question I thought of too, but it's very difficult because you could block off spaces for the residents that would never have a car.

Mr. Huntsinger questioned will there be line striping with the paving?

Engineer Houser answered yes.

Mr. Huntsinger questioned there will be blue striping for the handicapped spot?

Engineer Houser answered that is correct.

Mr. Huntsinger questioned if a person is not handicapped, no one is allowed to park in that spot? Is that correct?

Engineer Houser answered correct.

Mr. Huntsinger stated then we are taking away another spot so there is a spot now where the landscaping is going to go currently where somebody would have car there, then if we don't have a handicapped individual that is a second spot being taken away. Is that correct?

Engineer Houser answered I want to emphasize again, currently there are no formal parking spots. There are areas to park, but there is no designated parking spots on the property at this time in the rear. Nothing is striped; it is a free for all. We are trying to organize it and make it safer. There is an area along Erie Avenue and there is an Ordinance that requires a 10' buffer for parking from the front property line, which we are attempting to adhere to and that is why we have that buffer.

Mr. Huntsinger questioned if the employees will be in a designated space that you have on your plans that's currently used as a place where the delivery trucks regularly come to deliver beer, how is that handled? Will those be striped and designated spots for the employees? It sounds like that is the direction you are going trying to designate certain spots for things.

Engineer Houser answered again as to the operations of the bar, I don't believe there are any proposed changes to that. How the deliveries have been historically made I don't believe what we are doing here is going to change that one way or another.

Mr. Huntsinger: No more questions

Carrie Ann Palmieri – 12 Erie Avenue

I live next to Dan so also across from the bar on the other side of the street.

My question is also about the lights and the angle of the lights. I know that we kind of spoke about that but I just want my concern to be known about the angle of the light. We have the second story bedroom across the street, and our bedroom front faces towards the back of the establishment. Do you know the angle of the lights?

Engineer Houser answered they will be directed down.

Ms. Palmieri commented so they will be directed down at the parking lot.

Engineer Houser stated nothing shining out; it's facing down.

Ms. Palmieri questioned will it be a flood light type of fixture that directs light down.

Member Hoffman commented there is a picture of the lights on the second page of his drawing so it will give you an idea of what the fixtures look like. This might help you.

Attorney Mondello: Let the record reflect that Engineer Houser is showing Ms. Palmieri exactly where the light is, what it looks like and she is referring to the second page of the site plan.

Attorney Mondello: Did that answer your questions?

Ms. Palmieri answered it did, thank you. However, I do have one other question. The rear exit of the establishment that is typically used for the bar, is that going to continue to be used as an entry and exit way? Is it an emergency exit only?

Attorney Mondello questioned Mr. Agostino: Do you know what she is referring to?

Applicant Agostino answered I believe the entrance to the back parking lot and we're going to continue to use that.

Richard Purcella – Question about the lighting.

According to that, I just saw where the lighting is going and it is going to be right outside the bedroom window of my upper floor.

The other question I have is the parking on the map here where the two spaces are I guess for employee parking now there is a dotted line that goes around there, right now they park all the way down right to the street.

Attorney Mondello stated that is testimony that you can tell the Board.

Mr. Purcella questioned I want to know whether that is going to be part of their parking plan?

Member Hoffman questioned are you talking about the driveway to the east side of the building?

Mr. Purcella answered no, the west side of the building.

Attorney Mondello stated they park there now but that's not their property?

Mr. Purcella answered no. Do you see the two spaces on the parking plan there.

Engineer Houser reviewed the document Mr. Purcella had in his possession and advised that was not his document.

Mr. Purcella stated where the handicap is, right now they park from that handicap right to the street, along the fence line.

Member Hoffman stated that should be changed if there is delineated parking. There suggestion is if you delineate parking, and stripe it, then the people won't be parking in that area; they will be parking only in the designated spots.

Mr. Purcella questioned what happens if all this parking plans and everything go to pot, and it becomes a circus in there, how do I call?

Attorney Mondello commented it depends on what kind of violation, but I'll speculate the police department.

Mr. Purcella commented that this is the habit that has been going on for years. Striping a parking lot isn't going to stop it.

Member Covelli commented I expect the Code Enforcement Officer because he enforces what we adopt. When there is an accident you call the police, but when it's not being

maintained in accordance with an application that we've approved, it's the Code Enforcement Officer.

Chairman Dunning questioned are you talking about how they park in there?

Mr. Purcella stated that is how they park in there now. Lines are not going to make a difference.

Member Covelli stated that goes back to the Attorney's answer, you call the police department. I thought your concern was who is going to make sure it stays maintained.

Engineer Houser commented if we get this approved with the lines and they stripe it and they decide they don't want to stripe it or they remove the stripes and they just start packing the parking lot again, that is a zoning issue and that would be the Code Official. If it is striped and they just ignore it and park wherever they want, that would be a law enforcement issue.

Member Covelli stated, with all due respect, you have that problem now except you don't have a law enforcement because it is a free for all in there right now.

Mr. Purcella stated you have big trucks in there that are going to take up two spots when they park in there.

Vice Chairman Grygus has a question for the attorney. I don't know if we resolved this, but I think the Board kind of intimated that I think there could be a couple of benefits if curbing was installed to the east side of the parking lot. Is that something the applicant would consider?

Attorney Mondello stated that is something you would have to talk to Mr. Agostino about.

Vice Chairman Grygus commented that bumpers wouldn't work because of snow removal.

Applicant Agostino answered that the best suggestion for me is the berm grass. That would be best.

Member Hoffman commented raise the elevation of the grass to the fence instead of a berm. You would create one instead of curbing.

Engineer Houser stated it is not depicted on the plan that way, but we could certainly put an 8" berm in that 6' spot.

Member Covelli questioned you would include that as part of your application?

Applicant Agostino answered yes.

Member Covelli questioned how high is that berm?

Engineer Houser answered I think we could make it 6" to 8" higher than the pavement in that 6' span. That's enough where I think if you're driving, you'll notice it.

Attorney Mondello: No other questions. Next witness. We are done with Engineer Houser, what are we going back to?

Attorney Walker stated depending on the time, I would like to present our expert.

Attorney Martin stated he is done.

Attorney Mondello stated we did swear you in and started your testimony. Did we not?

Attorney Walker answered yes, but we didn't start the testimony. But I would also like to indicate to the Board for a procedural point, I also have Mr. Kidd whose the Managing Member of the LLC and would like to have him testify, but first I would like to have Mr. Zepponi testify and also put his credentials on the record.

Attorney Mondello questioned he is a Planner?

Attorney Walker answered actually he is both a Professional Engineer and a Planner and he is going to testify as to both.

Attorney Mondello questioned is Mr. Ochab's planning testimony concluded?

Chairman Dunning stated right but we have other questions for him.

Attorney Mondello stated let us see how far we can get and then we can recall Mr. Ochab because we have a letter from the Board's Planner that I don't know if you've seen, but we'll get it to you.

Attorney Martin questioned if Engineer Nash prepared a supplemental letter?

Engineer Nash answered no I did not.

Attorney Mondello: Your Witness

Attorney Walker: Mr. Zepponi would you please indicate your professional credentials as we indicated that you will testify as both a Planner and also a Professional Engineer. To the extent that may be necessary, you may want to break out those credentials as to your background.

Engineer Alex Zepponi stated he graduated what was then Newark College of Engineering, now New Jersey Institute of Technology, in 1975. In 1985 I created the firm of ENTEC and have remained as its principal professional since that time. I am licensed as a Professional Engineer in New York, Pennsylvania and New Jersey. I am also licensed as a Professional Planner. I have testified before scores of Planning Boards, Boards of Adjustments, and in court.

Attorney Mondello: Any problem with accepting Engineer Zepponi as an expert in the field of engineer and planning?

Attorney Martin questioned do you have a degree in Professional Planning?

Engineer Zepponi answered when I graduated, there was no such thing.

Attorney Mondello stated he is grandfathered in.

Member Hoffman questioned what type of engineering degree do you have?

Engineer Zepponi answered Metro Science. They are all basically the same. My firm does Civil Engineering, pumping stations, flood control, forensic engineering. My degree is in Civil Engineering.

Attorney Martin questioned you have a license in planning?

Engineer Zepponi answered yes.

Attorney Martin questioned how did you obtain that if you didn't have a degree?

Engineer Zepponi answered at the time there was course curriculum and I satisfied it and if you passed it then at your P.E. it was incorporated in that curriculum. As a P.E. you could apply and get that license also.

Attorney Martin questioned would you agree with me that you are primarily an engineer, correct?

Engineer Zepponi answered agreed.

Attorney Walker objects to this question. I don't know what it means "primarily". He can be both an engineer as well as a planner.

Attorney Mondello commented that the fact that he is grandfather in as opposed to somebody that has a planning license will go to the weight of his testimony. That's all.

The Board accepts Engineer Zepponi as an expert.

Attorney Walker: In preparation for tonight's meeting have you had the opportunity to review the reports of both Engineer Houser and also from the Board's reports also?

Engineer Zepponi answered I did not see a report from Engineer Houser. I am hearing just now, I guess there was another engineering report and I believe there was only one planning report that I was made privy to.

Attorney Walker: You have had an opportunity to review the site plan and revisions as of February 12, 2018 by Engineer Houser. Is that correct?

Engineer Zepponi answered yes, I did.

Attorney Walker: You were also here at the last meeting when Engineer Houser testified. Is that true? And you heard his testimony tonight obviously also. Is that correct?

Engineer Zepponi answered yes to both questions.

Attorney Walker: Let's break this out and let's address some of the engineering issues. What is your opinion as to the adequacy of the draining issues?

Engineer Zepponi stated I have questions on some aspects that may be answered now. Generally speaking, everything that was part of Engineer Nash's delivery I completely agree with. Probably half of the major issues I planned on bringing up I was glad to see that they were already to a certain degree addressed.

I didn't see anything that delineated what the drainage area was under existing or proposed conditions to the proposed improvements or what's happening. We are talking about the whole site now because we are talking about a change of use. What is happening in the other corner, by way of example, this block patio, which is admittedly small, but I don't believe there was any permit gotten for that, it was a conversion from what was pervious to now impervious. That drainage pattern is apparently different then the drainage pattern that was in the analysis for just the catch basin.

Attorney Mondello: We don't typically have one engineer questioning another engineer. That should have been for Attorney Walker. What we might do is see if the Board has those some questions, we will recall Engineer Houser. The Board notes the issue with respect to drainage and, I can tell you this much, that if the Board is so inclined to grant the application, they would make is subject to the Board Engineer's approval on any type of drainage system if in fact he thought it needed to be increased, decreased, etc.

Engineer Zepponi stated the other aspect was it wasn't here and I was trying to work with everybody. It appears then from the drawings I have which were submitted to the Board that if you look to the right or the east side, the topographic condition under existing conditions is higher than that which occurs on the lot. There is additional runoff presumptively coming from some or all parts of the east that is going to enter the property,, potentially get to this design system which, from what I can tell, looks like it only considered what is onsite, but there is no theoretical order that keeps out your neighbor's water. So under real practical conditions that wat is going to come in and overwhelm the system that didn't account for it from everything that you can see here. That is where we started with drainage areas.

Then I noticed with regard to the grading, I presume the lighter numbers, in terms of the elevation that generally occur just below the boxed areas which I presume are proposed

conditions are identical. They are going to put down asphalt, and going back to the comment that the house next door is a 1/2' higher than this, unless they excavate a 1/2' out, when they put the 1/2' of stone, sub-base, base, it will no longer be a 1/2' lower than that neighbor's property. It will certainly be higher than my client's property. If the intent is that we are going to excavate first, and then build up so it is exactly what it is today, I guess that should be either on the drawing or stated for the record.

Vice Chairman Grygus commented I think they are submitting a drawing that is going to show the finished elevation. They are going to have to provide an As-Built that is going to show those same elevations. How they get there is up to them.

Member Hoffman commented that his testimony was that this was going to be the elevation at completion.

Engineer Zepponi stated I understand, but it happens to be exactly what's there under existing conditions. That's the comment.

Member Hoffman commented I would assume that if that's the case, they would excavate and prepare the site to these elevations.

Engineer Zepponi commented having that as a known and stated and out there is much easier than having him rip up a brand new paved area that he didn't do that it is 5" or 6" higher.

Member Hoffman stated he did stated that these were going to be finished elevations, if I am not mistaken.

Chairman Dunning commented he testified that they would be slightly lower than the neighbor's property.

Engineer Zepponi stated okay, but it is just unusual that you would excavate a stone parking lot before you pave it.

Member Hoffman questioned why? Why would it be unusual to do site work?

Engineer Zepponi stated I'll accept the fact.

Chairman Dunning stated you are being kind calling it a stone parking lot. It is, what it is.

Engineer Zepponi stated all right if that's the assurance. I am here to protect my client.

Chairman Dunning stated right, exactly, but he has to make his final finished elevations match this drawing, or he has a problem.

Member Hoffman stated or he does tear it and make it to these elevations, but his testimony was that this is where they would be and I'll have to assume as the professional that he is going to do it to these elevations.

Engineer Zepponi stated that's fine. Knowing a concern and having it articulated, I think telegraphs it can't be something else.

Engineer Zepponi stated if you look at the extension of the sewer overflow to the street and I was of the understanding also that it's just another one of what's there now being proposed, basically a sump and it doesn't work any longer. The impact of that could be exactly the reverse and consistent with the water that is coming off site that I don't believe is accounted for in the calculations. Whatever that picks up in the street, because of the volume of the street and the runoff from the street, it's potentially far more significant than what is occurring on the site. It pipes it back and fills this thing up.

Attorney Mondello questioned what am I missing? This Applicant doesn't have to put in a seepage system or water retention system. They are not legally required to do that, but they are going to do it. What am I missing?

Engineer Zepponi understands that but there is something proposed here and I see, what I believe to be, a question which I believe to be a flaw and I am pointing out what the impact of what's been presented for your consideration. In my mind, if somebody does an extensive amount of this work

Attorney Mondello questioned what are you suggesting that they tap into the drywell or something?

Vice Chairman Grygus commented that I think Engineer Nash pretty much identified that also which is why he strongly suggested a perc test be done. Now, the other whole thing is, I think there is going to be additional investigation that is going to have to be found out about that drain where it was proposed to pipe into too. If that is, in fact, a dummy drain and it doesn't empty anywhere, well obviously that takes that option out as an overflow. I think they have some work to do with regarding a test pit and I'm confident that our Engineer will advise the Board as to whether or not what he's proposing will work.

Engineer Zepponi stated he agrees and as I stated I essentially agree with everything that Engineer Nash had talked about. This is a slightly different matter in terms of the backflow from the street to fill this up. When you consider that, in conjunction with the additional flow from offsite to the east, which information I don't have, where the grades are clearly higher, down to the property, even the design size, forget about whether it can perc, forget about where the water table is, just the design size is insufficient to work in the practical world.

Attorney Mondello: Engineer Nash do you agree with that?

Engineer Nash answered he is bringing up a question that he doesn't know what the offsite contribution to this site is. It is an unknown.

Chairman Dunning commented we also added a 6" berm which is going to push that water back up to the neighbor's property. It is not going to run into this parking lot.

Member Hoffman commented if the berm is going to be installed then there is going to be intrusion coming from the east side of the lot. Are you concerned that water coming from the east side property is going to be included into this drainage pit?

Engineer Zepponi answered yes. That was the underlying concern based on the drawing.

Member Hoffman commented now there is a 6" berm in order to protect his fence is going keep all of his water on his own property. It's not going to be a concern.

Engineer Zepponi stated let's think a minute about that is. Under existing conditions, and I don't know that gentleman at all, water flows through his property down and potentially beyond that into my client's property. I have no idea.

Member Hoffman questioned who are you representing?

Engineer Zepponi answered Mr. Kidd, the neighbor to the west. So under existing conditions he has flow through condition. Now you're saying if we put up the berm, depending on how much water we have from the east, he is going to intercept it and it's going to run on his property from the rear to the front out to the street where potentially a sidewalk is or isn't any higher and cause puddling or wetness or running water on a piece of property that currently doesn't have that condition.

Vice Chairman Grygus commented only if the detention basin works.

Engineer Zepponi stated no, because he doesn't know how high the sidewalk is.

Engineer Nash commented I don't agree with the testimony because if you look at the Applicant's plan, looking at the property to the east, because you are saying the property to the east is flowing through this property onto your client's, that contour line wraps around

the house so the water in the front of the house is flown out to the street, where the back of the house is flown out towards Railroad Avenue.

Engineer Zepponi stated right.

Engineer Nash continued it is only the force in between, which is a very small, insignificant and diminimus amount. While I have the floor, the only other thing is on the Applicant's plan the catch basin out in the street there is what looks like a pipe going out towards Ringwood Avenue. There are little dash lines and there is no labeling that the pipe, but that's the symbol of a stormwater pipe. If it's not there, then it shouldn't be on the plan. Your surveyor needs to verify if there is something there or not. There is no pipe size shown, there's no invert shown on the catch basin so it's other information that belongs. Member Ludwig stated it does say up there "pipe not visible".

Engineer Zepponi stated the testimony was that it was pumped out and cleaned and that got us to the invert of the chamber. What the testimony didn't say was once it was pumped out and cleaned the pipes were obvious or visible. It said the invert was accessible.

Engineer Nash commented "pipe not visible", using the pipe suggests that there is a pipe there and you just couldn't see it. It should say "no pipe" or something like it. The terminology is misleading.

Vice Chairman Grygus stated plus there's not a lot of elevations on your client's property, but if you look them, they are higher than what is shown on the parking lot. So to say that the water is going to run from east to west across the Applicant's property and onto your client's property

Engineer Zepponi commented I said "potentially". Wherever it goes from there

Vice Chairman Grygus stated again it is all based upon if that system works or doesn't work.

Engineer Nash commented we are talking a small volume of water. The larger issue is this thing going to work. The unknown is that there is not enough information about the existing soils or water table to know if it's going to work. The other component of it that there is offsite runoff to it, I think is the lesser issue that we are spending more time on then we need to.

Engineer Zepponi stated I would like to spend two more minutes – yes, it wraps around but we don't know how far up it goes but what comes around the house, if you follow that contour line, hits the parking lot and then is redirected back in. It is not just what gets blocked by the structure. I didn't look at this a little longer than maybe you had a chance to, but if you look at it, it's everything that is coming from there and it may be nothing. That line may be an island and it may be nothing because that is what we don't know. If it is significant, the parking lot is not very large. I would also agree with you that the ten year return period for the study is incredibly small. If the implication is that the system is so small, and the numbers are so small, then doing it for the hundred year might be another 2' ring or another load of stone. It would also be diminimus. But at least for a dead end system, which as I understand that thing in the street has never worked and it doesn't work now, to have only a ten year return is the analysis because once you get that eleven year storm, by theory, it comes up and the parking lot starts flooding. Then when the fifteen year storm comes, the parking lot is full to the brim and all that runoff comes off into my client's property. This is standard stuff and it wasn't in a report and, if there were drainage reports submitted, I am sure the delineation would have been in there, but you

can't just pretend that the site is the site and exclude everything else because, in reality when it rains, reality happens.

Chairman Dunning commented I think Engineer Houser also testified he has the parking lot pitched to the center.

Engineer Zepponi stated that's correct.

Chairman Dunning continued so she's going naturally flow to the street, not to the east or west. I believe that was the testimony.

Engineer Zepponi stated if that is the case, and what you are saying is true, and I hadn't looked at it from that perspective, that would mean that this catch basin only picks up everything to the south. Because everything from the north that hits the parking lot is going to go through and out and that could very well be.

Chairman Dunning commented the catch basin in the street needs to be investigated.

Engineer Zepponi stated no, I'm saying the catch basin in the parking lot. If something drop falls at the beginning of the neighbor's house that testified and it comes onto the parking lot it's going to go right out, it'll never be picked up by this. That is why you look for drainage area, delineation map so you know exactly what is happening. That is why we do this stuff so we can kind of figure out what is happening before it is built. Not unreasonable.

Member Covelli thinks that is a good point and also the fact that the catch basin in the street is really just a sump.

Member Hoffman commented that's an issue in itself.

Member Covelli stated, and to Engineer Zepponi's point, anything that is hitting is traveling there or is hitting by nature dropping it on the lot is going right to the street to a catch basin that's not a catch basin, it's a sump.

Member Hoffman stated it's not a system.

Engineer Zepponi commented the key issue being that it's impervious now so there's going to be more going when this is done, if approved, then under existing conditions.

Member Ludwig stated if he added a seepage pit though, and some of the neighbor's said if they just dug a catch basin with no drainage pit around it with gravel, if they just cut a square whole in the macadam and put a wall right there, it's not going to perc anywhere. Whereas, this is actually going to have some gravel and from looking at the soil in that area they should do a perc test, you have the sand pit right down the block from this, they should have some sort of perc there. Maybe that's what the thing was built in the street since they figured that the sand would just take. This is better than what is in the street from what the testimony of the neighbors.

Member Covelli commented that it is in with what Engineer Nash identified with the perc to quantify is what Engineer Zepponi is affirming and the fact that maybe there's another catch basin to the north of the tank that picks up Engineer Zepponi's point. Again, I am just saying that maybe something else that needs to be added to the remedy here as opposed that you can't rely on anything in that street because it's a sump, not a catch basin.

Engineer Zepponi commented, just by way of design, part of the problem when they put that in the street is that there is no catchment in terms of picking up matter. If they had it go into a manhole that had a sump with the pump being higher and then a shield, which is very common, and then flow into the area that was supposed to perc, if it did in fact have a lot of sand there, it would have lasted a little while. But the current proposed design for

this is the same way. Any kind of ash, sand or any particular matter, any of the dirt the trucks track onto the site, when it falls in this catch basin the bottom is going to get silted up and there is nothing that is there as a preventive as a protective measure to make that thing work effectively. Conceptually it's great; in theory it's great; but as a practical matter you want to have this set off to the side with a manhole so when the dirt comes in, it falls to the bottom and then the pipe that feeds the infiltrator is up top so that the particular matter from the street, and there is always matter in the street, will last. Member Hoffman commented the one in the street would be the responsibility of the DPW. Engineer Zepponi stated I am not suggesting he would, but I am saying that is why that failed. Presuming they were smart people, there was sand and they did the right thing, the design was defective and that could have lasted a lot longer had they done that but there is no reason to do the same thing again in this particular case. If it is going to be approved, let's make sure it works and then do what we can. Member Hoffman commented out Engineer will make sure that it works. I am sure.

Member Ludwig questioned, I am correct that if we hypothetically said no to this whole application, this Applicant could go in and pave that parking lot as is with no drainage or permits necessary because he would really just be paving a parking lot. You do not need a permit to pave your driveway.

Engineer Zepponi stated there would be no consideration of runoff to the neighbors.

Member Ludwig stated you are just finishing off your driveway.

Attorney Mondello stated, in fact, most towns want you to pave and they don't want gravel or dirt.

Chairman Dunning commented this is a commercial building as opposed to residential and there might be a different standard.

Member Ludwig stated when the A&P was redone not too long ago, I'd think they pulled permits for structure, but for paving I thought that was just basically considered maintenance.

Attorney Mondello stated they made them stripe.

Engineer Zepponi commented if they were paving there to begin with, it would have been accounted in the original application of the increased runoff from the site and the paving.

Member Hoffman commented it is a dirt driveway now. What is the difference in the drainage of a dirt driveway as opposed to macadam because it is compacted dirt. It is not like it is something that you never see. Is there a big difference in the absorption rate?

Engineer Nash answered there is a big difference depending on how it is compacted. If it is very well compacted gravel, it is essentially the same.

Member Hoffman commented that driveway is pretty well compacted.

Engineer Houser commented that we did do an analysis and the pavement is .98 and what we used for the gravel was .26.

Engineer Nash commented what he is saying is he used a conservative design.

Engineer Houser stated like Engineer Nash said compacted gravel and dirt can be essentially the same.

Engineer Zepponi questioned, with regard to the drainage, again what is going on with the rest of the site? We don't know where any of that water is going, we don't know what's happening with it. Primarily, the main issues with regard to drainage I think we've talked

about. At least it is my assessment that at the moment it needs to be re-assessed because we really don't know, with confidence, that the existing is acceptable. I hope I brought my light and aspect to this issue then when Engineer Nash spoke 45 minutes ago. I am not trying to prolong this or make a problem.

Attorney Walker would like Engineer Zepponi to address the parking issues and the adequacy of the parking issues and then we can always press any issue with regard to circulation separately.

Engineer Zepponi commented we already addressed there is no standard in this town since we don't have this zone. What was given as examples, in my opinion, one of them was appropriate but the other two, because they were care and you drop somebody off, they live there and you come visit them, they don't drive. Two of the three facilities identified certainly sounded to me like they were care and I believe it was in the name so I don't know if they are appropriate to be providing a basis for this application. That is noted and stated. One of the potentially bigger problems, and this is given to understanding, I understand that the 7 stalls on the east side, they were already accounted for in the previous approval for housing on this site, and that was given up then to get that approval. With that approval was the removal of the garage. None of that happened and here we are what appears to be a second trip to the well to claim the same 6 or 7 spaces and the garage is still here.

Attorney Walker wanted to make it clear that Engineer Zepponi had the opportunity to review prior approvals on the apartment dwelling.

Engineer Zepponi confirmed yes I did.

Attorney Walker questioned and these required the garage to be moved?

Engineer Zepponi answered that was my understanding that the garage be removed and what is called those 7 stalls. That being the case, that set the basis of my parking issues.

Attorney Mondello questioned if they had a copy of the Resolution?

Engineer Zepponi stated he is getting it.

Attorney Walker stated it expect that the Board would also have that as part of the package.

Chairman Dunning answered we have it and it's from 1987.

Attorney Mondello commented it was essentially a Use Variance to convert an existing business with two dwelling units above to a three family structure and the variance was granted on the condition that the new dwelling unit contained no more than one bedroom and that the driveway access be provided to Erie Avenue and that six paved parking spaces be provided and screening be designed to shield the use from the surrounding residential areas.

Chairman Dunning questioned where do you get the garage to be removed?

Engineer Zepponi answered somewhere in that document I recall seeing it.

Attorney Mondello commented it is not here.

Chairman Dunning commented this is the official Resolution from 1987.

Member Covelli questioned if Attorney Martin had the Resolution.

Attorney Martin answered I do and this was before my client obviously owned the property.

Attorney Mondello stated there was a florist on the first floor.

Chairman Dunning stated the retail was converted to an apartment.

Attorney Mondello: Next issue

Attorney Walker would like to review the accuracy of the number of spaces being provided and the computation of those spaces.

Engineer Zepponi stated they are admittedly inadequate but more than that I can't say as far as the 1 per 2 in terms of the parking for this use. There is none and I think it is out there and it's up for everyone to make up their own mind whether they think it is reasonable I have commented as to what I think about it. I also question the usability of that handicapped stall. If you have a full house, you have someone that is handicapped with limited mobility of whatever kind

Attorney Mondello commented the Chairman brought that fact up right off the bat and he said it depends on how handicapped they are, they are not getting in or out.

Vice Chairman Grygus questioned is the building handicapped accessible?

Engineer Zepponi stated that is my next question. I see steps everywhere. I don't see any handicap ramps but there are staircases everywhere.

Board requests recess.

Recess 9:44:42

Reconvened 9:56:04

Let the record show that everyone is present that was present before the recess.

Attorney Mondello: Attorney Walker anything else?

Attorney Walker commented yes and a matter of fact he will still continue his testimony with respect to the parking and any issues relating to the parking.

Engineer Zepponi commented that this goes to some of the other comments that adding this use and getting this site plan approved doesn't affect the business aspect and, therefore, say delivery. In fact, in my mind, it certainly does in that deliveries, at least to my knowledge and the evidence shown to me, come from Erie and in through the back, I'll say for beer, and they are large trucks. They may not have eighteen wheels, but they're an eighteen wheeler in terms of an articulated truck that is 40' long.

Attorney Walker requested to mark into evidence two pictures showing a delivery truck. Attorney Mondello commented that he didn't believe there were any Objector's Exhibits, so we will mark them as O-1 and O-2

O-1 Photo Taken at 8:45am on April 4, 2018 Showing Budweiser Tractor Trailer on Erie Avenue in Front 11 Erie Avenue

O-2 Photo Taken at 8:45am on April 4, 2018 Showing Budweiser Tractor Trailer on Turning Onto Erie Avenue

Attorney Walker, referring to Exhibit O-1, can you tell me what the photograph is?

Engineer Zepponi answered basically it is a beer delivery truck articulated has a tractor and a trailer. It is actually in front of my client's property which is next door on Erie.

Attorney Mondello questioned who took the picture O-1?

Engineer Zepponi answered my client took one and the neighbor took the other.

Attorney Mondello questioned can you represent that it adequately reflects the conditions that was that day?

Attorney Walker stated my client took that photograph if you want to put him in testimony.

Attorney Mondello stated we will get to that. Let's see if we can get through this witness. Engineer Zepponi stated Exhibit O-2 is a different perspective of the same tractor trailer attempting to maneuver into the site.

Attorney Mondello questioned and presumably taken the same day?

Engineer Zepponi answered right. I understand that these two photographs were taken the same day. The photograph that the neighbor will be showing later will be a different day. The point here specifically is that they are not straight jobs. They are not vans and because of this I think it is reasonable to have a radius to determine whether or not that vehicle can make in this 24' opening. Now, under this plan, there're going to be cars occupying half of the space the gentleman currently has to make the swing to get in and out because that goes back to again they are not saying this doesn't affect that; it does affect it. He is now losing half of his maneuvering room to service the bar.

Attorney Mondello questioned, let's assume the truck can't get in, wouldn't the driver just simply load up on a hand truck whatever cases of booze?

Engineer Zepponi answered I don't know. I guess if that is the answer and park on the street, if there is enough room on the street. I don't know what that would do to that street traffic since it's not exactly a boulevard, and there is a parking lot across the street. So I don't know.

Attorney Mondello commented you are just raising the issue.

Engineer Zepponi stated we are here to make sure, if this thing gets approved, it works.

Attorney Walker asked Engineer Zepponi if he was able to review these photographs to identify how the vehicle truck maneuvers. Here in the photograph (O-2) it's fairly wide open. Again there are no cars parked, or not a lot of cars parked, up against the east fence, but you can see the trailing leg of that truck is actually in front of my client's property. At least, it appears that way to me and I am sure when somebody does the layout of what the radius is to get in and out of this place, I find it very unlikely that you're going to be able to do that within that curb cut if there are any cars in that parking lot. Then we can address what the alternatives might be.

Member Pasznik questioned what time of day the picture was taken?

Mr. Purcella answered 8:45am.

Member Covelli questioned your client's house is the raised ranch?

Engineer Zepponi answered with the garage doors underneath, yes.

Member Covelli questioned so the other gentleman that testified previously is the house, with the chimney, on the other side?

Engineer Zepponi answered right. My client has indicated to me that corner of the property given the tractor trailer traffic is taking a beating because it wasn't intended for tractor trailer, it was intended to park residential cars.

Member Hoffman questioned you are telling us that they are using your client's property to make the turns? They are driving over his property.

Engineer Zepponi answered exactly. As I understand it from him and certainly the picture would seem to verify that.

Member Hoffman stated it is hard to tell.

Engineer Zepponi stated in my experience doing radius with tractor trailers it seems highly unlikely that they can do it. Along with that, the fence you see along that property on the west side is actually my client's fence; it is not the property owner's fence. With people backing out from the parking across the way, his fence is being continually damaged. It would be nice if there was something to do to protect that, but I understand that giving the space, there is not much that can be done there unless the Applicant puts up his own fence and he can repair it as it becomes damaged rather than my client continuing to repair. Also, as previously testified I think by one of the neighbors, the cars park along that driveway parallel and I guess they walk out when people are going to get out of the lot as people decide to leave. I understand from my client that is also where the snow gets pushed. So the snow is pushed up against the fence and that pushes the fence over. I think to address all of that probably the easiest answer is to have the Applicant put up a fence on his side and then what he does to protect it or not protect it is his choice, but the damage that's being replaced and repaired is the result of his operation, not my client's.

Attorney Martin would like to be heard briefly.

Attorney Mondello answered yes, do you have an objection?

Attorney Martin answered yes I do. We are listening to possibly very real issues that the objector may have with my client and the operations of the bar, but listening to a delivery truck that may have trespassed, may have caused some damaged, how could that relate to whether or not this Board is going to approve the use of the residential units changing them from apartments to rooming houses? I understand the bar is an issue and the parking is an issue, but now we are listening to testimony about problems that Mr. Kidd has had with Mr. Agostino about delivery issues, possibly damaging a fence, I don't see that this testimony is relevant to what the issue is before the Board regarding this application.

Attorney Walker stated as Engineer Zepponi has indicated you cannot ignore the fact that there is a tavern in connection with this application; it goes hand-in-hand. What we are looking at here is proposals to a site plan that's going to have an impact on parking, that's going to have an impact on delivery, that's going to have an impact on circulation within the site itself. You cannot simply ignore that; it is a major issue. When the changes that are being proposed is going to have a more dramatic effect on Mr. Kidd's property, and that's a concern. I think the testimony by Engineer Zepponi is not only fair but I think it's important.

Attorney Walker commented there has been no testimony that has established there is going to be more parking, there is going to be more tenants with cars, and there is going to be more traffic if these units are changed from residential apartments to rooming houses. In fact, I think the testimony was the opposite. I understand that when you put forth a site plan now there is going to be issues of drainage, etc., but the site plan was prepared to further the requests of Engineer Nash and the Board when we filed our application. Yes, these things are connected, but the idea that now there is going to be this explosion of more traffic, more this, more that there is no evidence of that.

Attorney Mondello commented that the testimony was that this application would make the uses less intense, not more intense.

Engineer Zepponi stated if you think about what I said was there was going to be an increase traffic on this specific issue; what I said was now that you are putting the parking there as a result of (unable to hear/understand testimony) but once you got to the point that

the parking was requested, forgetting that it was requested previously, on that side you can't effectuate the use of that being a delivery area with those cars there without trespassing on somebody else's property.

Attorney Mondello commented cars park all over the place right now, and deliveries are made today; it is a less intense use. Listen I think that arguments on both sides have merit and obviously the Rules of Evidence are somewhat relaxed and not thrown out the window when it comes to these types of hearings, but let's see if we can move on. It is now 10:05; we get the parking situation and I think the Board understands it is deficient and it's deficient now and it's going to continue to be deficient.

Vice Chairman Grygus commented the only merit I see to it is the fact that he is going to go down from 24' opening; whereas now he has the whole width. You can weigh that for what it's worth. I think what's going to happen is they are not going to be able to use it. They are not going to get that into a 24' opening.

Member Hoffman stated or he is going to make his deliveries to the front and park on the public street.

Engineer Nash suggested that the Board consider the condition of the approval that the trucks do not maneuver like this anymore. They deliver on Railroad Avenue. In all due respect to the objectors, property and all, there is a truck backing up on a residential street at 8am, there are kids out there in the morning, there are much bigger issues than driving over a curb.

Member Covelli couldn't agree with Engineer Nash; it was exactly my thought that the outcome of this, and the bigger issue for me is, people shouldn't be on a street that by all means looks like a residential street. So to your point Engineer Nash, I was thinking the same thing that we would be asking the Applicant that deliveries belong on the other street where there is virtually no houses. There is a liquor store, there is a house that is owned by someone affected by that and other than that why wouldn't the deliveries be on that street and alleviate this street.

Attorney Mondello commented, Attorney Martin, to the point the uses are not disconnected so continue with the direct if we could just perhaps speed it up a little. I'm not trying to foreclose your testimony.

Attorney Walker stated we will move it along but there is just one other issue to address with respect to circulation and parking and issues on Railroad Avenue.

Engineer Zepponi stated, in general, I am just curious as to why it says "employee parking" and not "employee parking only" since I don't know how that gets enforced. It would be nice to show the stalls and then you can understand how does it work that you get passed this one and how do the cars line up and where do they go at the end of the day. I am pointing at the east side adjacent to the main building there is a little existing gravel to remain, existing parking sufficient for two employees. Again, if the stalls are delineated, even if they don't meet code, it gives us a better understanding of how packed and how this is going to be utilized and how does it function. Specifically, in regard to that area I just described, I see it says "macadam driveway" and then there is a dimension of 4-1/2' which is barely a sidewalk.

Member Hoffman commented because the existing driveway is separated by the two different lots.

Engineer Zepponi commented then I would think there would need to be some kind of easement, or some kind of agreement. And you know with that, I guess you are driving over the sidewalk or concrete porch, I don't know what this box is here and I am pointing to the two-story framed dwelling on the other side that goes down to about 8'. Then I notice there is no curb cut there. That's the question – does that driveway function as another exit from the property?

Chairman Dunning commented the property line runs dead center down that street and let's leave it at that.

Attorney Walker: Can you address the lighting issues?

Engineer Zepponi stated typically with the details for the lights there's (unable to hear/understand testimony). That fixture may have been tested at 10' and then you have to make an adjustment, it might have been tested at 20' and you have to make an adjustment. The second part of the question with regard to lighting is lighting effects are cumulative because you have a light here, and there, and there. The light between those lights overlays and accumulates. I don't know if this computer generated from the manufacturer, spot indication of the lights or if it is something that just took one plot and put it down and then a different plot for the wallpack. Was the accumulative effect taken into account? I am highly suspect about a pole being 15' high and a 6' fence bringing the lighting from a 1/2' candle almost to zero. If the fact is that this is going to be shielded typically the light fixture would say shielded and if it was shielded, you wouldn't have to worry about the 6' fence doing anything since it is already shielded. There are some questions with regard to the lighting and the plotting. This thing is almost 15' high and has almost a 1/2' candle out by the entrance which is 40' feet. This is a very unusual lighting pattern. The only thing it doesn't show is we go to the rest of this application. I have been back in that area and there is a very bright light in the back of the bar building and it's not shown here. Because the lighting is cumulative, we have no idea what that is doing here, the lower left-hand corner of the parking lot. In my opinion if you are going to do a lighting analysis of the proposed area, you have to show the other lights so we can what the cumulative effect is and it doesn't necessarily mean going back to manufacturers of a light that is ten years old. You take a light meter, take a camera or hire someone with a light meter and just go out there and take readings and in an hour you would be done, and then you would know what the lighting is because one by itself may not be a problem, but if you add two or three others that are out there, you could have a problem. I just can't see it from this; there is just not enough information.

Attorney Walker: Any other engineering issues that need to be addressed?

Engineer Zepponi stated just to put it on the record since I was going to ask but one of the members did ask is we have handicapped parking, but I don't see any handicap access to the building. I have a questions that needs and suspect it should be addressed. I think this should be on the record. If there isn't any and you are putting in new housing, should there be? It is an interesting question if you look at what the demand for the parking should be versus what is being provided technically I believe you are required to have a second handicap stall. I am not proposing it or suggesting that you do it, it's just a question; what are the variances, what are the waivers?

Attorney Mondello: Any questions from the Board Members?

Member Covelli questioned when were the pictures taken that you're submitting as O-1 and O-2? I heard the time day but was it recently?

Mr. Purcella answered this morning, April 4, 2018.

Attorney Mondello: Any other questions from Board Members? Hearing none, seeing none. Your witness Attorney Martin?

Attorney Walker would like Engineer Zepponi to address planning issues. Do you want to have cross examination on the engineering issues first?

Attorney Mondello commented I think what we were planning on doing is having the Applicant's Planner finish up his testimony. Did he conclude?

Attorney Martin stated he did, but we did not have the report from the Town Planner.

Attorney Mondello stated we are going to have to bring the Applicant's Planner back up here to address that letter you received tonight and Attorney Martin received tonight and then we can certainly recall Engineer Zepponi as a Planner.

Attorney Martin has two questions for Engineer Zepponi. You said before that our application essentially changing the use of the properties would affect the issue of, for example, this tractor trailer accessing the property. Is that correct? Is that what your testimony was?

Engineer Zepponi answered those dots could be connected, yes.

Attorney Martin questioned how does changing the use affect whether or not this tractor trailer can access the property or not?

Attorney Walker objects to this question.

Attorney Mondello questioned what is the objection?

Attorney Walker stated I do not recall that his testimony was that the change of use, but the site plan in connection with the change of use.

Attorney Walker disagrees; that was not his testimony. That is Attorney Walker's testimony. I just confirmed it in the preface to my question. I want to hear why changing the use of this building, changes the access of that tractor trailer into the parking lot?

Attorney Mondello commented I can't recall what the testimony was, but let's see if you can answer both; the use and then the site plan issue. If you can't, you can't.

Engineer Zepponi stated the request for the change of use resulted, for whatever reason good or bad, fair or not, a site plan that puts in seven additional stalls, setting aside those stalls were already sold. Because of that, that creates the physical condition that I believe is going to disallow the delivery truck to the bar to operate in the same manner it does now.

Attorney Mondello commented, in fact, one of the Board Members agreed with you on that and said that the truck is not going to be able to get in. It is going down to a 24' opening.

Attorney Martin questioned your opinions relate to the site plan that the applicant submitted once we got feedback from the town engineer? Is that fair to say?

Engineer Zepponi answered yes as a casualty of you asking for a change of use that precipitated that.

Attorney Martin commented yes, but there is nothing specifically about the change of use that leads to your opinions regarding the parking and lighting and all that? In other words, this isn't a new application where we are taking a vacant lot and putting up a brand

new building. Your comments this evening relate to the site plan that was submitted by the Applicant in response to Engineer Nash's requests essentially.

Engineer Zeponi commented of conditions he anticipated as being correct for the request of change in use, yes.

Attorney Martin stated that is all have.

Attorney Mondello: Anybody within 200' of the Applicant have any questions for this witness? Anybody, period? We will close that portion. It is 10:20, do you want to bring Planner Ochab up here to address the letter?

Planner Ochab remains sworn in since he previously gave testimony in this matter.

Attorney Martin questioned have you had an opportunity to read and review an e-mail from Town Planner Fred Suljic?

Planner Ochab answered I did.

Attorney Martin commented there are some issues raised in the e-mail and could you address them for the Board.

Planner Ochab testified Fred Suljic has several recommendations concerning the Board's deliberation on the application; two of which are that, if the application is approved, it should be adequately maintained and inspected. I don't think, in talking with the owner, that we have any issue with insuring that the property will be maintained and certainly opening it up at will to town inspection by the Zoning Official, Health or whoever has jurisdiction.

Vice Chairman Grygus commented I recall the State does inspections.

Planner Ochab stated the State as well. This is going to be regulated by the State as well, without question. That is actually the reason we are here. The second issue that Fred is discussing the issue of Affordable Housing. This takes a little bit longer to talk about because the state of the State's condition on Affordable Housing is in complete and utter chaos at this point. There has been some decisions made in Middlesex County and it's a 215 page decision and it's going to be appealed through the Appellate Division so, as Planners, we are in this Affordable Housing No Man's Land. Having said that, typically what I am doing and my other planning colleagues are doing in municipalities is on major residential projects we are looking at a certain amount of set aside for units to be affordable, lower and moderate income housing. Typically that percentage is 15%. What that means in this case is we are talking about 3 units that would be set aside as Affordable Housing. Again, talking with the applicant, we are willing to do that.

Attorney Mondello commented I know that I presented Attorney Martin with a letter dated May 4, 2016 from the Borough Attorney and we are at a loss just as the planners are. The last paragraph states "going forward, any application that comes before either board should have a 20% set aside". I dropped this bomb I believe at the last meeting. 20% seems high, but I'm not the Borough Attorney or the COAH Counsel.

Attorney Martin commented this was before a lot of things have occurred on that topic. Certainly, that was before the most recent decision that came out and I believe there were actually other court decisions that were after this letter that affected that issue so I don't know if Attorney Fiorello's still has this same opinion or not. I don't even know that every application will fall under this requirement. I am just mentioning that the letter is a little dated at this point.

Vice Chairman Grygus, questioning Planner Ochab, my understanding of how they determine what is an affordable unit, wouldn't the basic nature of a rooming house that in and of itself more than likely qualify almost all of them as affordable housing units?

Planner Ochab answered this is essentially correct. If you look at what moderate income is for instance, which is 80% of the medium income for Northeast New Jersey, it's basically at \$45,000 or below. So \$45,000 annual income is not really lower income, but that would qualify under the moderate income category. The people that live in these types of rooming houses are all pretty much at that level or below, so you are absolutely correct. Because the Borough will have to account for that number of units whenever COAH gets established, we are saying we'll make sure at least 15% can be qualified.

Vice Chairman Grygus questioned what kind of hurdles, in your opinion, is the Borough going to have getting credit for all of the units?

Attorney Mondello answered they would have to deed restrict every one of them for 30/40 years. That's the problem.

Attorney Martin commented it makes Mr. Agostino's property unsellable.

Vice Chairman Grygus stated even though inherently, again I think we are all agreeing that as a rooming house use, they are all going to fit that criteria anyway so unless you are going to convert them back to apartments .

Attorney Martin commented if Mr. Agostino ever wants to sell the property this becomes a problem.

Vice Chairman Grygus stated then that person would have to come back and now you are changing the use of it back to apartments as opposed to rooming houses. To me, that is going nullify the deed restriction because it is deed restricted as a rooming house.

Attorney Mondello commented not if that goes before some Superior Court Judge and becomes part of a plan and a fair share housing element the judge is going to say you are not touching that, in my opinion.

Vice Chairman Grygus stated as far as the positive and negative criteria, I would say that would enhance a lot of the potential positives bringing more affordable housing credits to the Borough.

Planner Ochab commented it would be the credits that would be able to be established when the town finally does its next housing plan whenever that is going to be.

Chairman Dunning questioned how do we do this?

Attorney Mondello answered they said they would put 15% aside. I am going to have to tell Attorney Fiorello that this is what the Applicant agreed to.

Member Covelli questioned what is the difference between 15% and 20% set aside – 1 Unit?

Chairman Dunning questioned, forget percentage, how many units would you dedicate for Affordable Housing?

Attorney Martin answered 3 of the residences.

Vice Chairman Grygus questioned 4 would be 20%

Planner Ochab stated it would actually be 3.6 so it would be 4 units. I would just say that I am working for several municipalities now and doing housing plans and those housing plans are to the court and the court designated a master which is a planner who works for the court who basically tells us what to do and we are doing 15%, until the court says

otherwise. I understand Attorney Fiorello's letter, but this letter is dated because it is two years olds and a lot has happened in the two years.

Attorney Mondello commented I certainly would be comfortable with the 15%. I think 20%, with all due respect, and a lot has changed, that seems to be very high.

Chairman Dunning commented we got 20% on the 1049 Ringwood Avenue development. Member Levine questioned if units in a rooming house would be given the same status and weight and as an apartment for affordable housing?

Planner Ochab answered on the last round of COAH regulations that were actually valid, they allowed us to count rooming houses, and also, for example, assisted living beds, nursing home beds, particularly the Medicaid beds because those incomes would be low, so we don't know what's going to happen.

Vice Chairman Grygus questioned even if they are not deed restricted?

Planner Ochab answered yes. I don't know how you would deed restrict nursing bed.

Vice Chairman Grygus commented I am saying the rooming houses; they allowed you to count them even those rooms were not deed restricted.

Planner Ochab commented the rooming houses I think they probably had to somehow deed restrict them because otherwise COAH wasn't going to accept the fact that somebody said well I am just going to do 15% and you have to trust me.

Member Levine commented then these 3 or 4 units you are talking about then have to be deed restricted.

Planner Ochab said they would have to be or there would have to be some kind of agreement between the municipality. It's a legal issue.

Chairman Dunning commented there would have to be some kind of agreement setting aside those units on a 30 year span.

Planner Ochab stated correct, but I would also say because they are rental units that the town gets a bonus. It gets a 20% or 25% bonus so instead of 3 credits they would get 3.6 credits or 3.75 credits because they are rental.

Member Levine questioned this would be acceptable to Mr. Agostino.

Attorney Martin commented we haven't really discussed. I didn't know going into this issue this evening the Board was actually going to say that would be a requirement if the application gets approved, so I haven't spoken to him to have an actual decision on that. I wasn't sure the Board was going to take the position, because I don't know if Attorney Fiorello's letter would necessarily mean that it would apply to something like this. It certainly would apply to new construction, new developments. I don't know that this letter implies that it would applicable for something for like this.

Member Covelli commented we are looking for credits where we can find them.

Attorney Martin commented I understand.

Planner Ochab commented I am assuming also that we are not going to finish tonight so maybe now and then next meeting we'll have a chance to sort this out.

Chairman Dunning we'll talk to Attorney Fiorello, you talk to the Applicant and lets work up a plan where this could work beneficial to the Applicant and the Borough. The Borough's position is we need as many as we can get.

Member Covelli commented we never have enough.

Chairman Dunning stated that the Borough has no buildable space left but you still get whacked with a quota which, especially the towns in the Highlands, are getting really killed with this. Every one we can get takes one off of that quota number.

Chairman Dunning stated it is 10:30 and we have to wrap this up. Planner Ochab will get back to us with the aspect of the affordable housing issue. Engineer Houser is going to come back with some recalculations on the drainage issue and a perc test to be done.

Attorney Martin commented we are obviously going to do a perc test but I wasn't sure there were a million things referenced tonight. I don't know what the Board is expecting Engineer Houser to include, not include.

Chairman Dunning commented this is my feeling. You've got a water situation you're trying to work with. What is your solution to that problem? The so-called storm drain in the street is nothing but a fifty-five gallon drum with rocks in it and you're not going to run a pipe to that.

Vice Chairman Grygus commented, personally, I think that is to be worked about between the Engineer Houser and Engineer Nash because ultimately we're going to go by what our Engineer recommends whether it will or will not work.

Chairman Dunning commented you have a lot of issues to work on.

Attorney Martin commented that the drainage part is easier in terms they can call each other. I don't know what the Board's thoughts are on the things like the berm, parking stops.

Chairman Dunning stated the berm has to do with the water, and they offered a 6" berm but I don't know where we left off.

Engineer Nash stated as long as the berm doesn't trap water. It could act like a dam and the water stays there and ponds and you don't want it to pond. You want to redirect it out to the street as opposed to it coming across and I am talking about the east side. We don't want to flood the neighbor on the east side by building a berm.

Member Covelli stated I would like Mr. Agostino to consider for the next meeting what he might be able to shed some light on with respect to deliveries on Erie Avenue and if those deliveries could be moved to Railroad Avenue, and we prohibit all deliveries to the establishment downstairs off of Erie Avenue, which is a residential street.

Attorney Martin commented I will talk to him.

Chairman Dunning stated next meeting we'll address all the loose issues. We are going to finish this before September.

Attorney Walker commented I understand Planner Ochab has not completed his testimony and if he does at the next meeting, then I can I have my Planner testify.

Attorney Mondello commented correct.

Next Board Meeting is Wednesday, May 2, 2018, at 8pm.

PUBLIC DISCUSSION:

Grace Maiello, 26 Rhinesmith Avenue

Mrs. Maiello commented that I sit here and I listen. I sit here because, not to be entertained, I learn a lot from attending these meetings. On the issue of drainage, I have lived here all my life and I will tell you I am not a geologist but I have had three septic systems done in my married lifetime and this entire valley is all sand and gravel. Listening to a geologist at one of the Mayor & Council Meetings, there is a natural river running right down the middle of Ringwood Avenue. The drainage, when I was building my last house, my neighbor ran a brook into my unfinished basement and it filled up to the windows. The next day the water was totally gone, so there is very good drainage. Is there a problem on that property now with flooding? I wasn't here for a couple of the hearings. Member Covelli commented that was one of my questions that I didn't get to ask was that we've had days with 2' of snow in the last 30 days, we have had monsoon rains and we've had everything else. If we were going to have some flooding now is a good time for people to come forward and tell us.

Attorney Mondello commented that we don't want to talk about the substantive issues of that application since everyone has gone, or at least half of the people, but why don't you raise that issue or that question at the next meeting when the Chairman opens it up for questions or comments.

Chairman Dunning commented that is a great question.

RESOLUTIONS: None

CORRESPONDENCE: Board Secretary is handing out the monthly NJ Planner and a new application to the Board Members.

Chairman Dunning commented in the Planner of November/December 2017 there is a great article about what Board Members are supposed to do. Everyone should read it. Member Pasznik will be attending the Municipal Land Use Class this Saturday.

VOUCHERS: submitted by Boswell Engineering for Agostino Properties Application in the amount of \$792; for MKR Enterprises in the amount of \$643.50 and for Magee Application in the amount of \$495.

MOTION TO APPROVE: made by Vice Chairman Grygus, seconded by Member Hoffman. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, Hoffman, Levine and Pasznik.

VOUCHERS: submitted by Ronald Mondello, Esq. for attendance at the April 4, 2018 Meeting in the amount of \$400; and for the litigation of lawsuit of Bellante v. Zoning Board of Adjustment in the amount of \$5,075.

Discussions on Vouchers:

Vice Chairman Grygus commented obviously that is not coming from escrow. Attorney Mondello stated that is the town.

Vice Chairman Grygus questioned so the Board still has the authority to approve those even though they don't come from an applicant's escrow account.

Attorney Mondello answered that is correct. The Mayor & Council can choose not to fund, but that is a big problem; you automatically lose. But, yes, you have complete discretion and there should be a line item budget for litigation for Zoning Board and Planning Board.

Vice Chairman made Motion to approve:

Member Covelli has a question on the motion. I heard you announce the meeting fee of \$400. Have we adopted that increase or are we doing this as a byproduct of the Planning Board and our previous discussions?

Chairman Dunning answered byproduct of the Planning Board.

Member Covelli questioned why can't we make a Motion to accept that? With that said, I am going to ask you to withdraw the Motion to approve the bill his until we first make a Motion to increase the fee because his bill on that bills list.

MOTION TO FOLLOW THE DIRECTION OF THE PLANNING BOARD AND INCREASE THE MONTHLY MEETING FEE FOR THE BOARD ATTORNEY FROM \$300 TO \$400 EFFECTIVE APRIL 1, 2018: made by Member Covelli, seconded by Vice Chairman Grygus. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, Hoffman, Levine and Pasznik.

MOTION TO APPROVE BOARD ATTORNEY'S VOUCHERS: made by Vice Chairman Grygus, seconded by Member Covelli. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, Hoffman, Levine and Pasznik.

Attorney Mondello questioned if the Board is inclined to go into closed session to discuss the Bellante Litigation, I will need a Motion and a Second.

MOTION TO GO INTO CLOSED SESSION: made by Vice Chairman Grygus, seconded by Member Pasznik. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, Hoffman, Levine and Pasznik.

Closed Session Began 10:50:16

Closed Session Ended 11:06:10

MOTION TO APPROVE JANUARY 3, 2018 MINUTES: made by Member Covelli, seconded by Vice Chairman Grygus. Chairman Dunning, Vice Chairman Grygus, Members Covelli, Hoffman, Levine and Pasznik.

ENGINEER'S REPORT: New Application – 1095 Ringwood Avenue

DISCUSSION: None

MOTION TO ADJOURN AT 11:08 PM: Motion carried by a voice vote.

Jennifer A. Fiorito
Board of Adjustment Secretary