

REGULAR MEETING
ZOOM VIDEO CONFERENCE

Salute to Flag: 8:00pm – Meeting Opened by Acting Chairman Bruce Grygus

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 Suburban Trends on January 19, 2020 and on November 11, 2020 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: Vice Chairman Bruce Grygus, Members Frank Covelli, Phillip Stefanowicz, Bridget Pasznik, Michael Levine and Helena Aumenta and Attorney Ronald Mondello and Engineer Christopher Nash

Member Don Ludwig was able to finally connect and join in the Zoom Meeting. He was present for the entire meeting.

ABSENT: Chairman Jack Dunning (excused absence) and Member James Minogue

**Application ZBA2020-07 – The Catherine Civil Trust – 24 Erie Avenue (Block 236/Lot16)
Erica Edwards Esq., from Erika Edwards, Esquire, law offices in Flemington, New Jersey, on behalf of the applicant, Catherine Civil Trust**

Attorney Mondello: I have something to place on the record. The Board had asked me to investigate the somewhat confusing/ambiguous language associated with Chapter 114-12, Section 7 to see what the legislative intent, in this case the Governing Body-Mayor & Council, had in mind with that particular Ordinance. I did and of course, with the help of Jennifer, I was able to find the Minutes of that meeting and I did send it the Board Members and I would be happy to send you and Mr. Lydon. I did have an opportunity to speak to the Borough Attorney, who was present at that particular meeting when the Ordinance was eventually adopted, and my understanding is that there is no Use Variance with respect to your client's application and that the intent of the Governing Body was indeed to permit apartments below and above. There was such a financial problem, as your client is obviously experiencing, that the Governing Body saw fit to pass that Section back then. Having said that, the Acting Chairman mentioned that we may be reaching out to the Governing Body just to see if they could, by way of another Ordinance, perhaps clarify some of the ambiguous language.

Acting Chairman: The only question that I have relative to that is we can't go by intent. We have to go by what the Ordinance is, because that is what could be challenged.

Attorney Mondello: Yeah, so let me, if I may interject. I don't think anybody here disagrees that the Ordinance has some conflicting language, and is ambiguous, so we don't know whether a Use Variance is required or not. What the courts do then is look to the legislative intent and you are acting as a judge, you're in a *quasi judicial* capacity. Now, I gave you my opinion, you certainly are free to ignore it. But in my opinion, the legislative intent was to permit apartments below and above because of the financial difficulties that area was experiencing, and having landlords find commercial tenants. Obviously, there was no problem with landlords finding residential tenants. So the Board is free to ignore my opinion, but that's my opinion, and I stand by it, and I spent enough time trying to determine what that legislative intent was, and that's at the core of this issue. What is the legislative intent?

Acting Chairman: Because it's not on Ringwood Avenue?

Attorney Mondello: Correct, and we have one this evening, that is on Ringwood Avenue that would require a Use Variance.

Acting Chairman: My question would be if that's the case, then they don't have to be here.

Attorney Mondello: My understanding is that there are Bulk Variances required. They don't comport with the other Section that says you must comply with the residential requirements.

Acting Chairman: But they're already existing conditions.

Attorney Mondello: They are. I guess an argument could be made that they may be exacerbating those conditions, because they're now putting residential as opposed to commercial there. Does that increase the parking? Perhaps.

Member Ludwig: But does it really because of all the vehicles they had for the business?

Attorney Mondello: I'm playing devil's advocate. The Chairman has indicated that they don't have to be here.

Acting Chairman: I'm not saying that's my opinion, I'm questioning it.

Attorney Mondello: Yeah, I think they do, and I do think that Mr. Lydon would probably agree with me that there are Bulk Variances required.

Planner Lydon: Yes, Mr. Mondello, I do, if I can jump in.

Attorney Mondello: Yes, please do. You remain sworn.

Planner Lydon: Yes, I understand that. My testimony tonight will be under oath as it was at the other previous hearing. Because we are changing the nature of the development, and because we are intensifying the nature of development by increasing some parking areas on site, we think, especially in light of the unclear nature of the Ordinance, that we probably are best served by staying in front of this Board and seeking those variances that have been identified, I guess at the last hearing, but we have made, what we believe to be, some significant modifications to the plan. You'll note at the last hearing there was some concern over parking issues. A new plan has been submitted, which I will testify to since we have the engineer here to testify about that, but we think we can address the parking issues. We think we can provide them on site. We do need some of those variances that were talked earlier and, because we're not expanding the building in any way. We think those can be granted under I guess the C 1 3 provision, Mr. Mondello, the lawfully existing structures, since we're not changing them, and the modifications are going to be internal

to the structure. We think in this case, the Board has a clear path to granting the requested variances.

Attorney Mondello: Well, I am not a voting member, so I send it back to the Board and Chairman to decide. I have given you my opinion, but I don't vote. As I've mentioned many other times that you're free to ignore my opinion if the Board's majority so chooses.

Acting Chairman: Any other discussion from the Board? All right, Counselor why don't you proceed with your engineer then I guess as your first witness.

Attorney Edwards: Mr. Egarian, are you still on?

Engineer Egarian: I'm still here.

Attorney Edwards: Yes. He was he was previously sworn so shall he just proceed?

Attorney Mondello: Yes, Mr. Egarian, you were previously sworn. Your witness, Miss Edwards.

Attorney Edwards: Thank you. Mr. Egarian, would you please provide an overview of the Amended Site Plan that you have prepared?

Engineer Egarian: Yes, I will. After our last public hearing, I met with Mr. Civil at the property. We walked the property all around, interior and exterior, and looked at the existing parking that's out on Villa Place, and we determined that we could fit the required six spaces within the confines of the property. The way we did that is that there are two existing garage like rooms, within the structure itself, with an existing overhead door. Intervening between the two is another space that could be accessed with a new overhead garage door. So the plan would be that we could replace the existing doors with an 8' wide overhead door and create three (3) internal parking places. They're labeled #2, #3 and #4, on the Site Plan, and those spaces inside would be 18' to 20' feet deep, and once you're inside, 8' to 10' wide. That would take care of three of the six parking places that are required. On the exterior portion of the property labeled space #1, there's like a little nook in the corner of the property that seems to be a natural place for someone to pull up and park, so we utilize that space #1. Lastly, in the overall expanse of the parking area, the asphalt and the concrete, there was an existing shed that went along the edge of the pavement so we decided to eliminate that shed and create two (2) parallel spaces along the curve line and those are the spaces #5 and #6. Accordingly, we could fit the six (6) spaces within the property. It is a little tight and there not conventional spaces because of the limits of the existing property but in my opinion, they can be navigated by the existing tenants. There are two existing tenants and there are only two cars on side of the present time, and the Applicant expects with the addition of a third apartment that there may be only three (3) cars on the lot. Nevertheless, the code requires six (6) and we do have the room for six (6) spaces.

(Note: All parking spaces will be referred to herein as "# with listed space number")

Acting Chairman: What are the dimensions of #1, #6 and #5?

Engineer Egarian: They are 9x18.

Acting Chairman: How would a car in #5 get out #6 were full.

Engineer Egarian: He would have to pull up. Let's say that #6 is occupied, you would have to pull past #6 and pull into #5 towards the top of the property and then back into #5 and likewise to

get out. You'd have to pull forward and jockey yourself out of the space into the open area. Do a k-turn and get out. Like I said it is tight, but you know it is doable.

Acting Chairman: What is a standard aisle width in a parking lot?

Engineer Egarian: The standard is a 24' backup distance for a 90 degree space. When I was laying this out, I went through several parking scenarios and with a regular passenger car 18' is plenty of space for backing up.

Acting Chairman: But he's got that neck down to 12'.

Engineer Egarian: Well, the engineer pointed out they would have 12' for #1. So for #1 you'd have to like back out and clear the building before you would begin cutting your wheels so that would be a straight shot, backing up and then pulling out of the driveway. You'd have to back out and then make a turning movement to get yourself out of that parking place.

Acting Chairman: Out of which space?

Engineer Egarian: Out of #1.

Acting Chairman: I'm not talking about #1. If #1 and #6 are occupied, #2, #3, #4 or #5 would have to navigate through a 12' wide opening in reverse.

Engineer Egarian: That's right. We have 12' in between #1 and #6 for entry, and 16' as an aisle width entering the property if #1 and #6 are occupied by a car.

Acting Chairman: That seems somewhat challenging. I certainly don't know if I would want my car in spot #1 or #6.

Engineer Egarian: Further changes to the plan are we amended the zoning table to reflect the elimination of the accessory structure; the shed. We have additional pavement in lieu of the shed, but that does not change the impervious coverage. As indicated by the Board, in the last meeting, the chain link fence along the easterly property line will be relocated to the property line, so that change will occur.

Acting Chairman: Comments or questions from Board Members or Professionals?

Engineer Nash: Mr. Chairman, I jump in? So the engineer mentioned it was an unconventional layout, and certainly, we can all agree it's unconventional. I think a couple things come to mind. One is during the snow season, you shovel snow or plow snow, and those spaces aren't going to be you know, fully utilized, and it's just going to compress everything to the middle. I know it doesn't happen often, but it's a consideration. The other thing is, and I have no other term to use then it looks like a train wreck. The cars are arranged all differently, so if you're in the neighborhood and you're driving by every day, cars are going to be scattered around the lot. From the street, it's going to look like there's cars parked all over the place. I think would be metaphorically speaking, you know, a resident looking at it from the street, that's what they would observe; that it looks like a mess, chaos.

Engineer Egarian: I think that only #5 and #6 would be visible from the street. Don't forget, #2, #3 and #4 are inside the building.

Engineer Nash: I understand that but, like you said, it is unconventionally looking. I don't understand why you couldn't just pull the three cars in the garage, and then pull the other three cars in front of the garage doors. You know, that's what would happen if it was a single family home with one garage, one in a driveway. It would be the car in the garage and a car in the driveway.

Engineer Egarian: That can be done as well. We would refer to that as tandem parking, and typically, that's not an approach that's taken because it requires some manipulation of the parking. But it could be done in this case as well, and then actually there would be way more backup distance.

Engineer Nash: That's my opinion. I apologize to the Board for going off track from engineering, but it seems it's a little engineering and a little kind of putting my twist on it and putting my feet in the shoes of the people who live around that. That's all.

Engineer Egarian: It's a tight little spot to get 6 spots in. What you're seeing is one of the options and another option is tandem parking as you stated.

Member Ludwig: Well, there's another possibility though. I'm looking at where the concrete pad is in the back. Why couldn't two cars be parked side by side, nose in to that concrete?

Engineer Egarian: It would partially block #4, I believe. The backup distance for #4.

Member Levine: Where would the snow plow dump the snow?

Engineer Egarian: I would believe that snow could be pushed to the very rear of the parking lot beyond #5. That's a space, I'm scaling off my plan, about 15'x10 or 12', there's a space in the back. There's a shed in the back with some double doors and that space could be used for piling snow.

Acting Chairman: What is the distance between the building and the corner #5?

Engineer Egarian: It is about 5'.

Acting Chairman: The smallest snow plow that I know of that goes on a vehicle is 6' wide so I don't know how you're going to get the snow past that vehicle.

Engineer Egarian: Well, you'd have to do the plowing with #5 and #6 not there obviously.

Acting Chairman: When you are going to convert to all residential use and you're going to exacerbate the intensity of residential use, is there any consideration for any kind of recreation area outside for a barbecue? Or if someone is in there with kids, somewhere where kids could go to play?

Mr. Civil: Can anyone hear me now?

Attorney Mondello: I'm sorry, just hold on one second. I'm going to need to have you identify yourself. I believe you were previously sworn, and forgive me for muting you, but I'm simply trying to protect the record in case something like this does go to court. I'm going to ask you to unmute yourself.

Mr. Civil: Hello

Attorney Mondello: Miss Edwards, is it okay if your client responds to this question?

Attorney Edwards: Yes, it is. Okay.

Attorney Mondello: Okay sir, please identify yourself, and you remain sworn.

Mr. Civil: My name is Mike Civil. I'm Catherine Civil's son. This used to be my office and now I'm retired and we no longer need the office. That's one of the reasons we're doing this. The other thing I wanted to mention is that last piece on the corner of #5 is just a shed. It has some remaining of my tools in it, which will be removed, and I do plan on removing that shed also; that last whole last square,

Acting Chairman: That whole last square isn't part of the living space?

Mr. Civil: No, it's just the shed, and I plan on taking it down, which will give them a place to have a barbecue and have a picnic and do what they need to in the yard. I think it will help with it fitting two (2) cars back there also.

Engineer Egarian: We can move #6. It can be used as a turnaround area to.

Mr. Civil: Yes, whatever we needed to do. That's all I wanted to say.

Member Ludwig: Could we include that in the Resolution if we approve it; that it has to be removed?

Attorney Mondello: Yes, Don.

Acting Chairman: I think he's testified that's his intent.

Mr. Civil: Yes, it's going to come down.

Acting Chairman: Any other questions from the Board Members? Seeing none, hearing none.

All right. Ron, do we want to open this up to the public for questions of the engineer?

Attorney Mondello: Thank you Mr. Chairman. I'll make sure that folks are unmuted. If you do have a question for the engineer, please unmute yourself.

Attorney Mondello: Let the record reflect that I've asked everyone to unmute themselves. If you have a question for the engineer, Mr. Egarian, please state your name, give us your address and ask away? Hearing none, seeing none, Mr. Chairman,

Acting Chairman: I'm going to kind of push it back to the engineer again. What are your thoughts regarding changes to the parking with the consideration of the shed coming down and the comments from the Board and the Board's Engineer?

Engineer Egarian: Was that directed to me Mr. Chairman or your engineer?

Acting Chairman: I would say to you, it's your plan. I mean clearly the Board has some concerns the way it's proposed. So my question to you would be, what change, if any, would you propose to changing what's shown on here to.

Engineer Egarian: Well, the rear shed could come down and that would certainly allow access to #5. It would be a better access to #5 because you could pull to the back, pull up to the right and then back into the space. When leaving, you could also do k-turn and pull up into that space, do a k-turn and move out. The elimination of that shed would help the overall of turning movements within the plan, so I would approve of that of that change.

Acting Chairman: But I don't see where you're changing anything other than taking the shed down. That still does not deal with that 12' bottleneck, which personally to me is the biggest concern I have.

Engineer Egarian: Picking up on the engineer's comments on the tandem parking, spots #1, #5 and #6 could be laid out to be tandem with #2, #3 and #4. I'm scaling off now, between the garage space of #4 to the edge of pavement there is 30', and from #2 to the pavement there is 45'. So there is space behind those garage doors for parking in tandem. If someone is coming or going, it's a much simpler backup motion to backup and move out.

Acting Chairman: What is the width from one end of the garage to the other end of the garage?

Engineer Egarian: From space #2 to #4 it is 30'.

Acting Chairman: Potentially, are you testifying that you could theoretically have three 10x20 tandem spaces?

Engineer Egarian: Well, I would recommend 9x 18 or 10 x18, Mr. Chairman, just to improve the turning movement. But yes, I would agree that the tandem parking could be laid out that way, unless Mr. Civil has a particular objection to that, but I don't think he does.

Mr. Civil: No, I have no objection to it. I do want to state that those garages, I measured them today, and they are 19-1/2' deep.

Engineer Egarian: Plenty of space internally for a car.

Mr. Civil: It's actually 20' to the outside of the house.

Engineer Egarian: Mr. Chairman, we could amend the plan accordingly, and show the tandem parking, eliminate the shed where #5 is now and eliminate the shed at the rear of the property and include, let's say, a paver area for picnics or playground equipment to serve the tenants. In that way, the ingress and egress of the property would be freed up and that 12' bottleneck would be gone and it would improve the site plan.

Acting Chairman: That is what you're proposing?

Engineer Egarian: Yes.

Acting Chairman: Any other questions from the Board? Okay.

Attorney Mondello: Mr. Chairman, I just received a chat from the name is simply Linda. So Linda, the Chairman opened the meeting for Questions Only of this engineer's testimony. I know you just joined us, but you may not have heard his testimony. There'll be a portion of the meeting where all residents can comment. I know you are an adjoining neighbor. Do you have any particular questions of the applicant's engineer, Mr. Egarian? If you do, you need to unmute yourself and you must engage your video. There you go. Thank you. Welcome. Would you please state your name, spell your last name and give us your address?

Miss Lanotte: My name is Linda Lanotte. My address is 499 Ringwood Avenue.

(It was determined that Miss Lanotte had questions regarding Use Variance Application No. ZBA2020-10, Nouvelle, LLC, 511 Ringwood Avenue, Wanaque. This Application will be heard at the conclusion of the present Application being heard.)

Acting Chairman: Ron, we're going to open up for comments at the end so why don't we ask the Counselor if she's got any other testimony or any other witnesses.

Attorney Edwards: No, there is no other testimony this evening.

Acting Chairman: All right, then let's open it up for comments. Does anyone in the public have any comments about this Application?

Attorney Mondello: Again, Mr. Chairman, let the record reflect I'm asking all participants to unmute themselves, and if they have a comment at this time, we would simply ask that they identify themselves, turn their video on and state whether they are for or against this Application. Anyone?

Acting Chairman: All right, seeing and hearing none, perhaps we could have the Applicant's Engineer just summarize the Bulk Variances that are required.

Attorney Mondello: That might be best suited for Planner Lydon, but I certainly leave that up to Miss Edwards to decide.

Attorney Edwards: I'm sure that Mr. Egarian could do it, but I would, in the first instance, turn to the Planner and ask him to do that for us.

Planner Lydon: I would be happy to.

Attorney Mondello: Again, welcome Mr. Lydon, you remain sworn?

Planner Lydon: Thank you and I remember that I am still sworn.

Planner Lydon: The first thing I would point out that in this B-Zone you have a minimum lot area requirement of 10,000 square feet. The subject property has 7,156 square feet. It has been of that size for years, and the proposal is to continue at that size. Lot width you require 80' and on the zoning table on Mr. Egarian's drawing indicates that we have 90.47' so it is a complying number.

I would point out that it's hard to determine what the lot width is on this particular lot, if you're going to go strictly by your Ordinance, because your Ordinance has a definition of what lot width is, and it's measured by the side lot lines, and without going too deep into it, our remind people that this lot is actually landlocked., so it's difficult to define lot width and yards according in accordance with your Ordinance. The building has been there a long way, it's got an unusual configuration. The front doors face one way, it has a sidewalk facing the nearest street, but trying do to come up with practical solutions to fill out the zoning table, the lot depth is required to be 100', and there's 106' on this particular property.

The front yard, you require 20', and we have 3.1'. When I say 3.1', that's from the existing building to the property line most parallel to Villa Place. That would be on the east side of the property.

You have a side yard requirement of 10', where we have as a proposal 4.1', which of course is also the existing and has been existing since the 50s. and that's along the northern property line.

There's another one at 2.71, along that same north property line.

The rear yard requirement is 25' and we are proposing 2.3', which is along the western property line. That of course is an existing condition.

Acting Chairman: Just to comment there, if I would. With the removal of the shed that's going to change that.

Planner Lydon: Yes, that is going to change.

Acting Chairman: If the engineer could scale that and tell us if that's still going to be less than the 25' required.

Engineer Egarian: It's going to be about 20'.

Acting Chairman: Okay, so that's going to change to 20' as opposed to 25'.

Planner Lydon: Correct.

Planner Lydon: The building height your Ordinance limits to 35' and we comply with that.

The building coverage is 30 and the building has been 39.8. With the removal of the shed, and the back portion of the building, those numbers will become more compliant to the requirements of the zone.

The point I would really like to emphasize is this is an unusual lot in a number of ways, including its shape, the building has been there for 60 years, possibly longer, and what this Applicant will be doing will be leaving all of those conditions either as they have existed for the last 60 years or so, or in some cases, improving them.

On residential buildings, there's a requirement that you use the R-10 Zone for side yard and rear yard. Those requirements are for the side yard are 20', and for the combined side yard of 45'. For rear yard 45. But again, it's a little difficult to really place where these yards exist, according to the definitions in your Zoning Ordinance. Again, we are not making them any worse than they are under the conditions of the last 60 years or so.

Acting Chairman: Okay, I just have a couple of comments. You're also going to need a Variance for the 9x18 stalls because the Borough Ordinances 10 x20.

Planner Lydon: Wouldn't that be a design waiver, Mr. Chairman?

Acting Chairman: We typically do it as another Variance. I know there's a conflict with RSIS. The other issue I have is I thought the Ordinance was fairly clear that when you do this, it has to comply to the Residential Ordinance. So all these numbers that are on the zoning table have to change. Even though they are pre-existing, there's an argument that could be made that the conversion to residential use is an expansion of a non-conforming use. Therefore, those Bulk Variances, even though they are pre-existing, would still require Variances.

Planner Lydon: You're right, and by the fact that we were changing the site as of today's discussion, they would have been changing anyway. I think the key point is that it's difficult to measure just exactly where you are on this property, but we will be improving it.

Acting Chairman: Okay, but this Board can only grant finite, definitive variances. So we can't say plus or minus or about, so this whole thing has to be converted to the residential zone requirements to come up with actual measurements. If it is approved, and if a Motion is made, whoever makes that Motion has to grant specific footage to variances.

Attorney Mondello: Mr. Egarian and Mr. Lydon, do you understand, I think you do, what the Chairman has just indicated that the Ordinance is pretty crystal clear that you must comply with

those residential requirements? It sounds as though the Chairman would like exact numbers. I know that Mr. Lydon has just testified that, to some extent, it is difficult, but he is suggesting that, and I don't know whether the Board is inclined to move forward, and then myself, Mr. Nash, Mr. Egarian and Mr. Lydon can work those out. Because, right, the dimensions are not changing. This is really just a conversion of a use; the dimensions are staying the same. But that's obviously up to the Chairman.

Acting Chairman: All you really have to do is plug in the requirements of the Residential Zone. You have the existing on there, so that's really the change that needs to be done.

Engineer Egarian: Which Residential Zone?

Planner Lydon: R-10 Zone for the side yard and the rear yard.

Acting Chairman: Well, it's going to change all of them; for the front yard also.

Planner Lydon: I believe it only affects the Ordinance that I have, Mr. Chairman, which talks only about the side and rear yard requirements of the R-10. District.

Acting Chairman: Ron, was it all the conditions of the R-10?

Engineer Nash: The Planner is correct, Mr. Chairman.

Acting Chairman: All right, so we are only looking at rear and side?

Engineer Nash: Correct? Yes, those three numbers we're looking at.

Acting Chairman: Okay, we are looking at the rear. We're looking at the side on one side and the total side. The rear in the R-10 is what?

Planner Lydon: 45', Mr. Chairman.

Acting Chairman: All right, so it said 25' and would require a variance of 20'.

(Board Secretary: You need to unmute yourself first, please.)

Acting Chairman: I think the side yard in the R-10, Chris is 15' on one side and 40' total? I don't have the book in front of me.

Member Covelli: 35' total.

Acting Chairman: So you got 15' and total 35'. So we are looking at 6 Variances. You are looking at the lot area. I understand their pre-existing but we typically handle this that it's an expansion of a non-conforming use. You are looking at the front yard. You are looking at the side yard 15' where you're providing 4.1'. You are looking at the side yard total where you are required 35' and you're providing 13.5. You are looking rear yard where 45' is required and you're providing 20'. You are looking at six (6) 9x18 parking stalls. Chris, would you agree with that?

Engineer Nash: Yeah, that sounds correct.

Member Covelli: Wow, that's a lot of Variances, and it is a lot of intensity on this lot. I have to tell you, I have concerns with the intensity and the appearance. Overall, I think those cars are going to end up in the street. I don't think that people are going to comply. You are also basically talking about putting six (6) bedrooms on less than 7,200 square feet. That's a lot of intensity of use as I understand it.

Planner Lydon: Perhaps I could interject. I think there was testimony at the last hearing, that this was basically a contractor's yard for a long time, and there were commercial vehicles coming and going. So it could be argued that the residential use would be much more benign than an active mechanical contracting operation.

Member Covelli: I did hear that argument.

Acting Chairman: All right, I guess we're looking for a Motion, ladies and gentlemen.

Board Secretary: Can all the Members unmute themselves, please?

Acting Chairman: I need a Motion folks one way or another; yea or nay.

Attorney Mondello: Don, I am asking you to unmute.

Member Ludwig: I couldn't keep up with all the different Variances needed for dimensions. I do kind of think that it is going to lessen the traffic in and out of this if it is residential, as opposed to the existing use. If I can make the Motion to Approve without listing all of these Variances they need, I would like to make a Motion to Approve the change of the use.

Acting Chairman: Ron, discussion first or a Second first?

Attorney Mondello: You need a Second. The Motion will die without one.

Member Levine: I'll second.

Acting Chairman: All right, just discussion. Ron, are we okay? Do we want to give the exact? I mean that could be calculated out as part of the Resolution, right?

Attorney Mondello: Referring to what I'm sorry.

Acting Chairman: Like, where 10,000 square feet is required, we're showing that 7156. I could do the math quick but as long as we have the numbers on the plan so we know what's required and what they are proposing, we can always calculate it out for the Resolution, and I'll do it and I'll email it to you.

Member Covelli: If I may, Mr. Ludwig, perhaps the Motion would be a Motion to Approve the Application noting that there are six (6) Variances to be spelled out in the Authorizing Resolution upon acceptance.

Member Ludwig: And I would probably want to see the site plan showing that the building is being removed.

Acting Chairman: Two conditions would be removal of the shed with an addition of an active recreation area to the rear of the property and showing the stacking of these six (6) parking spaces.

Member Ludwig: I'll make that Motion, the Amendment to it, whatever you want to call it.

Acting Chairman: Any other Any other discussion? Can we get a Roll Call?

MOTION TO APPROVE APPLICATION ZBA2020-07: made by Member Ludwig, seconded by Member Levine. Voting yes were Vice Chairman Grygus, Members Stefanowicz, Ludwig, Levine and Aumenta.

Voting no were Members Covelli and Pasznik.

Motion Carried (5 Yes – 2 No)

**Application ZBA2020-09 – 1458 Ringwood Avenue, LLC, 1458 Ringwood Avenue
(Block 478/Lot 7)**

Board Secretary: That's the Application that requested to be carried. They didn't do any notices or any publications either.

Acting Chairman: If anyone from the public is here for. Well, they probably wouldn't be because there were no notices.

Attorney Mondello: They are going to be re-noticing, Mr. Chairman. I shouldn't say re-notice. I guess they didn't notice, right, Jennifer?

Board Secretary: Yeah, they didn't. So they'll be doing everything for the January 6 meeting.

Acting Chairman: In the event that anyone's here for that application, it will be heard on the January 6 meeting.

Board Secretary: Did you want to do our motion to carry it?

Acting Chairman: No, we really couldn't have heard it because it really isn't complete, so I don't know how it even got on the agenda if they didn't notice but whatever.

Board Secretary: They asked for the adjournment, I believe, after they received Engineer Nash's letter.

Acting Chairman: Do we need a formal motion to carry it?

Attorney Mondello: Not really since they hadn't noticed anyone you couldn't hear it. Who knows, they may decide to notice for February or March. I don't know how much time they actually need. I don't want to get into the merits of the application, but to answer your question you're correct, Mr. Chairman.

Application ZBA2020-10 – Nouvelle, LLC, 511 Ringwood Avenue (Block 220/Lot 4)

Attorney Mondello: Good evening Mr. Capizzi. It's nice to see you again. Please enter your appearance into the record.

Attorney Capizzi: Thank you, Mr. Mondello, Members of the Board. Matthew Capizzi, 11 Hillside Avenue in Tenafly, New Jersey on behalf of the applicant, Nouvelle, LLC. This is an application that seeks to develop this vacant piece of property, which is on the corner of Ringwood and Stephens Avenues with a four unit apartment building. Each unit will contain two (2) bedrooms and the parking lot will contain nine (9) parking spaces where only eight (8) are required. The project complies in total with the bulk table. All the front yard, rear yard, and side yard setbacks are conforming. In fact, they're over conforming, we're providing more generous setbacks than what's required. The building coverage is well below what's allowed, approximately half, and we're at 14% where I believe 30% is permitted. The impervious coverage is in conformance since there is no limitation in this zone. The height of the building also conforms. The single variance before the Board is this property is located in the B Zone and, as the Board is aware, properties that are located in the B Zone that have frontage on Ringwood Avenue are not permitted to have apartments on the first floor. By virtue of the fact that we're proposing two,

two bedroom apartments on the first floor requires a D-1 Use Variance. The justification for the Use Variance is this project is being funded by the National Housing Trust Fund, which is federal funding and federal funds are going to be used to create these four (4) units all of which will be affordable units. They will provide the municipality with four (4) COAH credits as a result of this project coming online. The income levels of those that will be living here are relatively low about 30% of the median income for the area for those that will be residing here, which is really a nice accommodation to be able to have someone in that income level live in a brand new two (2) bedroom unit. To add some additional justification to the variance, the provider for this unit is going to gear the units towards those with disabilities, developmentally or physical, really for those veterans suffering from disabilities, whether it is physical or developmental in nature. The concept here is to have a family live in these units, one of the family members who, unfortunately, is impacted by a developmental or physical disability. Everything that I just said, should the project be approved, will be memorialized by way of a Deed Restriction that will be required as a result of the funding that we're going to receive for this project. The fact that the units will be affordable in nature, the income levels and the occupants being those with physical or developmental disabilities, will all be memorialized by Deed Restriction that will ultimately get recorded. Affordable housing, housing for the disabled, housing for veterans are all considered to be inherently beneficial actions within the State of New Jersey. That's essentially the justification for the Use variance that our Engineer/Planner, Mr. Dykstra, will speak to momentarily. I just wanted the Board to have kind of a flavor, a little bit of the framework, of the project itself, what we're proposing and the justification for the Use Variance. Two witnesses this evening are, Mr. Chairman, our Engineer/Planner, Ken Dykstra, and our Architect, Yogesh Mistry. If the Board doesn't have any questions for me, my thought was to start with Mr. Dykstra to go through the site plan elements, the variance that's at issue, and then move on to Mr. Mistry.

Attorney Mondello: Sounds like a plan. Mr. Capizzi. Welcome, Mr. Dykstra. If you'd please raise your hand. Do you swear or affirm the testimony you're about to give be the truth, the whole truth and nothing but the truth so help you God?

Engineer Dykstra: I do.

Attorney Mondello: Please state your name, spell your last name and give us your office address.

Engineer Dykstra: Kenneth Dykstra, 21 Bowling Green Parkway in Jefferson, NJ.

Attorney Mondello: Mr. Capizzi I cannot recall whether or not Mr. Dykstra has appeared before this Board as an engineer. I don't see any of the Board Members shaking their head, so perhaps briefly, give us give the Board the benefit of your qualifications.

Engineer Dykstra: I'm a New Jersey Licensed Professional Engineer, Professional Planner and Professional Land Surveyor. I am the Principal of Dykstra Walker Design Group, and I've been practicing in the field of Site Engineering for over 30 years. I've testified before many boards throughout Northern New Jersey, and I know I may have been before your board once before, but I definitely have been before the Planning Board in Wanaque.

Attorney Mondello: Fair enough. Any of the Board Members have any objection to admitting Mr. Dykstra as an expert in the field of engineering and planning? Hearing none, seeing none your witness Mr. Capizzi.

Attorney Capizzi: Mr. Dykstra, the site plan that we filed with this application that was prepared by your office, correct?

Engineer Dykstra: That's correct.

Attorney Capizzi: As far as your knowledge of the site in the surrounding area, have you had an opportunity to go out to the site and become familiar with the neighborhood?

Engineer Dykstra: Yes, I have.

Attorney Capizzi: The site plan that we're going to be discussing this evening, can you just take me through the last revision date on that so we make sure we're all looking at the same plan set?

Engineer Dykstra: Plans were dated September 28, 2020, that was revised.

Attorney Capizzi: Ken, are you comfortable screen sharing? Do you want me to bring up your drawings so we can go through the site plan? How would you like to handle that?

Engineer Dykstra: If you have the site plan available, you could bring it up and that'd be fine.

Attorney Capizzi: Is that okay, Mr. Chairman?

Acting Chairman: That's fine.

Attorney Mondello: Mr. Capizzi, I have now made you a co-host, you can share your screen.

Attorney Capizzi: Ken so I brought up your site plan and have brought us to Sheet

Engineer Dykstra: Sheet 3, which is the site layout plan.

Attorney Capizzi: Can you just take us through the existing conditions please?

Engineer Dykstra: We have an existing lot that was formally developed with commercial use and maybe residential mixed use and maybe even a restaurant in the past, but it's been demolished as since 2006 is my understanding. The site currently is a corner lot with the frontage on county road, Ringwood Avenue, and also Stephens Avenue to the north. The lot is 16,460 square feet in size and it's located in the B Zone. Generally, it's a cleared and flat lot, has a chain link fence that it's kind of in poor condition that surrounds most of it. We have a little bit of an unusual appendage about 20 feet wide by 100 that goes back behind the neighboring Lot 3 which is an existing single family dwelling fronting on Stephens Avenue. We are frontage lot on the County Road in the B Zone. Directly across the street from us is an eight unit garden apartment building. Next to that to the north is a post office and then to the other side of that is an upholstery store which appears to have one or two apartments above it. To the south of our site, if you're looking at our site from the street, to the left is a commercial building with potentially, I guess, an apartment upstairs or apartments, and the commercial building has a deli. And then in the other direction, on the other side of Stephens to the north, is a single family dwelling. So that's the neighborhood. The proposal is to build this four (4) unit residential dwelling building. It'll be four (4) units, two bedrooms in each, a parking lot behind it with nine (9) parking spaces total with one of those being a handicap space. We have a full parking lot with a 25' drive aisle. At this point we were proposing at 9'x18' spaces, which is conforming to the Residential Site

Improvement Standards. We do have some engineering comments from Mr. Nash and he has suggested that we increase the space step to 20'. We're willing to do that but what will happen is that our setback to the neighboring lot with the curb will go from 10' down to 8' and that will trigger a design waiver, where your Ordinance requires a minimum of 10' setback for parking areas from the property line.

The other the other thing I'd like to discuss is the appendage area.

Acting Chairman: Just if you could, typically what we do is, once you go over everything else with your presentation, we'll usually have you address the Engineer's letter item for item. I think if we handle it that way it's probably better.

Engineer Dykstra: All right, so I'll continue then. Basically the site is nice and level, grading is straightforward and the drainage will be handled with a subsurface infiltration basin underneath the parking lot. We tested the soil and we had very excellent sandy loam soils with high permeability rate so the soils will be able to accept the drainage and then the drainage will ultimately connect into the county drainage system in front of the property. We're proposing at this point to run the power utilities overhead from Ringwood Avenue pole across the street, and then the rest of the utilities, including sewer, water and gas will be underground and will now most likely tie into utilities in Ringwood Avenue rather than into Stephens Avenue as shown on the plans. One of the reasons for that is the fact that Stephens Avenue was just resurfaced so we want to avoid opening that road again. That just occurred. I was out there yesterday, and there were new handicap curb ramps put at the intersection on the sidewalks. Basically, it's a straightforward project, we meet RSIS in terms of number of parking spaces required, we have nine (9) where eight (8) are required. We're going to light the parking lot with two (2) poles 15' out, led downward directed lights and the sidewalks on the side of the building will be lit with a building mounted light that will be on the architectural plans and also the entrance ways will be lit by building mounted lights.

Attorney Capizzi: Just to take just to take one quick step back Ken. So it's a full movement driveway off of Stephens, correct?

Engineer Dykstra: That's correct.

Attorney Capizzi: Right, so there's no entrance or exit at all on to Ringwood. All the vehicles are going to come and go off of Stephens.

Engineer Dykstra: That's right, and we did make a pedestrian connection with a sidewalk to the sidewalk Ringwood Avenue.

Attorney Capizzi: And you do have sidewalks in the parking area to both the entrances in the front and the rear of the building?

Engineer Dykstra: That's correct. We have a sidewalk that loops all around the building so you can walk around this building. There's also a ramp to allow the handicap access to the first floor units.

Attorney Capizzi: Just before we turn to the landscaping sheet, can you take us through the bulk table for the building and just tell me where the offsets are from each property line, what we're proposing versus what's required.

Engineer Dykstra: We are in the B zone and effectively when you're in the B Zone, you have apartments, and you have to use the side and rear setbacks from the R10 Zone, which we've done. We have a front yard setback requirement of 20' and we're proposing a setback of 24'. On Ringwood Avenue, we have a front yard setback to Stephens Avenue it would be required at 20', and we're at 29'. The rear yard setback of 40' is required, which is based on the R10 criteria, and we're proposing 64'. The side yard 15' is required and we're proposing 18'. Basically, building coverage we are way under. We're allowed 30% building coverage and the building coverage for this project is 14%. We have building height where 35 is allowed, and this building will be under 25'.

Attorney Capizzi: Now we turn to the landscaping sheet. If you can take us through what's proposed here and I know a neighbor had some questions regarding whether there's any shielding from the parking area to some adjacent properties, if you can take us through what's proposed with regard to that.

Engineer Dykstra: The landscape plan basically proposes four (4) shade trees, basically one near each corner of the building. Then around the entire building perimeter, we have a combination of shrub plantings, and then the balance would be turf.

Attorney Capizzi: Is there any fencing proposed along the westerly and southerly property lines?

Engineer Dykstra: Yes. The plans do show a fence along our westerly property line, which is adjacent to the cape house on Stephens Avenue. However, when I was out there yesterday, I evaluated that and that property already has a 6' high wood fence, so it doesn't make a lot of sense for us to put another fence up 3' away and have a gap in there. We'd rather eliminate that section of fence and enhance the landscaping in that area between the curb and the property line.

Attorney Capizzi: What do you think you have in mind there as far as proposed landscaping?

Engineer Dykstra: We would work with the Engineer, but probably some evergreens and maybe another shade tree or two.

Attorney Capizzi: Okay, excellent. As far as the lighting you talked about, there's only two (2) pole mounted lights in the parking lot.

Engineer Dykstra: Yes. We have them built closest to the building so that they'll have minimal impact on the neighbors.

Attorney Capizzi: No spillage of light onto neighboring properties?

Engineer Dykstra: No.

Attorney Capizzi: As far as the refuse area, I think you're showing us this refuse area for the storage of the garbage pails?

Engineer Dykstra: That's correct. We show an enclosure within that area. Each resident could have cans; one for recycling one for garbage, and then on garbage day, they could bring them to the street. That's the proposal if the municipality is collecting the refuse. I'm not sure how the garbage is handled in Wanaque, but that's the proposal.

Attorney Capizzi: Before we get to the planning testimony, if we can go through Mr. Nash's letter of November 20, please. I think if we can jump to comment number 5. The balance of 1 through 4 were narrative in nature, With regard to comment 5, there was a question about what yard we're going to select as the front yard for purposes of having a 6' fence within the front yard. Can you speak to that?

Engineer Dykstra: I started to discuss that we don't want the fence coming in adjacent to Lot 3, but we do want the fence along our southerly border with the commercial property. We actually want to extend that fence all the way to the end of this 20 x20 x100 appendage that this property has. That will close off that area and will allow us to develop that area, clean up that area actually and then maybe add a mulch path and a bench for residents. That's the plan. There's an existing chain link fence that runs along that property line that's in very bad condition that will be removed.

Attorney Capizzi: So that means we're going to select Ringwood Avenue as our front?

Engineer Dykstra: No, our front would then be Stephens, and then I think this would be the side, and we can have the solid fence all the way and I think Mr. Nash could confirm that.

Attorney Capizzi: Okay. Number 6 was a comment about the number of parking stalls that are being provided versus required. Number 7 regarding the handicap stall. Number 8 was a comment about the size of the stalls. We're proposing 9x18 and he had recommended 10x20. I think in your testimony, you were talking about an amendment to the plan in order to accommodate that.

Engineer Dykstra: I want to leave the spaces at 9' wide, which meets RSIS standards, but we could make them 20' deep; however, as I pointed out, our curb setback to the adjacent property will be reduced from 10' to 8', which triggers a design waiver.

Attorney Capizzi: All right, so if we did that additional stall depth, we don't have the concern about impacting the sidewalk.

Engineer Dykstra: That's right, then we have more than adequate depth.

Engineer Nash: Can I jump in here? These are my comments. I'd just like to talk about them instead of you talking about them. The reason for the parking stall depth is you're parking up against a 4' wide sidewalk so car bumpers are going to overhang that sidewalk. They're going to do it every day. So you're going to reduce snow and reduce the width of the sidewalk but it's a safety issue. You don't want people walking on the sidewalks and getting hit by a car. That's the reason for it. I didn't suggest to reduce the width of the 10' strip to 8'; that wasn't anywhere in my comments.

Attorney Capizzi: Nobody was suggesting that Mr. Nash.

Engineer Nash: No, that's what exactly was said. He went from a 20' space to reducing the 10' wide buffer between the properties and I never suggested that. I'm not suggesting that. What I would prefer is reduce the aisle width from 25' to 23 and keep the 10' wide space. If you can make the spaces longer, than the aisle width doesn't have to be 25'. That would be my recommendation make the aisle with 23'.

Member Ludwig: Wouldn't you have to put bumpers in or widen the sidewalk?

Engineer Nash: Either way, you're going to need the bumpers. Those wheel stops though, you know when the spaces are empty people could trip over them. They're helpful and they're harmful at the same time.

Member Ludwig: It's a pain in the neck when it's snowing.

Engineer Dykstra: We don't want the wheel stops. We could reduce the aisle width. The sidewalk is actually 5, not 4' there, and what if we increase the sidewalk to 6' and then run with a 20' space and maybe 24' for the aisle. Usually when I have parking against a sidewalk, we'd like it to be 6'. Even with the worst case 2' overhang you got a full 4' sidewalk.

Engineer Nash: That's a better design and I prefer that as well.

Engineer Dykstra: Okay, and we will narrow down the aisle width and we'll hold the 10' which is better anyway for the neighbor.

Engineer Nash: Yes.

Attorney Capizzi: Mr. Nash, would you like to go through the balance of your letter?

Engineer Nash: Absolutely, go right ahead.

Attorney Capizzi: I don't know how the Board typically likes to handle it. Typically, it was not meant to put words in your mouth. Typically, I just go through the engineer's letter and try to go through ways to respond to it. That was only our attention. So however the Board likes typically goes through your review letter, certainly I'm not looking to recreate the wheel.

Acting Chairman: We typically have the applicant do it and tell us how they intend to address whatever the concern is.

Attorney Capizzi: Okay, great. We touched upon number 8. Number 9 was the appendage in the back Ken that you were just referencing earlier. Can you talk to us about how we plan on addressing that comment?

Engineer Dykstra: Currently that's an unusual space. What seems to have happen is it's kind of a dumping ground for leaves and debris for adjacent properties. Our intention would be to close it off from the commercial property with the fence running all the way down and ending and then cleaning it up. I would suggest a mulch path and maybe a bench as a kind of amenity for the residents of this building.

Attorney Capizzi: Okay, great.

Member Ludwig: That would also be a good spot for a play area for kids.

Engineer Dykstra: So we'll integrate a design into that with a revision to the landscape design.

Attorney Capizzi: As far as number 10, in your direct testimony you were talking about relocation of the sanitary line?

Engineer Dykstra: Because Stephens has just been repaved, most likely we're going to want to connect out to Ringwood Avenue and not extend a sewer main in Stephens.

Attorney Capizzi: Alright, as far as comment number 11, the landscaping along the west, you had talked about some evergreen landscaping that would be installed there.

Engineer Dykstra: We can work with the engineering plan around on the details of that. But we want to eliminate that fence and landscape that area instead.

Attorney Capizzi: As far as number 12, some just refining of the storm water management report.

Engineer Dykstra: I think we reviewed that and sent Mr. Nash an email response about that comment. He hasn't had a chance to review it yet, but we'll work the details of the drainage out with him.

Engineer Nash: I'm not worried about the storm water management. The soils are good. There's an overflow pipe to the county drainage system. I know you're going to need an approval from the county for this whole project and that being one of the items but I don't think water will ever flow through that pipe because the soils are so good. I think it's just going to drain straight down.

Engineer Dykstra: That's correct. We have submitted to the County and they are in the process of reviewing the stormwater calculations for the connection.

Attorney Capizzi: 13 was just another follow-up comment on the stormwater management report. 14 I think you just touched upon that with regard to review of the stormwater management by the county. And 15, the comment by Mr. Nash for the Board to consider a condition prohibiting roof vents on the Ringwood Avenue side of the roof, which Mr. Mistry can speak to when he's testifying.

Acting Chairman: Questions from the Board?

Member Covelli: It seems like they have a good layout on the use of the property. I didn't catch how wide is that dogleg off of the rear on the westerly side of the property?

Engineer Dykstra: 20' by 100.

Member Covelli: And your proposal is to put some benches and some mulch in there?

Engineer Dykstra: Well, a mulch path and in a bench. Basically clean it up. Yes and then we're going to enclose it with fencing so it's contained.

Member Covelli: Were you putting any trees in there?

Engineer Dykstra: No, there's already trees in there. So we're going to leave the trees that are there and then create a mulch path and maintain the vegetation?

Member Levine: Only the first floor units will be handicap accessible? There will be no accessibility to the second floor.

Engineer Dykstra: That's right. The second floor units would be really reserved for those with developmental disabilities, and those suffering from physical disabilities would be living on the first floor.

Acting Chairman: You are showing a proposed dumpster pad but then you also, in testimony, spoke about cans. If it were to be a dumpster, how would it be serviced? If it were to be cans, are you eluding that you believe that the tenants would take those cans either all the way out to Ringwood Avenue or all the way out to Stephens Avenue?

Engineer Dykstra: If they were cans, the tenants would be responsible for taking their garbage cans to the road, it's my understanding. Although I guess it would be Stephens Avenue in this case because that's my driveway entrance is.

Attorney Capizzi: Mr. Chairman, depending on how much funding we ultimately get from the government, we may be in a position to have a caretaker come to the property a few times a week to address items such as bringing cans to the street and, if the money just wasn't there from the government, the tenants would respectively have to bring their cans to the street assuming that there's municipal collection. If there isn't municipal collection, then it would be by way of a private carter.

Acting Chairman: If it was a private carter, how do they service a dumpster?

Engineer Dykstra: I'm not sure what type of truck they use. It's either going to be a front pickup or a rear pickup. They're going to have to drive into the site. If they pick up from the front, then they go straight into the dumpster, collect and back out.

Acting Chairman: Either way, they're going to have to back up the full distance of this site. Are you proposing any screening around that garbage area.

Engineer Dykstra: Yeah, that is a screened area, fenced.

Member Ludwig: I kind of think it's more realistic thinking that a garbage truck is going to have to go in there and empty a dumpster if you're talking about handicapped people and what not. Or you're going to have to pay somebody to haul those cans out to the street.

Attorney Capizzi: These disabled individuals will be living with their family. Presumably there would be somebody within the family unit that could address that. Mr. Chairman, there was a detail on the plan that said board on board fencing closure, and I'm just trying to put my finger on it.

Member Levine: Whether they are developmental or physical, they will have family living with them?

Attorney Capizzi: Both of those. They will both be those with physical disabilities as well as those with developmental disabilities living here.

Acting Chairman: Have you reached out to the sewer authority regarding capacity.

Engineer Dykstra: Not personally. I'm not sure if we did or my office did or not.

Member Covelli: Bruce, I'm going to believe that's already within the calculations. Of course, they need to confirm it, but generally speaking, those things are accounted already.

Acting Chairman: Okay. I know at one point we had been under a moratorium.

Member Covelli: No moratorium as we speak. Just out of curiosity, and I don't know our jurisdiction or even what the protocol is, I think the site is better served by a dumpster than cans in terms of keeping the site clean and tidy. I don't know what the town's protocol is with servicing of dumpsters versus cans.

Acting Chairman: And I don't know how that is going to play into recycling either.

Member Ludwig: You know, it's funny, I live right around the corner from this, and I don't recall if the deli next door has a dumpster there.

Acting Chairman: He does. Back in the corner, I believe. We did that site as a matter of fact. That dumpster has moved around quite a bit on that site through the years.

Attorney Mondello: Let's not forget that is a commercial use that you just referred to. This is residential and, Don, if they're picking up your garbage, the municipality that is, they have to pick up the garbage for the folks at this location. Unless, of course, you know, the applicant says we're going to do it ourselves.

Member Covelli: Ron, to your point. Absolutely to all your points. My only concern is, you know, if you have four units and there is roughly eight garbage cans kicking around right next to the side of Ringwood Avenue where we already have a problem and exacerbating it. This is not their problem, by the way, just looking to minimize a future one. I think the preference is a dumpster. It's going to keep things easier tidier. The trucks going to back up, it's going to flip the dumpster and pull out.

Attorney Mondello: I agree wholeheartedly, Frank. I guess the only thing I was scratching my head is if the municipality says, we don't do that, you know, we don't take our garbage trucks or contractor doesn't drive in and pick up a dumpster, then I think there's a problem. But it sounds as though the Board Members have some experience with this and the municipality will, in fact, empty dumpsters, that's what I'm hearing.

Acting Chairman: I don't know that they do dumpsters.

Attorney Capizzi: Mr. Mondello, if the if the municipal DPW wants a dumpster, we can provide a dumpster. If they want pails, we can provide pails.

Member Ludwig: I would say that you know work it out with the town. If the town will pick it up with a dumpster, to me that would be the preference. With the woods we have not too far one block away, I get enough critters in my garbage pails.

Acting Chairman: Here's the issue. I just feel that with the proposed occupancy expecting them to drag these garbage pails on one or two days a week during the summer and then recycle on the other days of the week, either the length of west to east or north to south, I understand there could be some people in the dwellings that are that are not challenged at all, but I think it's asking a lot of anyone quite frankly.

Member Covelli: 60' drag, rough numbers.

Member Levine: Not only that, on a windy day, you'll have empty garbage cans all over the street.

Member Covelli: That was also my point Mr. Levine that we already have the problem and we're exacerbating it. If there's a way for us to make the point that our preference, if this application were to be approved, our preferences that but we're not going to hamstring the property owner with respect to the protocol of the municipality.

Acting Chairman: Well, the issue is going to be tough; financial. Because a dumpster somebody is going to have to pay for. The pails are going to be collected by the town.

Attorney Mondello: And that's my point. That would be very unfair to this applicant to force them to pay for a private garbage hauling company.

Acting Chairman: I think the benefit of that is to their tenants equally.

Attorney Mondello: It's against the law, Bruce?

Acting Chairman: No, I'm not saying that we require it. I'm just saying, perhaps it is something that applicant's would rather provide as a service to their tenants, as opposed to requiring their tenants to drag the garbage pail.

Member Covelli: Mr. Mondello, I'm going to bring up the Kelly Law and say they have a right to that collection like any other resident.

Attorney Mondello: Mr. Capizzi, do you want to weigh in on this?

Attorney Capizzi: I certainly hear the Board Members concerns about the issue. It's going to be a brand new site, fully built out so we're going to certainly have a commitment to maintaining its appearance. It's also state funded, which means it's going to be subject to periodic state inspections. We'll have a certain level of care that will have to be maintained in order to comply with those state inspections. I would just ask the Board to be mindful that it's a 100% affordable project. It's not your typical for profit apartment development here. Typically we have a 15% set aside where we're wanting one or two out of the 15 or so is affordable but here we're proposing for all four are affordable. The apartments are for those people with very low income level so this isn't your typical for profit project. Certainly we appreciate the Board's concerns and you know, while we're having our discussions with various funding agencies, and once the project is built out, depending on what budget provides, whatever is going to be best for the tenants and whatever falls in line with the available budget, certainly is what will be implemented at the site in order to address this issue.

Acting Chairman: Why don't we just leave it at that the applicant agrees that they will explore the potential.

Attorney Capizzi: That's fine, Mr. Chairman.

Member Covelli: It's the Board's preference that a dumpster be located again, in accordance with it with the municipality's protocol. By no means is it going to impact the acceptance or denial of the project based on that.

Acting Chairman: Screening around the air conditioning units? I do now see the proposed screening on the dumpster path, but I don't see anything on the a/c units, which will be visible from Ringwood Avenue.

Engineer Dykstra: We could enhance the landscaping on that side to buffer that.

Acting Chairman: Okay, on both sides, right?

Engineer Dykstra: Yeah, the other side, we do have the fence that's going to block the view.

Member Covelli: There was a thought or a question. Would it be possible to locate those in the rear? Particularly that Stephens Avenue side, but I'm assuming you want to be symmetrical. They were pretty much drawn symmetrically.

Engineer Dykstra: Yeah, I think that'd be a question for the architect.

Member Covelli: Well, you have the jet out in the back and I'm looking at those areas where you have the jet out, and they could tuck in there. I don't think it would cause any noise issues for the

property owner in the rear. But you would get rid of the site from Ringwood Avenue particularly that Stephens Avenue is way out there. That whole corner is very visible.

Engineer Dykstra: We're definitely willing to consider that.

Attorney Capizzi: I'm sorry. Mr. Covelli, so we're talking about shifting.

Member Covelli: You have two condensers on the north side of the property, and it appears to be three condensers on the south.

Attorney Capizzi: Okay, so you've got this here and here.

Acting Chairman: Yes, and I think he's talking to you about that area to the rear of the building on both ends of the building.

Attorney Capizzi: Somewhere in here?

Acting Chairman: Yes.

Engineer Dykstra: We can consider it but that may cause some problems with the lines and when they are on the side, you can go directly into the building without having to go underground. I think the developer may have some concerns going to the rear, if we could buffer them on the side with enhanced landscaping.

Attorney Capizzi: We can buffer on two sides or all three sides, how much?

Engineer Dykstra: Yeah, we are already buffered on the left side of the building, I'll call that the south side, and on the north side by Stephens, that's the most visible area we'll add landscaping there.

Attorney Capizzi: I mean you were proposing some here, but we'll enhance that.

Engineer Dykstra: Yeah, right there. We have the sidewalk and we could add another planting. And, you know, I think from that side, you'll be well buffered. So they have room to add landscaping around the Stephens Avenue side of those units.

Member Ludwig: Ideally, if you could talk to HVAC Engineer to see if they could be in the rear, which would be the best.

Member Covelli: You also have that electrical meter panel that's going to be pretty obvious from the roadway as well. Enhancement with landscaping, can you do there as well?

Engineer Dykstra: Yes. While we're on the subject of one thing that's not on the plan yet is a potential generator pad, which we would locate in the back of the building next to the last parking space, if they decide to put a generator in.

Member Covelli: Are you talking about an emergency generator?

Engineer Dykstra: Yes.

Member Covelli: So where is that in relation to the dumpster pad?

Engineer Dykstra: It would be next to the parking space by the dumpster area, right in that area. There's a tree there now and we'd have to shift that proposed tree.

Member Covelli: I see what you're saying. So it's closest to the building? Because I'm thinking of the noise to that residential home.

Engineer Dykstra: That's right and we're going to be in the back, and we're going to have some pretty good separation, actually, probably, about 40' to his property line. Either that or we could shift it a little further towards the street and adjust the sidewalk.

Member Stefanowicz: Shifting the a/c units to the back?

Member Covelli: I want to say you I'd rather you leave it where you proposed it.

Member Stefanowicz: Once you shift the a/c units to the back, you might be able to put that generator to the right where the current a/c units and just shade that.

Engineer Dykstra: Okay, we are willing to work out those details with your Engineer, if that's appropriate, or your Planner too.

Member Covelli: Our Engineer is everything; he's wonderful.

Acting Chairman: Additional questions for the Engineer from the Board or Professionals?

Seeing and hearing no one at this time, we will open it up to the public for questions and Questions Only of the Engineer based upon his testimony or any other questions you may have.

Attorney Mondello: Let the record reflect I asked all folks attending to unmute their microphone.

If there are any questions, we would simply ask that you state your name, spell your last name, give us your address, and ask your question. Questions Only at this time.

Okay, seeing and hearing go on. counsel, your next witness?

Attorney Capizzi: If I could, Mr. Chairman, while Ken is still up if I can just have him go through his brief planning testimony?

Acting Chairman: Certainly.

Attorney Capizzi: Ken, in my opening I had talked about one variance that we need here this evening, which is that D-1 Use Variance. Can you take us through the positive criteria relative to the D-1 Use Variance?

Planner Dykstra: The situation is that we have an affordable housing project for persons with disabilities and funded by both DCA and the State Housing Bureau. It is my understanding that this is now an inherently beneficial use, which satisfies the positive criteria for the experience. But I will point out that, you know, I think in any case, this use fits well within the area, given the fact that there's garden apartments directly across the street and single family homes nearby. It's really a less intense use than the commercial use that could be allowed on the property. I don't see any subject substantial detriment to the public good with this project. We are going to buffer the neighbors and we're really proposing a less intensive alternate commercial use and no impact with your Master Plan. I took a look at the latest Reexamination Report and I think housing like this is acceptable and there's no impact to your Master Plan and no substantial detriment to the either your Zoning Plan or your Zoning Ordinance.

Acting Chairman: Does the property stay on the tax rolls or is it a nonprofit?

Attorney Capizzi: Part of the application from the state with our cooperation with the municipalities is that we will be speaking with the municipality about essentially a tax deferment agreement, what they call a pilot agreement, which is a payment lieu of taxes. It wouldn't be tax free, but it would be a diminished tax base for this site.

Member Covelli: I actually don't know if this is an appropriate time. I meant to ask this question. You guys have dog houses on the third floor for architectural feature in the attic. How high is the attic? Is this a proper time to ask that question?

Attorney Capizzi: Mr. Mistry will speak to that momentarily. There's no formal stair to the attic. It's just really for mechanicals, but Mr. Mistry will speak to that.

Attorney Capizzi: So Ken, as far as the negative criteria was concerned, you had said no substantial detriment to the neighborhood as a result of granting the variance. Is that correct?

Planner Dykstra: That's correct.

Attorney Capizzi: And is that predicated upon the fact that the bulk table is all conforming?

Planner Dykstra: Yeah, we have a fully conforming bulk table and the project fits within the neighborhood setting.

Attorney Capizzi: You had an opportunity to review the architectural plans that Mr. Mistry is going to testify to momentarily?

Planner Dykstra: Yes, I have.

Attorney Capizzi: As far as the styling of that building, how does that fit in with some of the single family dwellings that are located to the west and to the north of the site?

Planner Dykstra: I think it's an attractive building with care characteristics and it'll fit in very nicely to the neighborhood, and it will be a positive when you drive down Ringwood Avenue.

Attorney Capizzi: Thank you, Mr. Dykstra.

Acting Chairman: I don't know if this would be a question for the Attorney or the Planner.

History of projects like this within the state demand, what do you see for turnover? What do you see for number of children occupying the units?

Attorney Capizzi: Something like this, I mean we only have four units. Based upon my experiences, you're lucky if you get one school aged child out of this development. I think one to two would be on the very high end for the expectation of schoolchildren to be generated from this site.

Acting Chairman: Do you have any experience to be able to speak of the turnover demand?

Attorney Capizzi: Because the occupants are placed by the state, essentially they go through state qualification process, rental subsidies, etc., they are mostly long term tenants at the site.

Attorney Mondello: Bruce, I could supplement that having been involved with several projects. A project like this, the demand is huge and the supply extremely low. I don't see anybody leaving once they get picked.

Acting Chairman: Any questions on the Planners testimony from the Board or Professionals?

Seeing and hearing none, we could open it up to the public for Questions Only at this time for the Planner.

Attorney Mondello: Again, Let the record reflect that I have requested that all participants unmute themselves. If you'd like to ask a question of Mr. Dykstra with respect to his planning

testimony at this point, please state your name, spell your last name and give us your address and turn your video on. Thank you.

Acting Chairman: Seeing and hearing no one, counsel your next witness.

Attorney Capizzi: Thank you Mr. Chairman. Our next witness is Mr. Mistry, our Architect.

Attorney Mondello: Welcome, Mr. Mistry, would you please raise your right hand? Do you swear or affirm the testimony about to give be the truth, the whole truth and nothing but the truth so help you God?

Architect Mistry: Yes I do.

Attorney Mondello: Please state your name, spell your last name and give us your office address.

Architect Mistry: Yogesh Mistry

Mr. Mistry lost his audio/microphone level. He is attempting to log back in.

Member Covelli: Mr. Chairman, while Mr. Mistry is working on that, can we take a two minute break?

Acting Chairman: I'm fine with it. It is 9:48 Let's be back here at 9:53 (five minutes).

Let the record show that all Board Members and Professionals are present.

Attorney Mondello: I see what the problem is. You are logged in phone and with another device.

Miss Lanotte: Really?

Attorney Mondello: Yeah, that's the problem. If the Board would just indulge me for a moment, I do believe that Miss Lanotte has been trying to ask questions. She thought that her video was not on because, as you can see, there is a dark screen with the name Linda, and then we have the video Linda Lanotte. Miss Lanotte, have you been trying to ask questions and just experiencing some difficulty?

Miss Lanotte: Yes.

Attorney Mondello: Okay. We've got feedback because, in fact, you are logged in on with two devices. What I would suggest is that you disconnect. I don't know which two devices have you dialed in on?

Miss Lanotte: I thought just my computer.

Attorney Mondello: All right. I'm going to mute one and see if we can unmute the other where your video is. Can you try to unmute yourself, please?

Miss Lanotte: Okay.

Attorney Mondello: It keeps going right to the second device for whatever reason. Mr. Capizzi, I apologize but Miss Lanotte has been trying to ask questions, and there have been some technical difficulties on her end. Although there's some feedback, we want due process here. To whom did you have questions Miss Lanotte?

Miss Lanotte: I'm not sure who they should go to. You're talking about the garbage cans and where they would be. I know you're talked about Stephens Avenue and dragging them from the other side of the building all the way to the front. There's no other way to bring them out to Ringwood Avenue directly?

Attorney Mondello: I would imagine that would be for the Engineer. I don't know if you heard that Mr. Capizzi.

Attorney Capizzi: Mr. Dykstra, are you back with us?

Engineer Dykstra: I'm back.

Attorney Capizzi: Ken, the neighbor was asking if there's an ability to have the refuse containers queued up along Ringwood Avenue as opposed to Stephens. Do you have an opinion about which one is the better roadway to utilize for queuing the cans?

Engineer Dykstra: Well, we don't have a driveway coming in off of Ringwood Avenue. I mean, you don't want to put these in the sidewalks. I don't think Ringwood Avenue is a logical alternative.

Acting Chairman: I would just like to add a couple things to that. It's almost the same to take it to Ringwood Avenue as it is to Stephens Avenue. As it is now, it creates such a traffic bottleneck to pick up the ones that are on Ringwood Avenue. Every time the truck stops, it completely cuts off the southbound flow of traffic, so it can be an issue at times.

Attorney Mondello: Thank you for that. Miss Lanotte, did you have any other questions for Mr. Dykstra on either his engineering or planning testimony?

Miss Lanotte: Would there be parking allowed? Since you were talking about the quantity of people and more than likely children, but adults in the property? Would there be parking along Stephens Avenue for them on their side of Stephens Avenue.

Acting Chairman: Actually, if I could just jump in there for one minute. Were you provided with a copy of the letter from the Police Chief that went to the Board Secretary?

Attorney Capizzi: Yes, Mr. Chairman.

Acting Chairman: So that's something that really is more incumbent upon the Governing body to work to implement what the Chief is recommending in his letter.

Attorney Capizzi: Yeah, that's correct. Miss Lanotte, we don't have any authority. I think at present, there's no parking signs posted there, and the Police Department had said perhaps that condition was in place due to a former use of the site as a restaurant/tavern and to discourage people from parking in the evening hours there was no parking signs posted there, and perhaps consideration should be given to removing those but, again, that that's something the applicant can't do.

Acting Chairman: Yeah, the Chief's recommendation is essentially to drop that existing no parking from 9pm to 8am and to institute no parking 125' in from the Ringwood Avenue on Stephens Avenue. So in answer to your question, that would avail additional parking, not only to possibly this site, but also to residents of Stephens Avenue.

Attorney Mondello: I think it would be fair Mr. Capizzi if the applicant would send a letter to the Governing Body requesting that they do so. They'll either consider that request or they won't.

Attorney Capizzi: That's fine, Mr. Mondale. We're happy doing that.

Attorney Mondello: Miss Lanotte, any other questions for Mr. Dykstra on his engineering or planning testimony?

Miss Lanotte: There is no fence at the north side of the property right?

Engineer Dykstra: That's right.

Miss Lanotte: The front of the building is at the north?

Engineer Dykstra: The building has basically two fronts; there on the Ringwood Avenue side and the parking lot side. There is no front on Stephens Avenue opposite your house.

Miss Lanotte: Okay, thank you.

Attorney Mondello: All right, Mr. Mistry, I'm sorry but did I swear you in?

Architect Mistry: Yes. I was giving my name and address.

Attorney Mondello: Please, go ahead.

Architect Mistry: Yogesh Mistry, 350 Clark Drive, Budd Lake, New Jersey.

Attorney Mondello: I don't believe that myself or any of the Board Members have had the pleasure of seeing and hearing your testimony prior to this evening so please briefly give the Board the benefit of your qualifications as an expert in the field of architecture.

Architect Mistry: I have a Bachelor's Degree in Architecture from New Jersey Institute of Technology, as well as a Master's in Management. I have been a Licensed Architect since 2000. I have my own practice in Budd Lake, New Jersey, where we do various types of architecture from commercial, residential, hospitality and various other types. I've testified as an Architect in front of various boards throughout Northern New Jersey. I don't believe I've been in front of the Wanaque. This may be my first time.

Attorney Mondello: Have you ever testified before any zoning or planning boards in Passaic County?

Architect Mistry: Yes, Clifton.

Attorney Mondello: That works for me. Any Board Members have any objection to accepting Mr. Mistry as an expert in the field of Architecture? Hearing none, seeing none, your witness Mr. Capizzi.

Attorney Capizzi: Thank you, Mr. Mondello. Mr. Mistry, the plans that we're going to bring before the Board this evening, the architectural plans, were prepared by your office?

Architect Mistry: Yes, they were.

Attorney Capizzi: If it's okay with the Board I'm going to screen share to bring up Mr. Mistry's plans. Yogesh, I'm going to just have you tell us if you can identify the plans by title block and the last revision date, so we all make sure we're talking about the correct plan set.

Architect Mistry: There is only one sheet it's A2.01 and dated 09/28/2020.

Attorney Capizzi: Just to kind of give the Board a little bit of the flavor of the building, let's just start with the front elevation and we can take ourselves into the interior.

Architect Mistry: Sure. What you're looking at is the Ringwood street front elevation.

Essentially, it's a colonial type character house, I guess you call it. The appearance is more of a large residential single family house than an apartment building. I think if you look across the street, there's a two story garden apartment that's kind of sort of nondescript, but it kind of made it look a little more like a residence. It has a colonial look, we set the two ends of the building back and set them in a little bit, we put some dormers on the roofline, the entryways and exit ways are kind of bumping in and out. We also enhanced the facade by adding sort of a water table of stone, and the upper portion, and kind of two different siding material, and asphalt shingle roofs. So it is in character to some of the other buildings and single family residences in the in the area. I don't think anyone would drive by and say this is a four unit apartment building by just looking at the outside. I tried to stay in character with the neighborhood. Inside is essentially a sort of a symmetrical plan. Each level has two, two bedroom apartments. You come in, down the middle there's sort of a main corridor that allows you to exit or enter from either the front or back. The Ringwood Avenue entrance is sort of more of a decorative front door. I would think most residents would just park in the back, come through the rear entrance, and then either go left or right to their apartment, or go upstairs and left or right. The units are stacked on top of each other, each one is almost identical, they're just kind of mirrored plans, and then they repeat on the second floor. Each apartment has sort of an open living dining kitchen area, and then the two bedrooms on the ends. They will have washers and dryers in there, and each unit would have its own HVAC unit. The reason we have five condensers is one for each tenant, and then the fifth one is sort of for the common areas since there is a basement and the corridor down the middle. The basement is just really for utility and storage. As far as the attic goes, it's not a storage attic. It's not an accessible attic. It's just to house the roofline. There is only going to be a pull down stair for the management to use, not for residents. Inside the finishes and materials would be in line with other apartments. At this income level, we've done various group homes for this client and even though they're sort of for a lower income occupant, they still provide good finishes, good materials. I think there's some value in making sure these materials last a little longer, so I think the finished product will be a good product. Some of the other questions that came up, this will be a fully ADA compliant on the ground floor, there's an entry ramp from the parking into the front door on the rear side. The two apartments on the ground floor will be ADA compliant, but the ones on the upstairs will not be. They will have some features on the second floor that are sort of adaptable so you can see the bathroom still provides for some additional space for handicap turning clearances. There is no elevator in this building since the scale of this property and the cost of an elevator are kind of not justified here. It will be fully sprinklered and that's a code requirement and we have to do that. There will be some building mounted lights but they're not depicted on this on this elevation. There'll be two wall sconces at each entry on each side of the building and then one on either of the short ends of the building as well just because there's a sidewalk which kind of leads around the to the front. Honestly, I don't think many people would

use that sidewalk but, since we do have that, just to have a small wall light would help for illuminating that path. Other than that, it's kind of a straightforward four unit apartment building. I think someone questioned the dormers on the attic space. We have about 7' to 8' clear maybe in the middle of the peak, but it's not meant to be a usable attic. The dormers are more decorative. It's not meant to house anybody there?

Member Covelli: Are you using prefab bracing for the attic?

Architect Mistry: I'm not sure 100% but, with this developer, we've typically done conventional framing for the whole building, including the attic.

Acting Chairman: The attic space has to be sprinkled also correct?

Architect Mistry: I'm not hundred percent sure, but whatever the code requires we would provide that. If the attic is required to be sprinklered, yes. I'm not a sprinkler expert but in some instances it is and in some instances not.

Member Levine: Are security cameras provided?

Architect Mistry: I'm not 100% sure. I know some of their other properties that we've done, they have had them. I think it depends on the provider.

Member Levine: We're is the mail delivery/mailboxes?

Attorney Capizzi: It's a common hallway and there shall be a small mailbox stack in the common hallway.

Member Levine: Plus they would have access to the front door?

Architect Mistry: Yes.

Acting Chairman: They may actually want you to put that outside with one of the standing cluster box units that they put in. So that could be actually at the rear.

Attorney Capizzi: Yogesh, are you planning any roof vents along the front elevation along Ringwood Avenue?

Architect Mistry: I heard that comment. It hasn't been designed yet, but we could definitely keep them towards the rear side and back. The majority of the plumbing and the toilets and kitchen sinks are all on that site anyway. I think it's just that washer/dryer that's kind of in the middle, but we can direct that towards the back regardless.

Attorney Capizzi: Okay, and the importance of maintaining the a/c condensers on the sides of the building, can you speak to that?

Architect Mistry: I was listening in and, you know, we kind of looked at various locations of placing the a/c units there. Obviously, we don't want them on the Ringwood side, and you know, even though I guess the rear is called the rear, it's really sort of a front for a lot of the residents that come there since they park there and we don't necessarily want them right below some of the larger windows. We tried to keep it sort of on either side of the building, but towards the rear kind of direction. We could push them back a little bit, but I think to place them completely on

the rear side might not work so well. There's kind of a small space between the sidewalk and the base of the building there.

Attorney Capizzi: As far as the important job is being able to have the line set go right into the building.

Architect Mistry: There are some limitations on how far you could run the line from the unit. So, you know, we kind of have to take that into consideration. The units are on the right and left so that kind of dictates some of that. I don't know the exact distances, but where we kind of have the unit's it probably makes the most sense from an HVAC design standpoint.

Member Levine: Right, but the condensers are right outside the bedroom. What's the level of noise coming off those condensers?

Architect Mistry: They're no different than any single family residence. I have one side of my house right now.

Member Levine: Condensers are usually not right outside the bedroom in single family homes.

Architect Mistry: Again, on that bedroom side, we have only a small window. If I put it anywhere else, I mean, you're going to be in front of a larger window. The bedrooms have windows on sort of two sides. If you look at that back bedroom 157, if I kind of rotate it and put the units on the rear face, it would really, I think, make it worse, because now you have a double window there.

Member Levine: When the condensers are running, the windows will not be open. So whether there are windows or not, the noise will come through. You'll hear it through the wall.

Architect Mistry: Yeah, you're going to hear a little. We have to put them somewhere and not that many other options to place those. We did consider the noise issue and think that's the best kind of location that we came up with.

Member Levine: For the a/c part, but for the people trying to sleep in the bedrooms, it may not be.

Attorney Capizzi: The bedrooms are all located on the outside of the building. It's unavoidable to have the condensing unit proximate to the bedroom. So as to the floor plans, can we can just review. The first and second floor mirror each other.

Architect Mistry: Yes.

Attorney Capizzi: The basement, you said, is just for tenant storage and mechanicals.

Architect Mistry: Correct.

Attorney Capizzi: The attic will have some limited mechanicals?

Architect Mistry: Yes.

Attorney Capizzi: If we go through the elevations, again, if you can look at the floor plan, there's a fair amount of articulation in the building, correct?

Architect Mistry: Yeah. We did purposely have kind of the footprint come in and out and create a little more three dimensional quality to it rather than just a large box, so I think that enhances the overall appearance of the building.

Attorney Capizzi: Okay, and when you look at the side elevation, you can appreciate how the building has various levels to it.

Architect Mistry: Yeah, and the roofline kind of steps back, because it's a shorter width on the ends and gives us an opportunity to change the roofline a little bit as well as the materials that kind of break up the lower band.

Acting Chairman: If you refer to the left side elevation, and you look at the roofline, it kind of gives the appearance that the middle of the building, the roof line would run north and south, but then if you look at the rear elevation

Architect Mistry: No, you're looking at the dormers there.

Acting Chairman: Yeah, but my concern is this. On the rear elevation, you have nothing to protect any snow falling off that second floor roof from that landing zone below it.

Architect Mistry: I mean that's a standard roofline with the gutter there. Can you go back to the plan? The door set back. You the front door

Acting Chairman: But it's the whole landing zone that I'm worried about especially the handicap route.

Architect Mistry: The roof doesn't cover the whole ramp but the front door is set back a couple of feet there.

Acting Chairman: You got the whole landing zone. People could be walking or standing in that landing zone and you got snow falling off a roof from 20' up. It's taken care of in the front because you've got a change in the peak in the front, which doesn't allow it.

Architect Mistry: Correct. Right.

Acting Chairman: It's just that rear entrance that gives me a little bit of concern.

Architect Mistry: Can you go back to that rear elevation. The door is set in, but you're correct. There'd be like a 2' or 3' set in for the door, and then there's also a roof overhang. I believe it's like 18" or something like that. There'll be some protection and there'll be a gutter line there. We just don't have a sort of a porch or extended roof if that's what you're referring to.

Acting Chairman: Can you do at the rear what you did at the front to mitigate it.

Architect Mistry: Yeah, I think we could extend something out.

Attorney Capizzi: Can you do a shed roof there in the back there?

Acting Chairman: If you just mirrored what you did in or take it off? People may still use the front entrance. If you just mirrored in the rear what you did in the front, you mitigate it, because anything that falls is going to fall to the sides.

Attorney Capizzi: I certainly think we can do that, Mr. Chairman. Yogesh, what do you think?

Architect Mistry: I think we could do exactly what we're doing in the front only because the plan is slightly different in the back, but something to achieve what you're saying to mitigate the issue.

Member Ludwig: You could mirror what is on the front, without popping it out just with putting a valley down to divert the snow or any anything sliding off the roof. You follow what I'm trying to say.

Attorney Capizzi: I don't think it has to be as ornate Yogesh; just to shelter the area is all we're looking for.

Architect Mistry: I think we could do that. I don't see a problem with that.

Member Levine: Getting back to the sound emanating from the condensers, is there some kind of sound attenuator material that you can put between the building and the condensers?

Architect Mistry: I mean usually not. These are residential type condensers. We could attenuate the wall itself by putting additional insulation in that wall.

Member Levine: My concern is that it's right outside the bedroom. Otherwise, you know, it wouldn't be a big deal.

Attorney Capizzi: I think we could add some denser insulation in the building wall Yogesh. I think really that's the extent of what we are capable of doing. I mean they'll be brand new units, they'll be as quiet as modern units will be so they'll certainly be as quiet as production will permit.

Member Levine: I think the people in the bedrooms would appreciate whatever you can do to attenuate the sound.

Attorney Capizzi: Noted.

Acting Chairman: Can you speak at all to the egress requirements, fire for the second floor?

Architect Mistry: We do meet their egress requirements. If you go back to the second floor plan that whole stair corridor and stair area there would be fire rated. Once you're in that stair corridor, it's a fire rated issue. You're allowed to 125' to the furthest point of the unit to that corridor. We are well within that 125'. It's then a matter of walking down those steps and either you can go to the front exit or to the back exit.

Acting Chairman: If there was a fire in the corridor?

Architect Mistry: Well, this does meet all the code requirements. Anything is possible, but you know, not everything is probably. We do have egress windows in the bedroom so that's another avenue for egress. That's another code requirement that we would have to meet so

Member Levine: The Fire Department can put a ladder up there and get the people out through the window?

Architect Mistry: Yeah, so that would meet the egress. The egress window sizes have to meet a certain height and width to allow for either a fireman to come in or get out.

Attorney Capizzi: The building is only 25' tall so it's not a tall building.

Architect Mistry: The first floor is close to grade and then to the second floor windows might only be like 12' to 15'.

Member Levine: Still hurts when you land.

Architect Mistry: If you jump yeah.

Member Covelli: Mr. Chairman, since Mr. Mistry is not fully versed in in the fire suppression, a/k/a sprinkler, I noted that our Construction Official is on the meeting. I'd like to know from him if we can require a sprinkler on the third floor or what the code would be to that, if he has any knowledge off the top of his head. I don't expect him to have the entire uniform Construction Code in his head.

Mr. Hafner: I think you're going to find that they will end up putting some suppression in the attic. It may be a dry part of the system.

Attorney Capizzi: That's what I've done on other projects, Mr. Hafner. Essentially a dry standpipe connection to set that sits in the attic, and with a standpipe connection outside in the event that they need to shoot water into the attic, the apparatus is there to do that. But we don't have to have concerns over conditioning the space to make sure that the pipes don't freeze in the winter time.

Architect Mistry: Whatever would be required by the building code we would provide.

Member Covelli: I understand that but that's what they did in Edgewater also. They met with the code was and the buildings burned to the ground. So just want to make to see what stand we have.

Member Covelli: Mr. Chairman, I also got clarification that the Borough would pick up a dumpster if a dumpster were located on this site.

Acting Chairman: At the at the Borough's expense?

Member Covelli: Yes.

Attorney Capizzi: Does the Borough provided dumpster? How does that work?

Member Covelli: I didn't ask that question.

Acting Chairman: I believe that the cost is to pick it up. I believe they'll drop the dumpster for free.

Member Covelli: Yeah, I don't think there is a cost to the dumpster to the Chairman's point. That's why we make him the Chairman. I think he's correct that the cost is in the pickup, not in the supplying at the dumpster. I think we can reasonably put that as part of the supporting Resolution.

Attorney Capizzi: I'm sorry, so they'll supply the dumpster, but there's a fee to pick up the dumpster?

Acting Chairman: That's typically the way dumpsters work. What Frank is saying is the town will pick up the cost to service it.

Member Covelli: At the Rhinesmith Building, which is just down the street, as part of the town services, the town provides a dumpster and the collection of the dumpster.

Attorney Capizzi: Thank you. You can't ask for more than that.

Member Covelli: So I think that kind of allays our concerns, and perhaps the neighbor that's on the phone, that there won't be cans being dragged around the property, either on Stephens or on Ringwood. That the dumpster could stay enclosed, it would be picked up and then left in its location.

Acting Chairman: All right, I just want to say that we are reaching our limit for testimony of 10:30. The Board has significant other business to attend to with the thought to a curfew of 11:00pm.

Attorney Capizzi: This is our last witness, Mr. Chairman, so I think we've touched upon all the facets of the application. Certainly if the Board's comfortable concluding this evening and taking

a vote on the application, the applicant would certainly appreciate that, so that we can move on to the next phase of the state funding process.

Attorney Mondello: So unless there is any other testimony from Mr. Mistry, are there questions from the Board Members? If there are no other questions, we'll open it up to the public.

Member Pasznik: I have a question. Regarding the residents and their family members, can you just give me a little background typically of the residents that would be housed there, along with their family members?

Architect Mistry: I'm not sure I'm the right person asked that question.

Attorney Capizzi: The state agency will be responsible for selecting the occupants. The applicant, with the exception of that, because of the funding source, there's a preference for disabled veteran to be housed here. But the ultimate family that will be selected to reside here is done by a third party agency.

Member Pasznik: Okay, thank you.

Attorney Mondello: Any other questions from Board Members?

Member Covelli: I have a question. I'd like to go back to that attic space and know what kind of assurance we have that that will not be converted into living space, which is where I was going with my question to you with what kind of trusses you were using in the like to try to determine what would deter a future conversion of that space.

Mr. Bruni: Matt, if I can just chime in this is Luciano, the developer of the property.

Attorney Mondello: All right, let's stop. Please turn your video on. Would you please raise your right hand? Do you swear or affirm the testimony about to give be the truth, the whole truth and nothing but the truth so help you God?

Mr. Bruni: I do.

Attorney Mondello: Please state your name, spell your last name and give us your address.

Mr. Bruni: Luciano Bruni, 610 Anderson Avenue, Cliffside Park, New Jersey.

Attorney Mondello: Okay, you wanted to answer somebody's question. Go ahead.

Mr. Bruni: Mr. Covelli, it's a simple answer to your question. Funding that we get allows only for four units. We can't expand the units, we can't add more bedrooms. The funding is for the unit count that we provide to the State and the State do inspections, so we can't allow an expansion into the attic space for anybody to either reside in or use for any other purpose of living.

Member Covelli: Okay.

Attorney Mondello: Thank you, Mr. Bruni. Any other questions from Board Members?

Engineer Nash: I have a question even though I'm not a Board Member. There is a full basement in this building?

Architect Mistry: Yes.

Engineer Nash: So there wasn't any kind of layout. What's the intended use for the basement? Is it for all residents? Is it divided up in some equal way? How does that work?

Architect Mistry: Right now it's not depicted as that; it's just meant for utility and storage. I think it'll be up to the developer whether they partition that off for the four separate residences or separate storage or, one big open storage, I'm not sure there.

Engineer Nash: None of the elevations showed windows. Are there going to be basement windows?

Architect Mistry: There may be. They would be small basement type windows, if anything, because we are really close to the grade there for the ADA compliance.

Engineer Nash: Understand.

Attorney Mondello: If I might jump in. Mr. Dykstra, I got a text message or chat from Miss Lanotte. She'd like to ask about the type of lighting in the parking lots. Will it be very bright?

Engineer Dykstra: The lighting is modern LED cut-off fixtures with the maximum height of 15'. They will not be very bright, just bright enough for safety for lighting the parking spaces.

Acting Chairman: There is no lighting plan showing foot candle ranges?

Engineer Dykstra: Yes, there is a lighting plan in the set. We have minimal lighting at the at the property lines.

Member Covelli: Mr. Dykstra, it was your testimony that the lighting would actually be on the building or close to the building because of your efforts to light the parking and the sidewalk area and to diminish the light as you get to the property line,

Engineer Dykstra: Yes. There are two poles that are located near the building; one in the back and one next to the sidewalk. Basically they light up the parking spaces and the majority of the island. Really after that, there's no more light. Of course there's light, but it's very minimal less than 0.5 foot candles by the rear property line, the rear property line.

Attorney Mondello: Any other questions from Board Members, Residents and Professionals?

Member Stefanowicz: Just one thing, Mr. Mistry. Regarding the basement, they don't know what that's going to be used for yet?

Architect Mistry: No, I stated that would be used for utility space and storage.

Member Stefanowicz: And storage. So there's a possibility that residents might have to go down in the basement to grab items after say, a fire or some kind of escape issue. I'm just wondering, what egress would be down there if there's no windows.

Architect Mistry: I mean, it's no different than any other basement. We will have the egress there that goes out that again, meets any building or fire code. No one's staying there, it's not a bedroom, and it's not a habitable space in terms of occupancy, just storage and utility space.

Member Stefanowicz: I'm wondering when you say storage, are there partitions or they don't know yet. It's just open storage and that's what you're saying is right now.

Architect Mistry: Yes.

Member Ludwig: Is that hot air heat as well ? Is it going to be the ducted on the same piping as the HVAC. It's all going to be wet?

Architect Mistry: Yes, that's how it's proposed.

Member Ludwig: That'll take up quite a bit of the basement with, what, five units down there, with the air handlers and the heaters?

Architect Mistry: We do have them in the apartment, so right now the ones in the basement are for the common areas.

Member Ludwig: All right. The air handlers are in each apartment, not in the basement.

Architect Mistry: Correct.

Attorney Mondello: Any other questions from Board Members, Professionals or Residents? All right, hearing none, seeing none, we'll throw it back to you, Mr. Chairman. Mr. Capizzi did you want to sum up or leave it to the Board?

Acting Chairman: I think we need to open it up to the public comments first.

Attorney Mondello: Any comments from residents on this application? Comments, not questions, but anything you'd like to say either for or against the application? Let the record reflect that I've asked that the participants unmute themselves. I don't see anything from Miss Lanotte.

Miss Lanotte: Can you hear me?

Attorney Mondello: Okay, go ahead. We know who you are.

Miss Lanotte: I like the plan. After all my questions, you made me satisfied that we'll have a good neighborhood, and I feel comfortable.

Attorney Mondello: Thank you. Any other residents with comments on this application? All right, hearing none, seeing none. Mr. Capizzi, do you have any last words?

Attorney Capizzi: Just very briefly. This project is going to provide a very valuable form of housing for those of very low economic level and provide necessary housing for our veterans that are disabled. I think those are really important things to be accomplished by way of this project. The design for an apartment building, I think it's more analogous to a single family dwelling than it is to an apartment building. All the bulk standards are conforming, all the site plan considerations have been addressed, and an appropriate fashion, and whatever kind of minor adjustments that may be required for parking stall depth and sidewalk width will be addressed in concert with your professionals. Overall, although we are seeking a variance, I think this project only brings about positives, and ask that the application be granted.

Attorney Mondello: Back to you, Mr. Chairman.

Acting Chairman: I think the only question I would have is, there was a lot talked about, my question would be to the Board. Does the Board feel comfortable bringing this to a vote with the mindset that any of the issues that were discussed and that were agreed to, would be worked out between the professionals? Or would the Board rather see a revised final site plan that addresses the issues that they raised prior to bringing it to a vote?

Member Covelli: I'd like to see a hybrid of that, which is that we can approve this based upon the professionals working those details out with an amended site plan to be filed accordingly thereafter reflecting an As-Built.

Member Ludwig: I would second that.

Acting Chairman: That would happen automatically, so you kind of jumped the gun there. So then Frank, your Motion then was, I'm assuming, to Approve?

Member Covelli: My Motion is to Approve Application 2020-10, Nouvelle, LLC for the construction of a four unit or four family apartment building on the corner of Ringwood and Stephen Avenues as presented to us with the conditions represented by the applicant, that they will locate the dumpster and that unless otherwise stated, we've been assured will be taken care of by the municipality with respect to placement and garbage pickup. That there will be a screening approved by our Attorney with regard to screening around those condensers, landscaping and the like. By the way, that was a question I never got to ask that I should ask right at this time. Will the property be sprinklered? I can interrupt my own Motion with that question.

Attorney Capizzi: Ken, I imagine we're going to have to have some sprinklers for the landscaping and turf areas?

Engineer Dykstra: Yes.

Member Covelli: I see. Mike, my fellow Board Member, Ms. Pasznik, is laughing because she knows that I like sprinklers and landscaping to actually look good in the middle of the summer
Attorney Capizzi: An irrigation system certainly will be provided.

Member Covelli: Okay, so then I'm going to include that in my Motion, if that's alright with you, folks.

Attorney Capizzi: Mr. Covelli, go right ahead. Thank You.

Member Covelli: So that would be part of the inclusion of one of the stipulations and conditions of the approval of the application.

Member Levine: Frank, will you include the sound attenuation by the condensers to the maximum extent possible?

Member Covelli: I think you just did, Mr. Levine, and I will agree with that. Yes to include that in the in the authorizing Resolution. And I think we covered everything. You folks are pretty thorough.

Acting Chairman: A couple little things, Frank. First of all, I think that screening will be resolved with the Engineer, not the Attorney.

Member Covelli: I didn't state a specific professional.

Acting Chairman: Oh, okay. Also, I know we did talk about that 20x100' area. I would like to just see something there to give a little bit of a passive recreation area too.

Member Covelli: I was thinking the same thing Mr. Chairman. Would that be something that would be considered by the by the applicant?

Attorney Capizzi: Bocce ball and horseshoes?

Acting Chairman: No, nowhere near to that degree and nowhere near the full length of the 100', but just an area like you said, with some benches, maybe a picnic table if they want to go out there and have lunch on a nice day.

Attorney Capizzi: I was thinking Mr. Covelli and I get out there and hang the Italian flag and play little Bocce.

Acting Chairman: I'd like to see that and then I also like that you agreed to incorporating some kind of design change over the rear entrance.

Member Covelli: Yes, thank you, Mr. Chairman.

Acting Chairman: I'm sure that we could leave it kind of open to the point where, based upon the Minutes that the Board Engineer would resolve whatever issues that were brought up that the Applicant agreed to resolve with the Professionals.

Member Covelli: I'd like the Construction Official consulted with respect to ensuring the safety of that attic space with fire protection. I think that concludes everything. I think this Resolution was built by a village. Are we all good?

Acting Chairman: So we got we have a Motion, do we have a second for formality?

Member Ludwig: I'll second it.

MOTION TO APPROVE APPLICATION: made by Member Covelli, seconded by Member Ludwig. Voting yes were Acting Chairman Grygus, Members Covelli, Stefanowicz, Ludwig, Pasznik, Levine and Aumenta

Motion Carried

Application ZBA2019-07 – Romero, Marylou – 39 Snake Den Road (Block 102/Lot 4)

Attorney Mondello: I do believe Mr. Kopp, are you appearing on behalf of the applicant?

Attorney Kopp: Yes, I am here.

Attorney Mondello: We apologize, but these other applications, as you can see, took a great deal of time. The Board typically ends at 10:30pm, so unfortunately, your client's application, we lost your video, Mr. Kopp, but your client's application will have to be carried to the next meeting in January.

Attorney Kopp: Okay. Do you want me to re-notice?

Attorney Mondello: No. Why don't you enter your appearance, give us the address of the application, and we'll make sure that if there are anybody, any residence or participants that are here for your client's application that they know, it's being carried to January,

Attorney Kopp: My name is John Kopp. My address is 999 Riverview Drive, Totowa, New Jersey. The property is 39 Snake Den Road. It's Lots 3 and 4 in Block 102.

Attorney Mondello: Thank you, Mr. Kopp. If anyone is here for that particular application, there will be no further notice and it will be carried to the January 6th meeting.

Acting Chairman: Can we get a Motion to Carry? Member Covelli and second Member Ludwig. Before Roll Call, I see that this is dated 2019-07, how are we on time?

Attorney Kopp: Actually, this is a re-opened application. The property owner made an application in 2019 and it was tabled. There were some deficiencies, I believe, that occurred at that time, so it had to be tabled. The application has actually been modified somewhat to request a Use Variance. Her original application did not make a request for Use Variance; it requested Bulk Variances. Now it is actually a Use Variance

Acting Chairman: So I'm just going to assume that you will agree to grant any necessary extensions as part of the process.

Attorney Kopp: Yeah, most definitely. This is an unusual application, as you will see next month but, yes, definitely.

MOTION TO CARRY THIS APPLICATION TO THE JANUARY 6, 2021 MEETING WITH NO ADDITIONAL NOTICE: made by Member Covelli, seconded by Member Ludwig. Voting yes were Acting Chairman Grygus, Members Covelli, Stefanowicz, Ludwig, Pasznik, Levine and Aumenta

Attorney Mondello: Your application is carried to the January 6th meeting. You will now be under old business and, presumably, you will go first.

Board Secretary: Yes.

PUBLIC DISCUSSION: Anything not on the Agenda.

Hearing none, seeing none, let the record show there was no one to come forward.

Attorney Mondello: I just would make note, Mr. Kopp you're welcome to stick around and your client is welcome to stick around, but your application is carried to the January 6 2021 meeting.

ZBA2020-06 – Chabad Jewish Center, 815 Ringwood Avenue, Haskell – Partial Approval

This is in the matter of Chabad Jewish Center. This is the Second Resolution and this had to deal with the existing ground mounted sign at the location. The typical conditions were placed in the Resolution. The applicant agreed to provide written communication from the County of Passaic, either approving the sign as proposed or that the County will not be involved. I did circulate an email that the County did not have any interest in this particular application. So I'll entertain any questions or comments that the Board may have at this point. Hearing none, seeing none, I'd ask for a Motion followed by a Second.

MOTION TO MEMORALIZE THIS RESOLUTION AS PREPARED BY BOARD ATTORNEY: made by Member Covelli, seconded by Member Ludwig. Voting yes were Acting Chairman Grygus, Members Covelli, Ludwig, Aumenta and Stefanowicz
Motion Carried

CORRESPONDENCE: None

Board Secretary will advise New Member of training schedule when received.

VOUCHERS: submitted by Boswell Engineering for Chabad Jewish Center Application in the amount of \$212.

MOTION TO APPROVE: made by Member Ludwig, seconded by Member Stefanowicz. Voting yes were Acting Chairman Grygus, Members Covelli, Stefanowicz, Ludwig, Pasznik, Levine and Aumenta

VOUCHERS: submitted by Ronald Mondello, Esq. for Chabad Jewish Center Application in the amount of \$750; attendance at the March 4, 2020, Meeting in the amount of \$400; and for MKR Enterprises/Tree Tavern Litigation in the amount of \$900.

MOTION TO APPROVE: made by Member Covelli, seconded by Member Ludwig. Voting yes were Acting Chairman Grygus, Members Covelli, Stefanowicz, Ludwig, Pasznik, Levine and Aumenta

MOTION TO APPROVE NOVEMBER 4, 2020 MINUTES: made by Member Ludwig, seconded by Member Pasznik. Voting yes were Acting Chairman Grygus, Members Covelli, Stefanowicz, Ludwig and Aumenta
Members Pasznik and Levine abstained

ENGINEER'S REPORT: Board Secretary will be sending out an Application For Interpretation

DISCUSSION:

Acting Chairman: We have two items to discuss. One is going to have to go into Closed Session, which I am assuming you can do Ron?

Attorney Mondello: Yeah, I can do that. I see that there's only one resident and when we do go into Closed Session, and I apologize, it's simply listed as entre Amigas, and I will be removing him from the meeting.

Acting Chairman: Okay. Why don't we handle the first part of it first, which was the Resolution by the DCA.

Attorney Mondello: So if I may suggest, Mr. Chairman, I just sent that out. I know that Mr. Levine has an early meeting tomorrow. I think it's going to require a bit more than a few minutes. There's a lot there. I essentially took the DCA regulations and put my own twist on it, so to speak. So I would suggest that we carry it to the next meeting,

Acting Chairman: All right, and with that, wouldn't be prudent Ron for the Board, to direct you to reach out to someone with respect that we have a concern regarding the legality of it.

Attorney Mondello: Already done. I belong to the local government attorneys, and Ed Buzak, who is a very well respected attorney, wrote, and I'll send it to you guys, a very detailed letter explaining our concerns. One of the big concerns is that, you know, an applicant or an applicant's attorney is entitled to cross examine someone, so why would you send in a comment and not show up at the meeting? I'm happy to send that to you, but that's been done. Don't hold your breath that anything is going to change?

Acting Chairman: All right, with that, then let's go into closed session.

Board Secretary: Before we go into Closed Session, January 6th is the Reorg. and the Regular Meeting. Do we want to do the Reorg at 7:30pm?

Acting Chairman: The Reorg at 7:30 Ron, if you could set that up for the meeting?

Attorney Mondello: I will.

Acting Chairman: And then it's just going to be one meeting right, or do we have to do two separate zoom meetings?

Board Secretary: What we can do and I usually do with the Planning Board is that when I send out the notice with everything in it, including the zoom thing, I put that the Reorganization starts at 7:30 and it goes right into the Regular Meeting. I'm assuming the Mayor will be on to swear in Members. It's usually by the time we start anyway, it's a 15 to 20 minute process. So I just want to put that out there.

Acting Chairman: I would just ask that if there are any Members who think that there's anything in our Procedures or By-Laws that they would like to see a change, maybe just email it to me.

Board Secretary: What I'll do is I'll send the ones that we prepared to everybody.

Acting Chairman: I t just touches on when the meetings are going to be, public notices are, when the site visits will be and things of that nature. A lot of which we never really get involved with, but in the event that anyone thinks there's something there that they would like to see changed, then this is the time to address it.

Attorney Mondello: Let's make sure there's nothing else other than three minutes in Closed Session, and we come back because these members and these participants will not be allowed back in once I remove them. Okay, Mike, I think you're going probably say goodbye, and I'm going to be removing Mr. Entre Amigas.

Board Secretary: I am going to stop recording.

MOTION TO COME OUT OF CLOSED SESSION: made by Member Aumenta, seconded by Member Pasznik. Motion carried by a voice vote.

MOTION TO ADJOURN AT 11:10PM: made by Member Covelli, seconded by Member Ludwig. Motion carried by a voice vote.

Jennifer A. Fiorito
Board of Adjustment Secretary