

**REORGANIZATION MEETING**  
**&**  
**REGULAR MEETING**

**Salute to Flag: 7:55pm**

**OPENING STATEMENT:**

**This is the Reorganization & 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 December 8, 2019 and a notice thereof has been posted on the bulletin board in the Municipal Building in the Borough of Wanaque, 579 Ringwood Avenue, Wanaque, and a copy thereof has been on file with the Borough Clerk**

**Mayor Daniel Mahler swore in Re-Appointed Member Bridget Pasznik**

**ROLL CALL: Members Jack Dunning, William (Bruce) Grygus, Frank Covelli, Bridget Pasznik, Don Ludwig and Michael Levine.**

**ABSENT: Member Larry Malone**

**NOMINATION FOR CHAIRMAN: Member Covelli nominated Jack Dunning, seconded by Member Grygus. No other nominations heard. Nominations closed.**

**ROLL CALL ON NOMINATION FOR CHAIRMAN: Voting yes were Members Grygus, Covelli, Pasznik, Ludwig and Levine.  
Member Dunning abstained.**

**NOMINATION FOR VICE CHAIRMAN: Member Covelli nominated Bruce Grygus, seconded by Member Pasznik. No other nominations heard. Nominations closed.**

**ROLL CALL ON NOMINATION FOR VICE CHAIRMAN: Voting yes were Chairman Dunning, Members Covelli, Pasznik, Ludwig and Levine.  
Member Grygus abstained.**

**NOMINATION FOR BOARD ENGINEER:** Vice Chairman Grygus nominated Boswell Engineering (Christopher Nash) for Board Engineer, seconded by Member Pasznik. No other nominations were heard. Nominations closed.

**ROLL CALL ON NOMINATION FOR BOARD ENGINEER:** Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, Pasznik Ludwig and Levine.

**NOMINATION FOR BOARD ATTORNEY:** Member Covelli nominated Ronald P. Mondello, Esq. for Board Attorney, seconded by Member Pasznik. No other nominations were heard. Nominations closed.

**ROLL CALL ON NOMINATION FOR BOARD ATTORNEY:** Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, Pasznik, Ludwig and Levine.

**ADOPTION OF OFFICIAL NEWSPAPERS & EXISTING BY-LAWS:** Continue with the Newspapers approved by the Mayor & Council which are (1) Suburban Trends and (2) Herald News/The Record.

**MOTION TO ACCEPT AND ADOPT THE NEWSPAPERS & EXISTING BY-LAWS:** made by Vice Chairman Grygus, seconded by Member Covelli. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, Pasznik, Ludwig and Levine.

**MOTION TO MAINTAIN THE FIRST WEDNESDAY OF THE MONTH FOR THE REGULAR MEETING AT 8:00 P.M.; AND THE SATURDAY PRIOR TO THAT MEETING FOR SITE VISITS AT 10:00 A.M.; AND DIRECT THE BOARD SECRETARY TO ADVERTISE IN ACCORDANCE WITH THE OPEN PUBLIC MEETINGS ACT TO GIVE NOTICE OF THE MEETING DATES FOR 2020 AND THE JANUARY 6, 2021 DATE:** made by Vice Chairman Grygus, seconded by Member Ludwig. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, Pasznik, Ludwig and Levine.

**NO RECESS – BOARD CONTINUED WITH REGULAR MEETING AT 8:05PM**

### **REGULAR MEETING**

Let the record show that every Member that was present at the Reorganization Meeting is present for the Regular Meeting, except for Member Covelli, who left the meeting at 8:04pm because he had to recuse himself from the Application being heard tonight since he owns property within 200' of the Applicant's property.

**Application #ZBA2019-11 – 895-897 Ringwood Ave., LLC**  
**895-897 Ringwood Avenue (Block 305/Lot 12)**

**Applicant's Exhibits**

- A-1 Company Brochure of Anderson Environmental Services**
- A-2 Plot Plan Revised 12/16/2019**  
**Prepared By McNally, Doolittle, Engineering, LLC**
- A-3 Boswell Engineering Review Letter Dated November 26, 2019**
- A-4 Colorized Plot Plan of A-2 (Applicant Has Possession)**
- A-5 County of Passaic Review Letter Dated November 15, 2019**
- A-6 Vicinity Map Revised 12/16/2019**  
**Prepared By McNally, Doolittle, Engineering, LLC**

**Attorney Mondello: I've had an opportunity to review the Notice of Publication and Notice to Residents Within 200' and I would deem the application complete from a notice perspective and jurisdiction is vested in the Zoning Board to hear this application.**

**Robert Bavagnoli, Esq., Bavagnoli & Bavagnoli, LLC on behalf of the Applicant**  
**Robert Davis, Esq., The Davies Law Firm also on behalf of the Applicant**

**Attorney Davis: For witnesses, I have Mr. Russ Anderson. He runs the business that's proposing to move into this property. He does environmental services. Mainly, he is pulling old steel underground storage tanks out of the ground. He is going to testify that 95% of them have already been cut, cleaned and abandoned in place and he is pulling them out of the ground now, many years later because that's what required. He is the principal of the business and owns it and his wife works with him. He has two employees. It is a very small family business. I also have Matthew Greco, the engineer, from McNally and I also have our Professional Planner, Beth McManus, who will be testifying as to the zoning aspects of the proposal.**

**Attorney Mondello swore in Mr. Anderson.**  
**Russell Anderson, 5 Reservoir Road, Goshen, New York.**

**Attorney Davies: Russ, what do you do?**

**Mr. Anderson: Primarily we do removal of underground oil storage tanks for homeowners. Approximately 95% of the tanks that we remove are tanks that have already been abandoned. To clarify what that means, it means the tanks have already been cleaned and filled with sand. That was the common procedure up until about 4 or 5 years ago and now the common thing to do is to remove the tanks in their entirety. The other 5% of the tanks that we remove are tanks that have just recently been taken off line and the people are converting to gas.**

Just to give a background of our company, we've been in business for about 25 years serving Bergen and Passaic Counties. Besides myself and my wife, I have 2 full-time employees and I hire 2 or 3 employees part time if it might be necessary for a particular job. We get most of our work from recommendations from prior customers or realtors that we've established long relationships with. We've been at our location where we are at now in Mahwah for 21 years and the reason we are looking for a new home is because that property is being sold. We rented a portion of the property. We found this property in Wanaque and it seems to us to be very favorable and we hope that you find favor in what we do.

I'll now describe the tank removal process and what we do particularly. By removing these underground tanks that have sand in them, that have been previously abandoned, what we do is we uncover the tank and cut off the top of the tank and then the tanks have been filled with sand, but over the years, because the top has been cut open for them to fill it with sand, water also gets inside the tank. We have to remove a quantity of water at least with every job that we do. We take that water and put it into 55 gallon drum and we take back with us to our yard at the end of the day. That 55 gallon drum of water then gets stored in a box container for a short period of time. A box container is a big steel shipping sea container with a solid floor and is weather tight. In 25 years, I have never once had a leak from one of the 55 gallon drums. We then empty out the sand from the tank and the tanks are thoroughly manually, at the job site, and inspected by the local municipal inspector before we can backfill or remove the tank. That covers the tanks that have been abandoned.

On tanks that still have oil product in them, which are the tanks that have been recently taken off line. If there is any quantity of oil in the tank, we have an outside provider come and pump out the oil on site. After that is done, we still have to get inside the tank to manually clean out the residue that remains. Again, that material, which is a sludgy type material, also gets put into a 55 gallon drum, sealed and brought back to our yard and put into a container, temporarily stored. Temporary is typically we'll have twenty (20) 55 gallon drums in the container and about once a month we have an outside provider come and remove the contents from the drum. Temporary is typically 30 days, or less. At the end of the day after we are all backfilled on a job, we bring the tank back with us to the yard and we will store, temporarily, about five (5) or so tanks in the yard and, weather permitting and all, typically we load the five (5) tanks when we get that quantity and we take them to a licensed facility for disposal.

We are licensed by the NJDEP. Everything is done as it is supposed to be done.

**Attorney Mondello:** I understand that you have these 55 gallon drums and they are removed from some vendor, but you have a description that an outside vacuum truck.

**Mr. Anderson:** That's it.

**Attorney Mondello:** So the drums are not physically from this area and put on the vendor's truck. There is some kind of vacuum.

**Mr. Anderson:** He will come with a hose and pump it out.

**Attorney Davies:** So what you are telling us is you don't have 55 gallon drums being shifted around the backyard which might fall over and leak or anything else. They just sit there, they get cleaned out and then you are able to reuse them.

**Mr. Anderson:** We will shift them around when they are empty, but once they're full there in place until they get pumped out by the outside vendor.

**Member Ludwig:** You are moving them from the site and then off your truck into the trailers.

**Mr. Anderson:** We move them to the trailer and that's where they stay until it's pumped out.

**Attorney Mondello:** Is there any odors associated when this vacuum truck comes in? I am assuming it is not like a septic truck.

**Mr. Anderson:** No, absolutely not. If there is any odor, it's not noticeable. As I mentioned, it's mostly water, there is sludge, but there isn't any noxious odors given off.

**Vice Chairman Grygus:** The tanks that were previously cleaned or the tanks you cut opened and cleaned, I would have to imagine there is still some remaining residue within that tank. You clean it to the best of your ability. So now this tank is cut open and you bring it back to your site, how do you store it to prevent rainwater from getting inside of it?

**Mr. Anderson:** Minor rainwater might get inside of it, but the tanks are clean. When they come back, they were scrapped and wiped down clean before they come into our yard, so they are dry. They are odor free and dry. By the time we get back to the yard they are dry and clean.

**Engineer Nash:** Can I get a handle on the quantity of tanks you do per year?

**Mr. Anderson:** If we can, weather cooperating, we do one (1) a day, not counting holidays. Winter months we lose time weather wise. If it is too cold, we work sporadically.

**Engineer Nash:** 250 tanks a year. All these are averages, how many 55 gallon drums of water do you need per tank?

**Mr. Anderson:** One (1) or less.

**Engineer Nash:** In order of magnitude, so we have 200 tanks and have about 200 to 250 55 gallon drums on the site that are full but not at the same time

**Mr. Anderson:** Yeah for the whole year if you lined them all up. Everything is going to be inside the container.

**Engineer Nash:** It is going to be about 20 at a time, but I'm thinking per year.

**Vice Chairman Grygus:** When you take out a tank that was previously abandoned, what happens to the sand that was in it?

**Mr. Anderson:** If the tank had been cleaned out properly by whoever did the tank abandonment that sand then goes back into the excavation. If they had not cleaned out the tank properly, then that material is put in drums on site, kept on site, and that's removed and taken to a recycling center.

**Vice Chairman Grygus:** So those drums don't go to your site?

**Mr. Anderson:** No.

**Engineer Nash:** Who makes that determination?

**Mr. Anderson:** It is between us and the municipal inspector. It is obvious because the material will be smelly; it won't be clean. In that case, it is discarded.

**Engineer Nash:** So there is somebody inspecting the work as you do it?

**Mr. Anderson:** Municipal Inspector has to inspect every job that we do.

**Member Levine:** Will he determine whether the tank is cleaned? In other words, how do you confirm your cleaning has taken care of everything?

**Mr. Anderson:** When the inspector comes, the tank has been cleaned. He looks at the tank to see that it's clean, that the tank has integrity and it hasn't leaked.

**Member Levine:** And the oil that was taken out? Remind me again, where does that go?

**Mr. Anderson:** If there is any oil taken out in quantity, it goes directly, not into our yard, but goes directly to a service provided to their facility for recycling.

**Vice Chairman Grygus:** If you have a tank that was not previously done, does part of your cleanup process include sand or kitty litter type of use, or no?

**Mr. Anderson:** If we have a tank that still has oil in it, then the oil has been pumped out, we get in and we clean it out.

**Vice Chairman Grygus:** Do you utilize sand or kitty litter material at all for any of that cleanup?

**Mr. Anderson:** No. We scrap the inside of the tank.

**Member Ludwig:** You have an outside company pump it out?

**Mr. Anderson:** We have an outside company pump it out, but we still have to get inside and clean it out.

**Chairman Dunning:** What do you do with the rags?

**Member Ludwig:** You said you use rags for wiping the interior of the tank.

**Mr. Anderson:** They have to be disposed of properly as well. They do go into a separate drum and they are disposed of as well.

**Vice Chairman Grygus:** What is the average size tank that you do?

**Mr. Anderson:** Most of them are 550 gallon, but some are 1,000 and some are 275.

**Vice Chairman Grygus:** Is it still that anything under a 1,000 is not regulated by the DEP?

**Mr. Anderson:** Everything is regulated by the DEP. Any size is. It depends on the use of the tank. I mean everything is regulated by the State, but there are different categories on how the DEP regulates those particular tanks. You have to be licensed and certified to do this business whether it is a 275 gallon tank or a 5,000 gallon tank.

**Vice Chairman Grygus:** Does the DEP do any onsite inspections and are they announced?

**Mr. Anderson:** Yes, they do and some are announced.

**Mr. Levine:** Are you personally required to have a certain education, licenses to have a company like this?

**Mr. Anderson:** Yes. I have to go periodically every three (3) years. I just completed a course at Rutgers two weeks ago. This is for the DEP.

**Vice Chairman Grygus:** What is the reasoning for the water could not be taken right from the site to wherever it ultimately ends up instead of storing it?

**Mr. Anderson:** It is mixed with the sand and we can't have a truck come and suck that out because it has sand in it so it is a tedious process when it is mixed with sand. We have to get the sand to one side and get some water out.

**Vice Chairman Grygus:** Ultimately, when you that water or whatever it is in the 55 gallon drum, why not ship that drum to wherever it's going to ultimately end up?

**Mr. Anderson:** Basically, it is not economically feasible. You are going to have a tremendous transportation fee just for one drum so that is why we bring it back to our facility and have it taken out in quantity. We are only talking small amounts.

**Engineer Nash:** Can I assume that these 55 gallon drums are sealed?

**Mr. Anderson:** Yes, they are seal.

**Member Levine:** Do you handle any other materials besides oil and oil tanks?

**Mr. Anderson:** No.

**Vice Chairman Grygus:** What are your hours of operation on the site?

**Mr. Anderson:** We basically start at 7am or thereafter. At this point we are really ready to go because we prepare ourselves the night before. We pull out with our equipment, which is one truck and maybe a pick-up truck and we go to our job site. Our normal return time is between 2pm and 3:30pm.

**Engineer Nash:** So one truck is a dump truck with a trailer pulling a backhoe?

**Mr. Anderson:** That is correct. If a particular occasion requires two trucks, we may pull out with two for that particular day, but most of the time it is one truck pulling a trailer.

**Member Levine:** How are you going to get these trucks to the backyard?

**Mr. Anderson:** We have already tried it. We had to do a test excavation looking for a potential oil tank on the site, so we went back there with our truck and trailer and did the turn around so we know this will work. The driveway is wide enough.

**Attorney Davies:** We will get some testimony from the engineer. It is a fair question and Mr. Anderson you've tested it having used your driveway, the narrower driveway on the north side that is entirely on his property to use it to get your equipment back there.

**Mr. Anderson:** Yes, that is where we pulled in.

**Attorney Davies:** There was enough space and you were able to get in without a fuss?

**Mr. Anderson:** Absolutely.

**Attorney Davies:** Do you anticipate, because you are the fellow who is running it every morning, having any problems getting your equipment into and out of the site from that driveway?

**Mr. Anderson:** I don't.

**Vice Chairman Grygus:** When you went in there, were there any cars in those rear five (5) spaces?

**Mr. Anderson:** There was a car and a motorcycle.

**Vice Chairman Grygus:** How did you exit the site?

**Mr. Anderson:** We pulled in, did a u-turn, backed our trailer around the opposite direction and went out the same way.

**Attorney Davies:** And what you described, are you going to be able to do that same kind of maneuver if you put in place all of the things that you propose to put in place?

**Mr. Anderson:** Yes. What I just described we did on the paved area, which is before the proposed area.

**Vice Chairman Grygus:** I think some of those questions would probably be best directed towards the Engineer.

**Member Ludwig:** You mentioned that you normally go out with one dump truck and a backhoe and once in a while a second dump truck is needed, I see that you have two trailers and three dump trucks.

**Mr. Anderson:** We do. If on a particular it works out where one truck can take the tanks and another truck used for something else that's why we have that.

**Member Ludwig:** Generally, it is, at most, only two trucks a day pulling in and out?

**Mr. Anderson:** At most, yes.

**Vice Chairman Grygus:** Do you store any diesel fuel on site for the trucks or the backhoe?

**Mr. Anderson:** We do have a 275 gallon above-ground tank which would also be in a container, out of sight.

**Member Levine:** How do you fill that tank? You have a truck coming back.

**Mr. Anderson:** It gets filled minimally. It's just for our backhoe.

**Member Ludwig:** It's not for your dump trucks?

**Mr. Anderson:** No.

**Member Levine:** The truck that comes in to refill that tank, it is the same size that your equipment is and can get into the driveway that way?

**Mr. Anderson:** Yes.

**Chairman Dunning:** So it is a small delivery truck.

**Mr. Anderson:** That's all.

**Vice Chairman Grygus:** Do above-ground storage tanks like that require a secondary containment?

**Mr. Anderson:** We do have a plastic containment around it. Whether it is required or not, we have it.

**Attorney Davies:** You have an advertising brochure. It shows the equipment that you use and how you operate your business. I'd like to have the Board take a look at it.

**Attorney Mondello:** Sure, and we'll mark it as Exhibit A-1.

**Engineer Nash:** Do your trucks have beepers when they are backing up?

**Mr. Anderson:** Absolutely. They are all fully inspected and they have to have that.

**Chairman Dunning:** When you bring these bigger tanks in, do you cut them up to make them easier to handle?

**Mr. Anderson:** If they have to be, yes. 1,000 gallon tank or less we can handle without having to do that. Sometimes, in the field, just because of the nature of where the tanks are located and what's been built on or around them, requires us to cut them just to get the tanks out. So sometimes they are cut before we bring them back, but most of the time they are intact.

**Attorney Mondello:** You have been in this business for quite some time, you have a restaurant there, a residential area, do you foresee any problems with noise from either the dump trucks, the construction equipment. You said there are no odors associated with the remnants from the tanks, but any impacts that you might foresee?

**Mr. Anderson:** None that I can see. In fact, the restaurant portion, our intention is to convert that to an office for our use.

**Chairman Dunning:** The restaurant is completely gone.

**Vice Chairman Grygus:** Your site in Mahwah, is that site completely in a business zone?

**Mr. Anderson:** It is a grandfathered business zone with residences around it. They have had that property for several generations. Now they are selling it for residential condos, or something.

**Vice Chairman Grygus:** How big is the site you are on now?

**Mr. Anderson:** It is a multi-contractor site so the area that we use now is about the size of what we are looking at here.

**Chairman Dunning:** In your plan, you have an area called the “spill containment”. What’s that area really do?

**Mr. Anderson:** That’s just a “just in case, case”. We don’t anticipate any spillage but I believe that was requested by the Board Engineer so we’re accommodating.

**Attorney Davies:** Mr. Chairman I can tell you that my engineer’s going to testify that this is intended to provide a “belt and suspenders”. My client has testified that he has never had a spill in 25 years, but just to make sure and at the request of the Board’s Engineer, our client is going to build what was asked which will contain any kind of possible rupture incident. I believe the best money will be that two tanks could rupture and it will still be fully contained without a problem.

**Chairman Dunning:** These storage containers that you are putting on the ground are they going to be on the ground itself or are you going to build a little pad to set them on?

**Mr. Anderson:** The entire area is going to have stone base so they are going to be slightly elevated above and I would say about 6” above that.

**Chairman Dunning:** Are you proposing anything under the gravel in case there is a spill to stop it from penetrating into the ground?

**Mr. Anderson:** The containers themselves are sealed.

**Chairman Dunning:** I know the containers are sealed, other than that on the site as you’re moving the drums from your truck into the container is there any provisions if something spills?

**Mr. Anderson:** Right now, no. Like I said, where we have been for 21 years, we’ve never had a situation like that. With the 55 gallon drums, drums don’t rupture and if you did get a leak, it would be very slow and you could identify it before it was a situation. It would be mostly water. Like I said, 90% of the product that we bring in is water.

**Vice Chairman Grygus:** If you came in with your dump truck and your trailer, with your backhoe on it, can you pull straight into the proposed site? How would you get back there and get in and out of there?

**Attorney Mondello:** Engineering

**Vice Chairman Grygus:** I thought that too.

**Mr. Anderson:** We would come in the driveway and when we got into the paved area, turn to the left.

**Vice Chairman Grygus:** You can make that swing with the trailer and the truck with those proposed parking spaces?

**Mr. Anderson:** Yes.

**Vice Chairman Grygus:** Sometimes they’ll put the actual tracking and show the truck and how it’s going to access. The concern I have is, and I know it was in the engineer’s letter, the driveway to the south mostly belongs to the adjacent property owner. So if you were to decide to put a fence down that property line, it is going to limit how far you can go to the south when you make that swing.

**Mr. Anderson:** We did a test. We tried it just for that purpose and we weren’t using the neighbor’s property.

**Chairman Dunning:** Is there an agreement to use his driveway?

**Mr. Anderson:** No. I spoke to them. They are possibly looking to sell at some point in the future.

**Chairman Dunning:** You are going to put a fence all the way up to the building?

**Mr. Anderson:** There is no fence on that side.

**Attorney Davies:** Mr. Chairman my understanding is that the dry cleaner will give permission verbally and won't obstruct or otherwise object, but will not grant an easement. Is that your understanding as well?

**Mr. Anderson:** Yes.

**Chairman Dunning:** Also, it's not on the plan, there is a third power pole back where that first house is near that's not show on the plan.

**Attorney Davies:** Maybe we should mark the Plot Plan as an exhibit as well.

**Attorney Mondello:** Exhibit A-2.

**Attorney Davies:** Revised through 12/16/19 per Boswell Review Letter of 11/26/19 and the Passaic County Planning Board (A-2). Okay, since I'm not familiar, where is the third power pole that Mr. Chairman is referring to?

**Vice Chairman Grygus:** It's almost in the area of the "x" that's on the plan there, which I am assuming is a tree to be removed. It is to the left of that sand bin.

**Attorney Davies:** Slightly to the left of the sand bin and fairly close to the property line?

**Vice Chairman Grygus:** Yes, somewhere right in that area there.

**Attorney Davies:** Let me suggest that we have our engineer address that.

**Attorney Mondello:** Let's finish up with Mr. Anderson's testimony and then if any residents have any questions of him.

**Vice Chairman Grygus:** How long is the trailer and the dump truck?

**Mr. Anderson:** The dump truck is about 20' and the trailer is close to 30'. The dump truck is single axle.

**Member Ludwig:** Do you anticipate your business adding more trucks or your business growing?

**Mr. Anderson:** This is what I can handle. I am not looking to grow the business.

**Attorney Davies:** The brochure (A-1) shows an orange machine on the top right which is your everyday machine that will go on the flatbed and go the site when you do your job. The center picture I see a much larger yellow machine. Is that a rented unit?

**Mr. Anderson:** That's a rented unit used as needed for a site remediation and everything there stays on the site.

**Attorney Davies:** The large yellow one would not come back to your site. The little bobcat in the front, is that yours?

**Mr. Anderson:** Yes and that stays on top of one of our trailers. That is a mini loader.

**Attorney Davies:** I see in the lower left a picture of what looks like a steel tank coming out of the ground. Is that a typical one?

**Mr. Anderson:** Right, that is a typical tank.

**Attorney Davies:** It looks like a neat and clean operation. Does the Board have any questions based on the brochure?

**Attorney Davies:** You wouldn't buy the property sir if you didn't think you could turn your equipment around and get it back out onto the street. Is that a fair statement?

**Mr. Anderson:** Exactly.

**Member Levine:** Are you going to impact any of the parking spaces in the back with your trailer and tractor coming in and making turns? You designated parking spaces back there.

**Mr. Anderson:** I will say it is tight at the one end.

**Vice Chairman Grygus:** I don't see how you would ever make that swing.

**Mr. Anderson:** We are never going to have that many cars. Those cars are designed for the pizza business.

**Vice Chairman Grygus:** No, your parking requirement is for the house and your proposed use.

**Mr. Anderson:** There are also two parking spaces in the front and we are meeting all of the requirements parking space wise.

**Member Levine:** It's not just the requirements for the parking spaces. It is the ability to bring in your tractor and trailers and making the turn. You have to assume there's going to be cars there because you have parking spaces.

**Mr. Anderson:** The tenant has one car and a motorcycle. We have one or two vehicles at the most and we have 8 spaces I think.

**Vice Chairman Grygus:** 7 spaces.

**Chairman Dunning:** How do your truck drivers get to work?

**Mr. Anderson:** They can park right in our compound.

**Chairman Dunning:** How many employees do you have?

**Mr. Anderson:** 2, plus myself and my wife. My wife and I are not there at the same time. I can ever park my vehicle back there as well.

**Member Ludwig:** You mentioned occasionally, if you are swamped, you might hire a couple of extra temp employees.

**Mr. Anderson:** Occasionally, but we normally pick them up.

**Attorney Davies:** If the Board is really concerned, we can address this with the engineer. They are ways to line out parking.

**Chairman Dunning:** It is a question of how many employees which the engineer doesn't know.

**Mr. Anderson:** 2 regulars plus my wife and myself.

**Chairman Dunning:** Plus 2 for the house. Do you have any people visit your office?

**Mr. Anderson:** No. We work out of our home now and it works fine so having an office is going to be a nicety but not absolute necessity because we're not going to have people coming in and out.

**Member Levine:** When they contract you, it is by phone?

**Mr. Anderson:** Yes.

**Vice Chairman Grygus:** You have no intention at all of trying to rent out that proposed office use to someone else for another kind of retail business.

**Mr. Anderson:** I don't know what the future will hold, but right now, no.

**Vice Chairman Grygus:** That would impact the parking.

**Attorney Mondello:** If, in fact, that occurs, you would have to come back to this Board, because I'm guessing you would be deficient in parking.

**Vice Chairman Grygus:** What you show and what's workable may be two different things.

**Mr. Anderson:** At that point, we would know how it is working. We might not even want to.

**Member Pasznik:** Is it just Monday through Friday that you are there?

**Mr. Anderson:** Yes. It is Mondays through Fridays and no holidays. If there is any work done on Saturday at all, it's only for minor maintenance. No noise.

**Attorney Mondello:** Minor maintenance to your vehicles that would have to be started and tuned up?

**Mr. Anderson:** If I have to change oil. It would be like car maintenance-truck maintenance.

**Vice Chairman Grygus:** Why do you want to just gravel the whole thing versus paving it?

**Attorney Davies:** Well that's an engineering question. But there would be a couple of reasons and one of them is that if you pave it hard then you have runoff issues, you have to set up other things to catch the water.

**Vice Chairman Grygus:** You would then have the ability to catch any spill, if there were to be one. You could use oil and water separators in your seepage pits. This way with gravel there is just no way to contain anything.

**Attorney Davies:** I believe the engineer has tried to address the concerns raised by Boswell as fully and completely as possible to make sure that what was needed was done. My client testified that he hasn't had a problem with leakage in 25 years. We've given the Board what the Board's Engineer asked for. If you engineer wants to talk to our engineer as he testifies, we can do that to make sure that everybody is satisfied. But the idea would be that it's at least partially permeable, it's a little bit less hard and there is a little bit less issue with runoff. I always like to see as little hard paving as possible.

**Chairman Dunning:** I think the problem is we would be concerned with what would be in that runoff. That's seems to be where a lot of the questions are hitting.

**Attorney Mondello:** Wasn't the testimony predominantly water and sand?

**Attorney Davies:** Yes.

**Attorney Mondello:** So there never would be a situation where it's 100% oil and now we have a plume underground.

**Vice Chairman Grygus:** Just the process of sucking that stuff out of the barrels. There is a chance of something happening.

**Engineer Nash:** It's like a gas station owner saying I haven't spilled gas in 25 years, but the potential is always there. Does this site need approval from the DEP?

**Mr. Anderson:** No. If I thought this was going to be a hazard, I wouldn't even be looking to purchase it if I was going to create my own mess, it would make no sense.

**Engineer Nash:** I understand but you have a non-conforming use and it is in a residential zone. You have a commercial business in a residential zone and I heard that you say there won't be any noise. I think where you are located now you might be able to say that. I've always heard the old tree adage, "the tree falls in the woods, does it make a sound". It makes a noise, but it doesn't make sound so if there is no one there to hear it, then you are not making a noise. You are now surrounded by homes and they are going to hear when the trucks back up in the morning and there is no doubt about it.

**Attorney Davies:** How long does it take from when you get there in the morning and you first start a truck, how long are the trucks running before they are out on the road and gone?

**Mr. Anderson:** Five Minutes

**Engineer Nash:** I understand but if someone came on my front lawn every morning and blew a horn for five minutes, I would be disturbed by it.

**Mr. Anderson:** We want to be neighborly friendly. We wouldn't do that.

**Engineer Nash:** I know you are just operating your business, but in operating your business, you're making noise.

**Vice Chairman Grygus:** The noise that is inherent to your business may be okay in an acceptable commercial zone surrounded by commercial businesses that also generate noise, but when you are surrounded by residential, you have to be a little bit more cognizant.

**Engineer Nash:** This is why you are here. It is a non-conforming use in a residential zone.

**Mr. Anderson:** We respect that.

**Attorney Davies:** We are here to address the site specific issues.

**Engineer Nash:** Everybody knows that is why we are here, so we want to understand how your business operates and how it is going to impact the residents. Some of the residents may be here I assume, and they are going to express some of their concerns and you need to address whatever those concerns are.

**Member Ludwig:** Do they require you to have insurance if you spill a drum when you are loading it onto the truck? No matter where you are whether it is on the job site or in your yard.

**Mr. Anderson:** We have to have adequate liability insurance just for that purpose for any spill.

**Attorney Davies:** What the Board is going to be able to see is that instead of having 10, 20 or 50 cars a night driving into the pizzeria, what you have is starting up a truck and leaving and then driving back.

**Member Ludwig:** Are the diesel or gas engines? Big diesels or F350's?

**Mr. Anderson:** Some of each. Single axle dump trucks and not as noisy.

**Attorney Mondello:** Residents within 200' of the property that have any questions for Mr. Anderson, come on up. There will be a period where you can comment at the end, but this would be questions for Mr. Anderson.

**Don McCrum** – Live at 6 Venezia Lane, Haskell. Owns the property at 891 Ringwood Avenue, which is adjacent to this.

I don't object to the business. My concern was two different things and you brought both of them up. I am worried about an oil spill. I know they have to bring oily rags back, you put them in containers I assume and you store them until you dispose of them.

**Attorney Mondello:** That was the testimony.

**Mr. McCrum:** Where are you storing them? Is there a catch area? In other words if god forbid we have a bad storm, whether it be a hurricane or tornado, something that it knocks stuff over, anything that spills will stay in the catch area and not a gravel area?

**Mr. Anderson:** The place where any of the drum material, which includes the rages, is inside of a sealed sea container out of the weather so it can't get knocked over. Wind or rain or anything like that can't affect it.

**Mr. McCrum:** The tanks that you bring that you've decommissioned, ones that had oil in them that you pumped and decommissioned, how do you store them? Are they in a catch area?

**Mr. Anderson:** No, they are not in a catch area. They are cleaned.

**Mr. McCrum:** I have had some tanks cleaned and taken out, but there is still some grime inside of them and oil. I agree not a large amount.

**Vice Chairman Grygus:** It's kind of like cleaning an oil spill in your driveway. When it rains you will still see the sheen. That was my question to you when I asked you how you clean out those tanks.

**Mr. Anderson:** When they come in dry. There's no oil material; they are dry. What slight remnant is in there evaporates so it's dry. We store them with the hole upright as they come in so that if any rain water or anything like that got in them, they are not going to leak out and cause any sheen.

**Vice Chairman Grygus:** Do you get rid of those tanks fairly quickly?

**Mr. Anderson:** Yes. When we get like five (5) of them or so, we get rid of them.

**Member Ludwig:** How much do these empty tanks weigh?

**Mr. Anderson:** 700lbs to 1000lbs.

**Vice Chairman Grygus:** Where do you propose to store the tanks on the site because you don't show it?

**Mr. McCrum:** I am on the north side of your property.

**Mr. Anderson:** You are not going to see anything. We are going to store the empty tanks adjacent to the double containers so that the resident next door will have no visual; won't see them.

**Attorney Mondello:** Colorized Plot Plan marked Exhibit A-4 is being highlighted to show location, which is a different version than what the Board Member has.

**Mr. McCrum:** I had a concern that there wasn't enough back there to turn around, even though it doesn't bother me or affect me, but you have to be a heck of a driver to come in with 20' dump truck pulling a 30' trailer with a backhoe on it and make a u-turn on that property.

**Mr. Anderson:** We tried it; we did it and tested it.

**Vice Chairman Grygus:** That is not going to impede you being able to get back to those.

**Mr. Anderson:** No. (Referred to A-4)

**Member Levine:** You anticipate bringing these trailers in and out in inclement weather like snow?

**Mr. Anderson:** If it is really inclement weather, we don't work.

**Paul Brieva – 9 Maple Avenue, Haskell**

My concern is the same as his, where are the tanks located. I have lived there for 10 years and every year trees are all bent and falling. I had two trees fall on my house so I am a little concerned. I literally can throw a ball to his property from where we are. So the used car lot looks like a junk yard and then his property is the one next to the junk yard. (Too many people talking at one time and papers rattling the microphones – can't transcribe)

**Attorney Mondello:** We can't take this down and if it were to go to Court some judge is going to yell at me because I didn't keep order. One person speaks at a time. Nobody from the audience should be chiming in. Let's go back. Your question again is where are what?

**Mr. Brieva:** I am more concerned with the exact location because my concern is because of the weather and living there and seeing everything fall apart.

**Attorney Mondello:** Let's answer the question as to where again the tanks are going to be located?

**Mr. Anderson:** We are going to enclose the rear area with a privacy fence and these are the locations of the stationary storage containers (Referring to A-4). This is the truck that will go out daily and these are auxiliary equipment and trailer parked at the back.

**Attorney Mondello:** Attorney please move the easel by the microphone so that we can at least get this stuff on the cd.

**Mr. Brieva:** (Referring to A-4) This is all wooded land and all trees.

**Mr. Anderson:** (Referring to A-4) This area is wooded and this area is the storage and the car dealership is over there.

**Mr. Brieva:** My concern with the wooded area is all the trees being bent.

**Attorney Mondello:** That is not his property.

**Mr. Brieva:** (Referring to A-4) But his property is here and all the trees are here. I'm just saying I hope for anybody's sake if there was a spill.

**Engineer Nash:** There will be removing trees as part of the application.

**Vice Chairman Grygus:** Are you within 200' of the property? If you turn down Maple, you're on the right-hand side?

**Mr. Brieva:** Yes.

**Vice Chairman Grygus:** That's outside of the 200' circle. You still have a right to ask questions.

**Attorney Mondello:** Any other questions for Mr. Anderson from any resident?

**Chairman Dunning:** The containers that you are putting the drums in, do you lock those containers up every day?

**Mr. Anderson:** Yes

**Chairman Dunning:** You are putting a fence around part of the property?

**Mr. Anderson:** Yes

**Chairman Dunning:** You are storing open containers there. How are you going to keep children out of your property? You are not there on the weekend. A couple of 12 year old kids want to play in your yard and one of them falls in one of the abandoned tanks. How are you going to protect that?

**Attorney Mondello:** Chairman suggesting a might be a nuisance or danger.

**Mr. Anderson:** We could cover them.

**Chairman Dunning:** The way you describe it you cut the top open so your people can get in there and clean them. You are not putting the top back on. So these are open.

**Member Ludwig:** Is there a reason you don't put those into a container prior to pick-up by a metal salvage company?

Several comments were too heavy; wouldn't get into container; possibly crush the container.

**Chairman Dunning:** The thing here is security we'll call it.

**Attorney Mondello:** The term is "attractive nuisance". Hey it looks like a playground.

**Mr. Anderson:** Our property is completely fenced it. If someone did get inside, they are doing something wrong. Everything is going to be entirely fenced and sealed and locked. Nothing is going to be left open.

**Attorney Davies:** There is a fence around the portion in the rear and you are proposing, where it is marked R-10 Zone, that there is a gate that closes. Is that correct?

**Mr. Anderson:** Yes

**Chairman Dunning:** The engineer can better explain this.

**Attorney Mondello:** Any other questions before we close this portion for Mr. Anderson?  
**Hearing none, seeing none, next witness.**

**Attorney Mondello swore in Engineer Greco**  
**Matthew Greco, P.E., McNally, Doolittle Engineering, LLC, 169 Ramapo Valley Road,**  
**Oakland, NJ**

**Engineer Greco:** I have been licensed as an engineer since 1995 and have been practicing since 1989. I am currently a Managing Partner at McNally Engineering and I've testified throughout Northern New Jersey, but I have never appeared before this Board. I have appeared in Clifton, Paterson and Wayne. My license is in full force and effect.

**Attorney Mondello:** No objections. Hearing none, seeing none, Engineer Greco is admitted as an expert in the field of Engineering.

**Attorney Davies:** Please tell us about the site.

**Engineer Greco:** Existing property is a narrow, long and deep site. There are two (2) existing structures on the site. One is a single-family home, which is a 2-1/2 story dwelling that is going to remain as is and stay with that use. The other building on the southern end is a restaurant, which I understand used to be a pizza place, and that will be converted to an office space. The front portion of the property is generally all paved. There are parking areas on that site right now. There are four (4) parking spaces along the front of the property closest to the restaurant space and they are angled parking and there are six (6) parking spaces striped along the rear portion of the property on the paved section.

**Attorney Mondello:** The Chairman mentioned that there are only two (2) parking spaces.

**Chairman Dunning:** The plan should be revised to show two (2) spaces in the front of the building.

**Engineer Greco:** There are four (4) now currently striped in front of that building. I am talking about what is existing right now, not proposed. There are four (4) spaces in front of the building on an angle that are difficult to get in and that was pointed by Engineer Nash, as well as Passaic County. There are existing six (6) spaces along the rear portion towards the south on the paved area as well. All of the spaces do not conform to your current codes for parking sizes which is 10x20. They are all varied.

What we are proposing to do is restripe all the parking spaces in the front that are angled to comply with code, 10x20, and they will be stacked in front of the restaurant space. They will be 12' off of the property line, so they will not have to go across the sidewalk as the old spaces did, to get out of the spaces. The rear spaces will be restriped as well and an ADA space will be added back there. They will also be brought to current code which is 10x20. So we had to extend slightly into a lawn area as you can see on the southern end to get those parking spaces to comply with the Borough's code.

We are adding some lighting to the site to brighten things up. They were requested by Engineer Nash. There are existing flood lights on the backs of those buildings now that are going to remain. One on the residence and one on the restaurant building. We are adding a light pole on the southern end of the property by the five (5) parking spaces that we are proposing there now. That pole will be 17-1/2' high and will have an LED lamp that will be shielded and adjusted so that there will be no glare or light extending off site.

On the northern end of the property, where the driveway is, we will add a light as well. This will be a wall mounted light on the north side of the single-family home that is there that will provide light for the driveway area in that northern part. An additional wall mounted light will be put on the office/commercial space facing Ringwood Avenue for the two (2) parking spaces we have proposed now.

For the rear of the property, as was discussed, is virtually going to be all stone. We are looking to put 6" deep of 1-1/2" gravel throughout generally the entire rear portion of that property beyond the existing pavement that's there. Along the perimeter of the property on the southern piece, we will give a 4' strip where we intend to build an 18" high small earthen berm, plantings every 4' for a total of 80 plants along the southern boundary against the residential properties along the western boundary as well and a portion of the northern boundary. As you can see on the north end there is a green area that is shown (A-4) there is a mound there that will remain; that's not going to be touched. There will also be a berm along the northern end of the property that faces the used car lot. There will be a security fence, that was just discussed, that will completely encircle this property. There is an existing fence on the northern property line that will be connected into it so there will be a fence along the demarcation line between the existing pavement and the new gravel with a gate so they can get access and it can be closed and sealed that will connect to a fence along the southern property line and the western property line so it will completely enclose the entire property.

Member Levine: The existing fence on the northern side is not in the greatest condition, openings and all. You plan to replace that because it's not very secure with the openings there?

Engineer Greco: Not that I know of.

Attorney Davies: We would have to find out who owns it. Engineer Greco does it sit on my client's property?

Engineer Greco: It is on the adjacent property to the north.

Attorney Davies: So it belongs to the used car dealer with the storage area in the rear. It's not on our property and we really can't touch it.

Engineer Nash: You are in essence proposing to use it because you are not putting a fence there.

Attorney Davies: That's right.

Attorney Davies: The area in the rear where the equipment is going to be stored and the drums are going to be inside the steel shipping containers/boxes, that is going to be surrounded by a fence with a locked gate, correct?

Engineer Greco: That's right.

Attorney Davies: If anybody wants to get in there and play in the empty tanks, they are going to have to climb the fence, correct?

Engineer Greco: That's right.

Engineer Nash: Are you going to connect the fence along the rear to that existing fence?

Engineer Greco: The one that is here, yes. We will have to get permission from the property owner to connect that fence.

Member Ludwig: I didn't notice holes in that fence but if he is unwilling to do that maybe put up a double fence. I saw the front fence was bad but didn't realize the back was that bad.

**Attorney Mondello:** Worst case scenario if the owner says “don’t touch my fence”, you could put a fence next to the fence. Because the whole premise is you are trying to make the place safe so that kids can’t get in.

**Engineer Greco:** That is exactly the main purpose.

**Engineer Nash:** I think you need to control your property and we are asking you to build a fence around it. Otherwise, what if the neighbor goes away and takes his fence down.

**Member Ludwig:** Or he doesn’t maintain it and there are holes were kids can get through.

**Attorney Davies:** If it is needed, then we’ll fence the entire rear section with his own fence.

**Member Levine:** What if we made it a condition, rather than if it is needed?

**Attorney Mondello:** You could.

**Attorney Davies:** We’ll agree to that.

**Vice Chairman Grygus:** I thought a good place to start with this would be perhaps having the Engineer address both the County’s letter and our Engineer’s letter.

**Attorney Davies:** We were going to get there and absolutely go through the Boswell letter and the County’s letter as well.

**Vice Chairman Grygus:** I think that is probably going to hit a lot of the things that we may have questions on so it’s going to be redundant.

**Attorney Davies:** Engineer Greco do you have a copy of Engineer Nash’s November 26, 2019 letter?

**Engineer Greco:** I do.

**Attorney Davies:** On bottom page 2, there is a listing of the variances. Lot Width of 80’ and existing and proposed is 72.5’. Is there any way that you are aware to mediate that bulk variance?

**Engineer Greco:** No, there is not.

**Attorney Davies:** Side Yard 15’ and existing and proposed is 6’. The Applicant is proposing to make any changes to the existing single-family dwelling or the former restaurant, the proposed office use. Those buildings are not going to be changed, correct?

**Engineer Greco:** That’s correct.

**Attorney Davies:** So the 6’ is going to stay. Side Yard Total 35’ in an R-10 Zone and 25’ in a B Zone and existing and proposed is 18.4’. Again, that is not going to change, correct?

**Engineer Greco:** That’s correct.

**Attorney Mondello:** What about paragraph 5? I understand that the bulk requirements are not being exacerbated, but paragraph 5 says that the Applicant needs to indicate if the residential building will be a single-family or multiple family use.

**Attorney Davies:** Testimony was that there is one tenant that has been there for about 20 years and my client has no intention of changing this at all. We will make it a condition that it will remain as a single-family.

**Engineer Greco:** It is also listed that way on the plan as well. The single family is to remain.

**Vice Chairman Grygus:** On the variance chart, I didn’t look in the book to verify it, but it’s a residential zone so it would apply, he is going to need variances for the size of the containers and for the number of containers.

**Attorney Davies:** We did advertise for any other variances. Yes, if those required then we would ask for variances.

**Vice Chairman Grygus:** The ordinance is 10x10 and one so you have, not knowing what the spill containment area is.

**Engineer Greco:** We have 4 (four) containers proposed and each one is 8x20, 160 square feet each.

**Vice Chairman Grygus:** You would require a variance for 3 containers that exceed the 10x10 and you would need a second variance for 2 additional containers.

**Engineer Nash:** It is all one lot so we don't have a case where, just looking at the residential portion of it, there is no only sheds. You can't have only sheds on a lot. It's all one lot.

**Attorney Mondello:** You could also ask for a variance waiver to have containers as opposed to sheds.

**Engineer Nash:** That's what I'm talking about. If you are only allowed to have 1 shed.

**Vice Chairman Grygus:** Or 1 accessory structure essentially what it's called. So if we are going to consider that in the B Zone, I believe that same criteria still exists, whether it is the B or R Zone.

**Member Ludwig:** Are they really a shed? It can be lifted up. These aren't really meant as shipping containers.

**Vice Chairman Grygus:** It is still considered an accessory structure, I would say.

**Attorney Mondello:** We can deal with that later on.

**Attorney Davies:** We are surrounded by televisions not being used here, but used for other purposes, but yes they are big steel boxes, they are not really structures or small sheds that are affixed to the ground.

**Chairman Dunning:** It's a trailer without the wheels on it.

**Engineer Nash:** They don't possess the equipment to move them either. I'm not sure a backhoe could actually move them. That is one of the reasons why I asked to locate them otherwise they are not placed the way they said they were going to be placed.

**Chairman Dunning:** They need a variance.

**Engineer Greco:** We have dimensions off the south property line of 18'.

**Vice Chairman Grygus:** But an accessory structure only has to be 5', so that wouldn't be an issue. My concern is he needs to be less than 100 square feet or he needs a variance and if he has more than one, he needs a variance to have more than one accessory structure on the site.

**Attorney Mondello:** Why don't we just put that on the side and we'll talk to the Planner about what her thoughts are on that variance.

**Attorney Davies:** Let me ask if the Board is troubled by having 8x20 instead of 10x10. Does 160 square feet versus 100 square feet make a compelling difference to the board?

**Vice Chairman Grygus:** It's just a number that requires a variance.

**Chairman Dunning:** Technically one shed on a lot. You are putting multiple. That's the real question. There bigger than normal sheds, but you are also having more than one. The ordinance permits one shed.

**Engineer Nash:** The size of the lot is the compelling reason to grant the variance I guess would be the argument.

**Vice Chairman Grygus:** The think would be if the Board were to grant your application favorable, and the Board didn't catch that, someone could come up after the fact and say these variances were not granted.

**Attorney Davies:** Absolutely.

**Attorney Davies:** We are going to address the use in your paragraph 4 with our Planner. I don't know if Engineer Greco has any comments on this.

**Engineer Greco:** No.

**Chairman Dunning:** Are you running any power back into this site, other than light poles?

**Engineer Greco:** No, it's not our intention.

**Chairman Dunning:** You don't need any power in the back to work on any of your machinery?

**Mr. Anderson:** I would prefer to have an outlet back there, but I can run an extension cord from the house.

**Engineer Greco:** There are none proposed at this point.

**Vice Chairman Grygus:** Are you proposing any irrigation for the plantings?

**Engineer Greco:** No.

**Attorney Mondello:** Don't they just die?

**Vice Chairman Grygus:** That is my concern and they sit there brown and never get replaced.

**Attorney Mondello:** So we'll put a condition that they need to be maintained and they'll be replaced.

**Member Levine:** What is the purpose of the light?

**Attorney Davies:** Actually that would be paragraph 7 and we can address because that was part of the Boswell review. It was my thought frankly that less lighting on the site would be better because you don't want to have more lighting than you need because there are houses on the other side and straight back and why put more lighting in than you need.

**Chairman Dunning:** That lighting is for the parking area isn't it?

**Member Levine:** The reason for my question is you are going to be pulling your trucks and backhoe in at night.

**Attorney Davies:** Testimony was that they are done by 3:30pm. Even in the dead of winter, 3:30pm is daylight.

**Member Levine:** When are they going to be pulling out? If at 7:00am it's dark.

**Engineer Greco:** The lights will only come on when there is a motion sensor or you can control them when physically needs to turn them on.

**Member Levine:** How much light is it going to provide if it is needed in the dark for your equipment to be pulling out in the morning? What's the illumination value?

**Engineer Greco:** We have a 1' candle and ½' candle shown around this parking area. There is a 1' candle that just covers generally where the parking area is and the ½' candle is slightly beyond that.

**Attorney Mondello:** Essentially, it is really for the driver to get in the truck because once he gets in the truck, he turns the headlights on.

**Vice Chairman Grygus:** Chris, that lighting request was for whoever parks in those five spaces, correct?

**Engineer Nash:** Yes. I mean it's required by the code.

**Attorney Mondello:** Number 8 – the minimum aisle width in the B Zone is 12'. What is the driveway width along the north side the property measured from the window wells to the property line?

**Engineer Greco:** 10.6' from the window well. While the driveway is 12.4', the window well does reduce that that 10.7'.

**Vice Chairman Grygus:** At this point I would ask the Engineer if we could get an additional plan showing just the truck tracking for the 30' trailer and 20' dump truck. Showing in accessing the site, backing into where it is proposed. Coming out is not an issue. It is really just accessing the site and backing into where it is proposed to be stored.

**Attorney Davies:** We can do that.

**Chairman Dunning:** On the fence, where is the gate and how big is it?

**Engineer Greco:** The fence is right along the demarcation line with the existing pavement and with the new gravel is going and there is a 20' wide double gate.

**Vice Chairman Grygus:** On your parking, is there any reason why you didn't push all the way out to the southern property line?

**Engineer Greco:** I believe there is a 10' setback from property line for the parking.

**Vice Chairman Grygus:** I think you can park right up to the property line.

**Engineer Greco:** I'll gladly push that further out and give you some more room.

**Chairman Dunning:** No. Parking setback from the property line. Parking zone uses the R-10 since we don't have a real code for the B Zone.

**Attorney Davies:** I think if the Board would permit it, I would think it would make it easier to move the truck around if you move the parking closer to the south side.

**Engineer Greco** read the code §114-27 "Parking areas may be located in any yard space for commercial uses and in any yard but the front yard for other uses, but shall not be closer than 10 feet to any street line or property line."

**Attorney Davies:** If the Board is inclined to grant a variance, we could move the parking closer to the side line next to the dry cleaners. That would make it easier to move around on the property.

**Vice Chairman Grygus:** Let's see what the truck tracking plan shows.

**Engineer Greco:** Number 9 – Utility poles and the easements were already testified to. I believe there is no easement for the driveway access to the southern property, but there is an easement for the auxiliary line. It is a generic easement that covers the entire property generally along the southern property line. A copy of that easement could be provided if not already. So there are no metes and bounds description that can be provided and shown on the plan. It is a generic easement.

**Chairman Dunning:** What's the total length of the dump truck and the trailer?

**Vice Chairman Grygus:** He testified 50'. He said 20' for the dump truck and 30' for the trailer.

**Chairman Dunning:** The property is 57' wide.

**Engineer Greco:** No, it's 72.5' wide, per the Boswell review and 68 and change in the rear.

**Attorney Davies:** Number 10 – There is no parking easement. They are connected with pavement but there is verbal permission and that is what we got. They are unwilling to give written easement or anything else.

**Vice Chairman Grygus:** I believe that was also a condition of the County's letter.

**Attorney Davies:** We'll get there in just a minute.

**Engineer Greco:** Number 11 discusses a request for a drainage report that was submitted with the most recent set of plans.

**Attorney Davies:** Engineer Nash have you had a chance to review the drainage calculations?

**Engineer Nash:** I received the drainage report on Monday when I got back from a two week vacation so I was busy tying up a lot of other loose ends. I did have a chance to look at it. In summary, what they've added since I made the initial comment, they are adding some berms around the south side and along the rear and I guess they are really containing the north side as well. They are trying to contain any overland flow and let it seep into the ground. That is a generalization.

**Engineer Greco:** That's correct.

**Engineer Nash:** The only thing I haven't seen is any test pit data that shows that the water would, in fact, seep down. I think that would need to be done in order to have a comprehensive drainage plan. Right now they are banking on it seeping into the ground, but they don't have the evidence of that.

**Attorney Mondello:** I think the way we resolve this is that you both continue the discussions and make sure Engineer Nash is happy is with whatever plan is put in place and if those perk tests doesn't work then seepage pits are required.

**Engineer Greco:** There is also 6" gravel there with a lot of voids in it that will contain a lot of runoff but, ultimately, it will have to drain into the soil so we can do that and provide that test pit and permeability test.

**Attorney Davies:** Are you going to be able to coordinate outside of the meeting to make sure that they put in whatever kind of test pits.

**Engineer Nash:** Not a problem. When you are performing the perk tests, just call me at least a day and a half in advance so I can plan on swinging by.

**Engineer Greco:** Absolutely

**Engineer Nash:** Also, again, I apologize I didn't have a chance to look at it thoroughly, are there any offsite runoff coming onto your site that you are now going to.

**Engineer Greco:** There is offsite runoff coming onto our site from the southern property and that's why there is no berm along this section of the southern property because this is all higher and drains into our property. We are not disrupting that or blocking or changing that drainage.

**Engineer Nash:** You are not changing any drainage patterns that will impact the adjacent properties.

**Engineer Greco:** That's correct.

**Vice Chairman Grygus:** On your 6" gravel that you propose for that, do you foresee even, in a heavy drainage situation, that any of the soil underneath could come up on top of that gravel and then be tracked into the paved area and ultimately out into Ringwood Avenue?

**Engineer Greco:** I don't foresee that happening. These kinds of things are used for soil erosion control measures.

**Engineer Nash:** Are you proposing a fabric on the existing ground and then the stone on top of it?

**Engineer Greco:** Not at the moment. We could do that.

**Engineer Nash:** That'll preserve it and give it a longer life.

**Engineer Greco:** We can do that.

**Engineer Greco:** Number 12 – I believe the Applicant, Mr. Anderson, addressed this.  
**Attorney Mondello:** He did. I asked him some questions whether there is going to be some odors, etc.

**Vice Chairman Grygus:** Number 13 we covered.

**Engineer Nash:** Just on the top of page 4, the bold paragraph, there is a 2'x2' watertight inlet. What is that?

**Engineer Greco:** That's part of what Mr. Anderson said. These drums are sealed as well as where they are stored in storage containers is also seal. In the event there is some mishap, we are proposing where the door section of that one storage container where the drums are in to provide a concrete pad with a 6" curb all around that pad so if there was any spillage, it would only stay in that pad. In that pad there is a 2'x2', 4' deep sump and that sump would be there to collect any oil that would actually spill, if it ever did, or water. There is no outlet to that and we don't one. It would be pumped and disposed of if anything got into that.

**Member Ludwig:** That would be a maintenance issue with rain.

**Engineer Greco:** That's exactly right and when it rains that would have to be pumped out and maintained. That's the idea. That sump can handle at least 2-55 gallon drums of liquid.

**Engineer Nash:** You do need power back there to run a pump. There is nothing wrong with having power back there. I think it might be a very practical thing to add.

**Vice Chairman Grygus:** I would rather see that then you starting a portable generator and stuff every time you need to power something.

**Vice Chairman Grygus:** Up to Number 15 since Number 14 is going to be addressed by the Planner.

**Engineer Greco :** Number 15 – Parking spaces as I described we are restriping them all so they do conform to the current code, 10x20 and the ADA parking space with the 8' aisle for the ADA space which complies with their codes.

**Vice Chairman Grygus:** Let's talk a little bit about the parking and the 2 spaces in the front of the building. Who do you think is going to use those spaces?

**Engineer Greco:** I would anticipate that they'll probably be used by the employees.

**Vice Chairman Grygus:** So if someone is in the south spot and someone is in the north spot, the south space pulls out how does another car access that south space?

**Engineer Greco:** That could present a problem, but they certainly can back out and talk to each other and one could move and the other one could relocate if the employees are there. They are generally out during the day and not there.

**Attorney Davies:** Right now it's all paved area isn't it?

**Engineer Greco:** That's right.

**Attorney Davies:** At this point, we don't have an easement from the dry cleaners, but you would simply pull forward as it now exists.

**Engineer Greco:** There is 12' of space between that parking space and the sidewalk and property line.

**Vice Chairman Grygus:** Yea, but there is also another issue where the County was requesting trees be planted in that area, which I guess we'll address when we get to the County letter.

**Engineer Greco:** Alternatively, an option we could park directly adjacent to each other and they can back into this and do a k-turn and get out the existing driveway.

**Vice Chairman Grygus:** So you are saying side-by-side.

**Engineer Greco:** That's correct. Then it would be similar to residential.

**Vice Chairman Grygus:** And they still won't be on the sidewalk.

**Engineer Greco:** That is right.

**Engineer Nash:** If they were made a little bit longer, you would be able to get in and out of them much easier. At 20', even if there was a 4' gap between the two, then you can get in and out without really much trouble.

**Engineer Greco:** Then again doesn't that go back to the possible variance we were talking about in the back where we are moving the spaces closer to the southerly line. We can do the same thing there, except you're 10' from the line.

**Engineer Nash:** Especially in the front when you are in the Business Zone, I don't think that is a big ask in terms of reducing the side yard offset.

**Engineer Greco:** And they currently park in the 4 spaces there now.

**Vice Chairman Grygus:** Number 16 – I think we covered.

**Engineer Nash:** Regarding the sand bin, is that sand you are storing, not from the tanks?

**Engineer Greco:** That's correct. That is new, clean sand.

**Engineer Nash:** What do you use that for?

**Mr. Anderson:** When tanks get abandoned they are generally  $\frac{3}{4}$  full so, even if we take all of the sand out of the tank that's been abandoned, and set it aside and put it back, we have to augment that.

**Vice Chairman Grygus – Number 17**

**Engineer Greco:** As testified, we are putting 80 arborvitae shrubs, trees along the southern, western and a portion of the northern property lines. There are a few trees on property that we are trying to keep, but the ones with 'x' on the plan we are removing.

**Engineer Nash:** The comment had to do primarily with the spacing of the new shrubs, and they indicated that they changed spacing to 4'.

**Engineer Greco:** That's right, we have.

**Engineer Nash:** And the specific species that are proposed grows to 12' to 15' high so it'll be a solid wall. It's going to take two years to grow above the fence. Once it gets above the fence, it's going to be solid because they are tightly spaced. In this instance, it is a good species and the spacing is adequate.

**Attorney Mondello:** The Applicant has agreed to maintain or replace if they do die.

**Engineer Nash:** And the fence they are proposing has privacy slots in it so you won't be able to see through it and the shrubs are located on the inside, not on the outside. They are easier to maintain when they are on the inside. I think it is a better location for it. The fence, of course, has to conform with the ordinance and the nice side/finished side has to face out.

**Engineer Nash:** Number 19 – They provided a Vicinity Map with the new submittal.

**Vice Chairman Grygus:** We'll go to the County letter.  
**Attorney Mondello:** We'll mark this as Exhibit A-5.

**Engineer Greco:** Number 1 – The name and address of the applicant and owner, which was provided.

Number 2 – On the key map, they wanted a north arrow, which was added to the most recent plan.

Number 3 – Zoning Table must include the total square footage of impervious area, which was added as well at the bottom of the Zoning Table.

Number 4 – They wanted signed and sealed copies of the survey which we will provide to them.

Number 5 – The Applicant must request and receive a waiver from the Board to allow both driveways to remain within 10' of the side property lines. We only have one driveway, but we'll have to make that waiver request.

Number 6 – The parking along the front of the buildings, which will result in vehicles backing onto the sidewalk when existing, must be removed. We have gotten rid of those parking so they will no longer exit and track onto the sidewalk.

**Attorney Davies:** The Board should note that is an improvement to the parking.

Number 7 – The applicant must provide a cross-easement for the shared access with Lots 11.01 and 13.

**Attorney Davies:** We can't do it.

**Vice Chairman Grygus:** Did you address that with the county?

**Engineer Greco:** I sent some submissions to the County last week and I got an e-mail from them stating that the entire letter was not addressed, but going through this, I beg to differ, so I have to reach out to him. A few of the items I put in my cover letter but I absolutely addressed Number 7 with Mr. Lysicatos.

**Vice Chairman Grygus:** He didn't give you any reply to that?

**Engineer Greco:** No. He gave it to someone else and he just sent a general e-mail saying not everything in our letter was addressed. Please address it and I totally disagree because I gave him the plans and everything else. I am going to address that with him.

**Attorney Mondello:** If the Board is inclined to grant the relief sought by the Applicant, subject to the County.

**Attorney Davies:** We still need to get approval from the County.

Number 8 – Asked for elevation contours and they are on the plan as well as the drainage report identifies where the drainage is going.

Number 9 – Drainage calculations have been provided.

Number 10 – The plan must indicate existing or proposed drainage at the site. There shall be no runoff into the Ringwood Avenue right-of-way. That is in the drainage report. There is some existing runoff going in that direction today and that will remain. We have that to remain as is. We are certainly not adding any more to Ringwood Avenue.

**Vice Chairman Grygus:** Are they in fact requesting a net reduction of runoff to Ringwood Avenue. They usually do.

**Engineer Greco:** We'll find out when we have that discussion with the County. In which case, we may have to add some drainage there to address that.

**Attorney Davies:** We could wind up with a French drain across the driveway, or something like that, and then a seepage pit somewhere on the property.

**Engineer Greco:** These are very possible.

**Number 11 – The applicant shall provide shade trees along the Ringwood Avenue frontage of the site, outside of the County right-of-way.**

**Attorney Davies:** That is going to be a discussion.

**Engineer Greco:** I had that discussion with him and I'm confident we can get that resolved.

**Engineer Nash:** Which way are you confident – trees or no trees?

**Engineer Greco:** No trees.

**Attorney Mondello:** And why is that?

**Engineer Greco:** Because the entire area is paved. I believe they are the ones that actually paved it in so I said to them where do you want me to put the trees? We can get these big planters and put palm trees in them if they want, but I don't really see an area we can put the trees.

**Chairman Dunning:** Basically, if you put the trees where they want them, you'll have no parking in front of that building.

**Engineer Greco:** I think it is pretty much a form letter and they throw that in everything that's sent out. We'll take care of it.

**Number 12 – The applicant must provide information on any tree removal proposed at the rear of the site. We've shown what trees are being removed.**

**Chairman Dunning:** Agreed, you marked the plans.

**Number 13 – Is the Enhancement Fee. Mr. Anderson will take care of this.**

**Vice Chairman Grygus:** Do you have any signage proposed for the business?

**Mr. Anderson:** If anything, it'll be minimal. It wouldn't be illuminated.

**Vice Chairman Grygus:** Okay, we would have to see it.

**Attorney Mondello:** If it conforms to the code, as long as they don't need a variance.

**Vice Chairman Grygus:** If it conforms with the Borough Ordinance for signage then it's okay, but if it doesn't, then we would have to see it.

**Chairman Dunning:** Any other questions of the Engineer? Hearing none, Seeing none, let's open it up to the public. Anyone have any questions of the Engineer on his testimony? Hearing none, seeing none, let's close the public portion. Next witness.

**Attorney Mondello swore in Planner McManus  
Elizabeth McManus, Principal of Kyle & McManus Associates, 2 East Broad Street,  
Hopewell, New Jersey.**

**Planner McManus: I have not appeared before this Board, but I have testified in a number of municipalities across the State in approximately six counties. I have not testified in Passaic County before, but I am a Consulting Planner to Wayne Township. I have testified in Franklin, Somerset, Hunterdon, Bridgewater, Piscataway, New Brunswick and Trenton.**

**Attorney Mondello: And you've been accepted as an expert in the field of Planning?**

**Planner McManus: Yes and I also do quite a bit of municipality representation as well. I also have been accepted as by Superior Courts in about 40 cases as a Special Master, meaning I have expertise in Land Use as well as Affordable Housing.**

**Attorney Mondello: Any objections admitting Ms. McManus as an expert in the field of Planning? Hearing none, seeing none, your witness.**

**Attorney Davies: We are here for a Use Variance and I know you are familiar with this. Please run through the legal structure and then give us a rundown as to why this would be an appropriate place for a D-1 Variance?**

**Attorney Mondello: I saw D-3 listed somewhere in the Application. Is it a D-1 or D-3?**

**Planner McManus: D-1 Variance.**

**Planner McManus: We are here before the Board today to principally request for a D-1 Variance. Essentially that means we have uses or a use here that is not permitted in the zone. In this case, we have a split lot zone. Meaning the front in this scenario is in your B District. Our proposed use, the contracting company of sorts, is not permitted in your B District. In addition, the rear of the property is located in an R-10 District, a residential district and our use there is also not permitted.**

**Attorney Mondello: Is the contracting business specifically prohibited in the ordinance or just not included?**

**Planner McManus: It is not specifically prohibited; it's just omitted.**

**Attorney Davies: The section in the R-10 Zone, can that possibly be used for a conforming use?**

**Planner McManus: I don't see how that would be possible given the front of the property and the rear of the property. Because what would ultimately have to happen is either you are going to be pulling a driveway through the front of the property serving the commercial use to the rear of the property; meaning you have multiple uses on the site. Or, at that point, or alternatively rather, you could subdivide the site but then you are faced again with a non-conforming condition because you would have a lot that would need a planning variance because this potential lot, your R-10 District, would not have frontage on a public street.**

**Attorney Davies: Any way you look at it, there is going to have to be a Use Variance to be able to make any use at all of the rear property.**

**Planner McManus: Yes. We ultimately have a very unique property here in that it's very long, narrow site that's bisected by two very different zone districts.**

**Attorney Mondello: I get the Use Variance with the contracting business, but I'm sorry, I missed the 2<sup>nd</sup> Use Variance.**

**Planner McManus:** I think it is 1 Use Variance but I just want to be clear that we have a prohibited use in the B District as well as in the R-10 District.

**Vice Chairman Grygus:** I was going to question that. I know it is a pre-existing, non-conforming use that is not being expanded at all, do we still have to address that house in the Business Zone?

**Planner McManus:** I don't think so because we continue to have an existing residence and an existing non-residential use. I don't know that we're exacerbating the use so I don't see this as an expansion of a non-conforming use or a D-2 Variance. I think that we require the D Variance for the contracting business across the entire property. The nuance is the entire property includes two zones, so at no point in the property am I able to say that this a permitted use.

**Attorney Mondello:** The contracting business and they are not changing the house in and of itself. The only thing is if this is a more intense use because that might trigger some type of a Use Variance with respect to the residential property. It sounds like this might be a less intense than a restaurant.

**Planner McManus:** In many respects, yes. In terms of intensity if you measure it by traffic and activity to and from the site, instead of having how many households are getting a pizza every day for lunch and dinner versus a total of two owners, two employees plus the residents of the house is going to generate less traffic than an active pizza parlor.

**Attorney Mondello:** I only see the D-1. I don't think this is an expansion of a non-conforming use. You are not doing anything to it. You're not intensifying it.

**Planner McManus:** The lot size is not changing. If we were proposing a subdivision, at that point I think I would have a different opinion, but there is no change to the lot configuration, certainly not a reduction.

**Attorney Davies:** My client stipulated it's a single-family and it's going to stay a single-family, period.

**Attorney Mondello:** Precisely.

**Attorney Davies:** Why does it make sense to you to put this in this spot?

**Planner McManus:** First, I would argue that this site is particularly suited to the proposed use. So, as most of you know, this is the first criteria I've got to go through. That is the positive criteria in our Use Variance. What is so special about this particular site to make acceptable for this proposed use? I think there are a couple of reasons why. First and foremost, just to remind folks, what we've got here is an existing residence and a vacant commercial use. The pizza parlor is currently vacant. This application is really an opportunity for Wanaque to have re-occupancy of an existing property without having to have a change to the character of the site, or change to the character of the public street along Ringwood Avenue. Although we've got a very different use here that is proposed, there are very few improvements to the front of the property that is going to signal such a significant change. Yes, we are fixing the parking to make it more of a safe situation but we are not removing a building, not putting a warehouse use that would really visually trigger a contractor's use. Instead, we are taking the existing buildings and just repurposing them for this use. That is one of the unique aspects of this particular property.

**Vice Chairman Grygus:** Couldn't a business re-occupy that without having to touch the residential zone?

**Planner McManus:** Yes.

**Attorney Mondello:** Are there any permitted commercial uses that would be similar to this contracting that are in the code? I am trying to figure out whether the legislative body just didn't know about contracting businesses, much like you see in codes throughout the State of New Jersey that gyms are not included only because 25 years ago there weren't any gyms. Are there any uses that are permitted that are similar to your client's business that are permitted?

**Planner McManus:** In the B District, I don't know that I can say yes. It permits a variety of, I think, retail and office uses, but it doesn't permit contracting uses, or a landscaper and it doesn't permit industrial uses. Instead, this is more of a traditional Business District. I want to talk a little bit about why I think this particular contractor's use is different than some of the larger ones and I get into that when I address some of the Medici Standards, and try and reconcile the omission of the use from the zone district. To directly answer your question, I don't think I can say "where just like this other use that you guys already permit". This is a little bit different.

**Attorney Mondello:** Fair enough.

**Planner McManus:** In addition to just simply being able to reoccupy the site without changing the use, we are also going to be able to do so without creating a lot of additional traffic. That is something that is particular to this proposed use. We have heard from the owner/operator and from our Engineer that we are only going to have 4 (four) people coming in and out of this property for the business use. The house is separate and we have up to 2 (two) parking spaces for that so there is a little bit of traffic from that. It is pretty unique to be able to have a building and a site fully occupied by a business use and really be able to say "you only have a maximum of about four people coming in and out every day", or five days a week. This is something else that is unique about this particular use. In addition to that, and I think one of the things that perhaps that's striking about the area given that we are here for a prohibited use, is just how similar in character this area is to what we are proposing. , if you think about some of the surrounding uses and if you look at the Vicinity Map, which was included in your packet.

**Attorney Mondello:** Vicinity Map marked as Exhibit A-6.

**Planner McManus:** Referring to Exhibit A-6, just to orient everybody this is the site in question, so nearly adjacent to the site to the north is a used car dealership. While it is literally a retail use in the sense that you are offering something for sale, the site has a much different character than a traditional retail use. Instead it has a character that is entirely paved for essentially outdoor storage, which are the vehicles themselves, and doesn't function or doesn't appear as a traditional retail use. Instead it functions as much of an outdoor storage facility in the sense that inventory, the used cars, are literally stored outside. In addition to the cars, of course there are some other vehicles out there and I believe there is a boat as well. It sort of contributes to this character that I would say is more general commercial, light industrial, rather than a traditional retail corridor.

**Attorney Mondello:** That is a permitted use?

**Planner McManus:** Car dealerships are not a specifically permitted use. I am going to defer to Municipal Professionals as to whether that is permitted uses. I see a lot of places that permit retail, but have found that car dealerships are not included in that umbrella of retail.

**Attorney Mondello:** So it's not a permitted use?

**Engineer Nash:** No.

**Attorney Davies:** Ms. McManus, have you seen the site?

**Planner McManus:** Yes.

**Attorney Davies:** Have you seen the car dealership next door?

**Planner McManus:** Yes.

**Attorney Davies:** Dozens or more than dozens of vehicles in the back?

**Planner McManus:** I didn't count, but I think it's more than dozens.

**Attorney Davies:** Did you see a 50' or larger motor boat in the back?

**Planner McManus:** Yes I did.

**Attorney Davies:** Anything else?

**Planner McManus:** Obviously, there is a building on the property.

**Attorney Mondello:** Some of the other surrounding uses?

**Planner McManus:** We have a car dealership here and in addition to there are residences in the area and I don't want to take away from that. We do have three residences across the street. However, immediately to the south we have a dry cleaners business and beyond that we have a residence and beyond that we have a dentist. However, just on the other side of Jenkins Avenue to the south, we also have an HVAC contractor in that area. To the south we have a mix of commercial, office and contracting uses and immediately across the street we do have single-family residences. However, catty-corner, if you will, southeast across Ringwood Avenue we do have another two uses that are more in keeping with the character of what we are proposing. We have an auto storage facility referred to as Valuable Vehicle Vault and then we also have an auto repair shop, M&L Automotive. I think these two also contribute to less of a traditional retail corridor, but more of a general business/light industrial corridor.

**Attorney Mondello:** Are those uses permitted in the district?

**Planner McManus:** The HVAC is not and I would defer to your professionals about whether or not there has been a finding that the car storage and auto repair are.

**Vice Chairman Grygus:** But they all do fall within the business zone.

**Planner McManus:** Yes.

**Attorney Mondello:** If they are not listed, it's not permitted.

**Vice Chairman Grygus:** No, but it's one thing to have it within the business zone and the another thing to have it in a residential zone.

**Chairman Dunning:** HVAC is basically an office.

**Engineer Nash:** Is your argument that, since there are other non-conforming uses in the area then we should grant this variance?

**Attorney Davies:** No, actually it would be a characterization of the neighborhood.

**Planner McManus:** I don't want it to be just because they got away with having a prohibited use, we should too.

**Engineer Nash:** Or there're grandfathered.

**Planner McManus:** Or there grandfathered. What I am trying to express is the character of the area and what the Applicant is proposing here is dissimilar.

**Engineer Nash:** I understand your characterizing, but you understand my question?

**Planner McManus:** Yes, absolutely.

**Vice Chairman Grygus:** I would just like to address one thing the attorney said also. With regard to the property to the north, what is there now doesn't necessarily mean that is permitted.

**Attorney Davies & Planner McManus:** Agree

**Planner McManus:** Notwithstanding these comments about my characterization of the area, I do want to note two other uses. Further north along Ringwood Avenue there are also a couple more uses that are more typical for general business or industrial area and that's a paving company as well as a concrete construction company. So there really are a mix of uses in the area and including some uses that I think are specifically consistent in character with what we are proposing here. But of course there is a true mix of uses. We've got the commercial to the south, commercial to the north, and single-family homes as well as a church along Ringwood Avenue.

**Vice Chairman Grygus:** Everything that you just spoke of falls within the Business Zone, whether it is a permitted use or not.

**Planner McManus:** That is what my concern is.

**Vice Chairman Grygus:** To me to try to satisfy the positive criteria, would have to be "how does that make it okay to put it in a residential part of it"?

**Attorney Davies:** Is Haskell Cleaners extending into the residential?

**Planner McManus:** Yes

**Attorney Davies:** Does Ameri Car Used Sales extend into the residential?

**Planner McManus:** Yes

**Attorney Davies:** D'Agostino Funeral Home extends into the residential?

**Planner McManus:** No, that one does not. But there is a common circumstance with the lot extending into the residential.

**Vice Chairman Grygus:** The lot extends into the residential, but the actual use really doesn't extend into the residential area.

**Planner McManus:** No, just the parking/storage area. In terms of this lot configuration, I think that's also relevant because one of the unique aspects of this property is that we are able to create a place for the necessary storage components whether it's for the equipment or the storage containers, we are able to create a place for that in a way that doesn't impact the visibility of the site, or the current site, from Ringwood Avenue and that is something pretty unique. If you look at the used car lot for example, this a site that has significant width across the road and so as a result you are able to really see into the property to see what is being stored on either side of the building. On this particular property, the rear of the site is largely screened from Ringwood Avenue by the buildings themselves. Yes, you'll see fencing peeking out from either side of the buildings, but this is not a circumstance where we have a wider lot where we are going to be placing the equipment and the storage in clear view of the public right-of-way and clear view of motorists going up and down Ringwood Avenue. So I say that the site is particularly suited because of this lot configuration and because of its relationship to the surrounding uses in the area and the character in the area.

**Vice Chairman Grygus:** Do anyone know if there was ever any deeded access to this property from Storms Place?

**Planner McManus:** I don't know.

**Attorney Bavagnoli:** I'm not aware of any. Nothing showed up when we did the title search of the property.

**Planner McManus:** In addition to talking about how the property is particularly suited for the propose use, I also want to talk a little about a few other purposes of the municipal land use law that we be supporting (positive criteria).

**"A. Encouraging municipal action to guide the appropriate use or development of all lands in the State in a manner in which will promote the public health, safety, morals and general welfare."**

We meet that by standing before you with a proposed use on a property that is particularly suited. Those two items go together. In addition to purpose A, I think there are three other purposes that are relevant here.

The first purpose is **"G. Which is to provide sufficient space and appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space for both public and private according to their respective environmental requirements in order to meet the needs of all New Jersey citizens."**

I say that sort of going back a bit to the testimony I gave about the property being particularly suited in the sense that we've identified a location that is appropriate for this commercial/industrial use or contractor's use and have been able to do so in a way that is consistent with the character of the area and also meets the necessary needs of the particular use without having an undue impact on the environment. We've heard quite a bit of testimony about that from the Applicant and Engineer about the measures that will be taken about the clean-up itself as well as visual water management that will occur.

I think we also meet purpose **"H. Which is to encourage location and desire of transportation routes which will promote the free flow of traffic while discouraging location of facilities and routes which result in congestion and blight."**

I say that because on Exhibit A-4, colored site plan, if you recall one of the things we are doing is changing the parking configuration so we are eliminating those diagonal parking spaces where folks might be pulling in and perhaps creating conflicts with the sidewalk, conflicts with pedestrians walking along the sidewalk and instead we're providing these two stacked or somewhat parallel type parking spaces. We will be eliminating a potential traffic safety conflict through the changing of the parking spaces.

Lastly, for the purposes, I think we also meet purpose **"M. Which is to encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land."**

I say that with an eye particularly toward the efficient use of land because we've got an opportunity here to have a mix of uses, to use this existing property and existing buildings as efficiently as possible. We are able to re-occupy them with limited additional improvements to the existing improved area and we're also able to bring a new use to the site and a new use to Wanaque without having additional energy input. If we think about it from an environmental standpoint, there is no demolition, there is no new construction and instead we are just reusing the existing buildings and reusing the energy that's already been put into the property itself. We are also able to reuse everything that has already been put in the property.

So with that, for those reasons I think that our property is particularly suited to the proposed use and we meet an additional three purposes of the municipal land use law, and that wraps up the positive criteria.

**Chairman Dunning:** What about those residents of that house? Should there be some active recreational area for people living in that dwelling?

**Planner McManus:** No, I don't think so. One, it is an existing condition and I believe my understand is that we have an existing, long time tenant and so the property is clearly usable and attractive for residents. While, in a single-family house it is nice to have a little outdoors space, I think that it's not a requirement. If you think about the multitude of multi-family housing in the region, I think that's an example that folks are able to get along, live happily just fine without having that outdoor recreation area.

**Engineer Nash:** Would this house be suitable for a family with two young children? Where would the children play?

**Planner McManus:** I can't answer that. They could play at the local park, at the local schools and they would play at the same locations that parents with children play at whether they live in a townhouse that doesn't have exterior space or whether they live in a multi-family unit.

**Chairman Dunning:** In the rear, where you are putting all the equipment and the active part of this business, there are two houses and one is extremely close to this property, probably about 4' off the property line, is that going to impact their quality of life?

**Planner McManus:** Yes, there is going to be an impact. Every time you change land use, there is an impact. But I think the question we have to ask ourselves is "whether or not there is going to be a substantial detriment?" As I'm going to tell you in a little bit, I think the answer is no for a variety of reasons. Ultimately, I can't stand before you guy and honestly say that there is no impact. There will be, but the Applicant has taken actions in order to mitigate that impact and reduce it to the extent possible. For example, we are proposing a fence, we're proposing plantings and we've moved the gravel area a little bit off of the property line just to give adequate space. The fence and the plantings is going to provide visual screening obviously, but it's also going to be able to provide a little noise buffering as the plants grow up and grow together, so we've been able to try and mitigate that impact such that there is no substantial detriment.

**Attorney Mondello:** I almost actually feel like clapping. In 26 years, when I asked that question, "no, there is no impact", except we need a variance and we've violating the ordinance.

**Chairman Dunning:** You are very honest.

**Vice Chairman Grygus:** They actually have a second floor deck on that house that is going to be almost like a balcony down into what goes on in, what has been for years, a wooded lot.

**Planner McManus:** True, but there should be no expectation that it's going to continue to be a wooded lot. Yes, I talked about the difficulties in developing the site, but there should be no expectation that a site is never going to be developed unless subject to permanent open space.

**Mr. Anderson:** There are large mature trees right along the property line and we have no intention of touching them for that purpose.

**Planner McManus:** I am going to talk about negative criteria. There are 2-1/2 components of the negative criteria standards but let's just start with the 2 traditional parts.

Let's continue on the last discussion which is "What is the impact on the public good?" As I said, there is an impact, but the legal questions you have to ask yourselves and I have to try to answer is whether or not there substantial detriments, and I think the answer is no. I say that in part because of the things we talked about. As our Applicant just pointed out, there are some mature trees that will provide screening, but in addition to that, we have fencing that's proposed, we also have additional planting that are proposed. We have 80 trees/shrubs proposed around the periphery of the site, spaced now closely at 4' so what we are really going to have is a fence and also a green wall that grows up over the fence to try and provide, not to try to provide, but that actually will provide some real substantial screening of the property from the surrounding area. So the screening addresses the rear of the property, the R-10 portion of the site, but the front in the B District we have, I would say for that, no impact, only positive. There is going to be no change in the character of this site with the exception of getting rid of this angled parking spaces and instead providing the two stacked parking spaces. So we are actually improving this area and improving the safety of the site from the buildings forward. But beyond that, there will be no change in character besides adding small lights and things like that, but I don't think there is any fundamental change in the character. Certainly not a negative change or a substantial detriment. We also have very minimal site activity. Again, we are talking about 4 people coming in and out of the property during business days. In addition, to talking about the visual impact for the rear of the property from the surrounding areas, it has again been mitigated in part by how the site is going to be organized. This is not a proposal where we're going to have the rear of the yard full of the 55 gallon drums and the storage tanks strewn across the property. What we have instead is an organized plan for where the trucks will be parked, where the equipment will be parked, we're placing the drums inside of a storage container and a dedication location for where the tanks will be stored until they are picked up. I think all of those factors, the lack of changes to the front, the screening and the other actions that are proposed at the rear means that there is not going to be a substantial detriment to the public good.

The second component of the negative criteria is whether or not there is a substantial detriment to the zone plan. Basically what is your Master Plan and what is Zoning Ordinance say about this. I took a look at your 2002 and 2010 Master Plans and there is a Borough Objective in your 2010 Master Plan Re-examination Report, which I think is in line with what we are proposing here. That is "To encourage redevelopment of appropriate commercial and industrial properties to provide employment opportunities, strengthen the economic base and clean-up polluted sites and not adversely impacting residential neighborhoods." I think this is a good example of that. We are able to bring a site back into use so bringing some economic development to Ringwood Avenue. We are able to provide employment opportunities, albeit small because we are only talking about four people coming in and out, strengthening the Borough's tax base and for all the reasons I talked about with the public good, I think we are able to do so without having an adverse impact on residential neighborhoods. In addition, both the 2002 and 2010 Master Plan really allude to traffic concerns along Ringwood Avenue. There are no specific recommendations in the 2010 Master Plan aside from recommending that there be a strategic plan to improve traffic flow. So clearly that's what I'm here to propose, but I

think that our proposed use is in keeping with that concept that there are traffic concerns. I say that because again this is a really low impact site. We are able to bring full development to the property, full occupancy of the existing buildings, but be able to do so with four people coming in and out and then a handful of other trips throughout the month as we have folks coming to clean out the drums or pick up the tanks. There are just a handful of additional trips beyond that. We are able to bring the site back into full productivity without adding to what appear to be, based in your Master Plans, traffic concerns along one of the Borough's main roads.

With that, I want to talk to you about the Medici Standard. This is the half of the negative criteria and that basically ask for the Planner, such as myself, to provide a reconciliation of the proposed use omission from the B District. If this use is such a good idea, why isn't it in your Zoning Ordinance already. I say that because what we are proposing is actually pretty unique even for a contractor's use. A lot of contractors' uses, if you think about them, require significant outdoor storage of trucks and vehicles and perhaps materials. If you think about a roofing contractor, for example, or a general building contractor, they might be storing lumber, roof shingles and, if a plant contractor nursery, they might be storing outdoor plant materials. In this case, what we really have is very limited outdoor storage and nearly all of which is going to be contained inside of a building or inside of the storage containers on the site. In addition to that, we're able to host this proposed contractor use not only with the limited outdoor storage but also being able to do so on a small site, which I think is unique. A lot of industrial uses or zones provide for larger lots, wider lots but here this is a particular site and use that I think makes the proposed contractor use appropriate for a Business District. That is why I think I can reconcile the omission of the contractor's use in your zone and that is also the no substantial detriment to the public good, no substantial detriment to the zone plans. That's your negative criteria.

This is my testimony on the Use Variances. I do have additional testimony on the C Variances, but I thought I pause for a minute in case there are any questions.

**Member Levine:** Do you know how long the pizzeria was there and were they the original owners of the property and the building?

**Planner McManus:** No I don't.

**John-Owner of Building:** I am the original owner.

**Planner McManus:** Let me talk about some of these C Variances that we need. I think they were touched upon by our Engineer during his testimony, but let me review them and we don't have any disagreements about these items although some of them have been eliminated at this point. We need three (3) bulk variances. The first is a variance from the lot width requirement. It is required to be 80' and are existing condition is 72.5'.

**Vice Chairman Grygus:** Did you reach out to any of the adjacent property owners to see if you could secure any additional property from them?

**Attorney Bavagnoli:** No, we did not.

**Vice Chairman Grygus:** Particularly that property to the north would solve a few issues.

**Attorney Mondello:** I think the bulk variances you are going over are pre-existing and you are not exacerbating them.

**Planner McManus:** 100%

**Attorney Mondello:** I don't think you need to spend much time on that. However, why don't you turn to the fact Section 114-20F, the sheds. You are allowed one shed and they are not to be in excess of 100 square feet so how do we reconcile that you are going to put three (3) storage structures that are 8x20.

**Planner McManus:** I think I hear that we need variances, not only for the size, but also for the number. I didn't see the number in the code book.

**Attorney Mondello:** I didn't see a number either, but we've always assumed that it is one. You are right, it is not in the code.

**Planner McManus:** I will defer to you guys because I didn't realize we might relief for having multiple sheds. I didn't see that in the code. One thing I do want to point out for anybody that might be looking at the ordinance, in that same section, it does permit larger accessory structures and I'm not suggesting we are one of these structures, but it does permit garden utility sheds up to 200 square feet. Our storage containers are certainly not a garden utility shed, but there is a provision in the code already that is anticipating the need for having larger accessory structures in the rear yard.

**Attorney Mondello:** Don't they also anticipate that it's going to be next to some principal building?

**Planner McManus:** Yes, but I just want to point out there is an anticipation for larger structures. Yes, we do require relief from the number of structures and also for the size. However, I think we qualify for a C Variance for these items under the C-2 Criteria and that's the flexible C Variance that allows for municipalities to grant a variance for a C Variance essentially if the outcome of granting the variance produces better planning result. In order to prove that we I'm required to do is talk to you guys a little about what purposes of Municipal Land Use Law would be advanced; that's how we judge it. In looking at this, I'm going to point to Purpose I. which is promotion of desirable visible environments in greater development techniques and good civic design in our arrangement. I see that because the storage containers allow us to conceal the storage needs of the proposed use. It allows us to conceal the drums and the other equipment and items that are being stored inside. The alternative is that they would be stored outside. The other alternative is that we'd be here asking for a variance only from the number of accessory buildings so instead of having 160 square foot storage buildings, we might have additional 100 square foot storage buildings, but I think the town is better served and the neighbors are better served by trying to consolidate the need for the storage in the smallest number of buildings possible, within reason. I might have a different opinion if we were proposing a 100x50' building in the back, but given that we are talking about 160 square feet, I think the borough is better served by consolidating the storage uses into the smallest number of buildings possible so that it has the smallest visual impact as possible from the surrounding lots.

**Planner McManus:** In addition to talking about the Municipal Land Use Law and the positive criteria, again I have to go through the negative criteria and first what is the substantial detriment to the public good. In regards to the shed, the purpose again is really whether or not we have a substantial detriment to the zone plan. I think the answer is no and I say that because the zone plan is limiting the size, is limiting the number of structures in part because it wants to try and create an orderly appearance of a property so you don't have these accessory structures sort of scattered at random across properties. I think that

we've been able to accomplish that here in a different manner. Again, we've taken efforts to provide, not only the screening, but in this case an orderly rear yard we've we got locations identified on a plan that will serve for individual parking and structures and also for the individual storage containers so we've been able to address the concerns and the reason why there's a limitation on the number and the area by providing an alternative and following the intent, which is to provide organization to these areas. I should note also that I think when we are talking about storage sheds or garden utility sheds, although I do think it is applicable because of the way the ordinance is structured, I'm not sure that the intent of the ordinance was to apply to a use like this. I think it was more likely intended to apply to the garden shed that all of us might have in our backyard or the shed that the a business might have for snow shovel, salt and things that like rather than the storage needs that are fundamental to a proposed use.

**Engineer Nash:** If I can interrupt, that's why we are here. It's non-conforming so we are trying to fit it into this. I don't understand your argument about organizing. The code says you are allowed one (1) and your saying we have three (3) and we are organized so therefore it conforms. You made a jump, but I lost how you got there.

**Planner McManus:** When I read the ordinance and when I see ordinances like this that are regulating the way that residents or businesses can store their stuff, usually the intent is to prevent folks from having their junk sort of strewn across the property. We've all seen those lots where they've got the cars and landscape material and pool stuff just in separate piles throughout. The purpose, or they have their six different sheds, we've all seen those neighbors where they've got the potting shed, etc.

**Engineer Nash:** I disagree because it's not about you can have "x" amount of junk in your yard because you can have all kinds of stuff strewn all over your yard, but you are still only allowed one shed. If you have more than one shed, you're in compliance with the code. It's that simple; it has nothing to do with junk strewn around people's yards.

**Planner McManus:** I guess the point I'm making is there's two reasons why I would foresee a municipality limiting the storage sheds on a property. One is to enforce an orderly lot so you don't have multiple sheds in any location but instead you are forced to put it in one location where it looks nicer and neater and looks more organized. Two is impervious cover but we are well below the impervious cover on this application. If it's not for organization, it's not for aesthetic purposes then I don't know what the purpose of it would be. That's the purpose I am applying to this ordinance and I think we've been able to meet the same purpose albeit in a different way.

**Attorney Davies:** Do you believe that it would be a better planning alternative and more attractive visually to store all of the equipment in one of these storage boxes instead of having it out?

**Planner McManus:** Absolutely, no question. I think that the neighborhood is better served by having these, as much as possible, contained within the storage containers.

**Attorney Davies:** Do you believe there would be any negative impact from having three (3) instead of having one (1) larger structure that would hold everything?

**Planner McManus:** No, as long as they are located on the property in a way that looks orderly.

**Vice Chairman Grygus:** In your opinion, what would be more appealing; say, one (1) larger pole type building as opposed to three (3) metal storage containers?

**Member Ludwig:** Even if you put the metal containers inside of that larger one.

**Planner McManus:** One of the things that's interesting about the storage container, and I'm going to say this looking for my applicant or engineer to nod, I believe they are only 8' tall. So if they are only 8' tall, that means they have less visibility than a traditional pole barn. I would rather see something shorter than taller. Honestly, once the shrubbery grows in a handful of years, it's going to be taller than the storage sheds, and that wouldn't be the case for a pole barn.

**Attorney Mondello:** The sheds are permitted to be 10' high.

**Member Ludwig:** The peak?

**Attorney Mondello:** It doesn't say.

**Member Ludwig:** Say you put a garage in the backyard.

**Planner McManus:** It's not a storage shed though.

**Member Ludwig:** You could put a garage on that property.

**Planner McManus:** Sorry, I misunderstood your comment.

**Engineer Nash:** I agree having the storage containers is better than not having them. But I don't agree with the logic of the neat and orderly is not written anywhere.

**Vice Chairman Grygus:** So you think these storage containers are better than having one (1) larger structure?

**Engineer Nash:** Yes.

**Vice Chairman Grygus:** If a house was built there, which is permitted, it would be the size of one larger structure.

**Engineer Nash:** That's why the three (3) smaller ones is better. It's a less of a visual impact because they are lower to the ground.

**Member Pasznik:** And they are flat on the top.

**Attorney Davies:** We're not asking for a three-car garage in the back of the lot. This is less intrusive visually.

**Engineer Nash:** I agree with you. I just don't agree with the logic that's being used.

**Attorney Mondello:** Parking from the front yard should be 10' and the Applicant is looking for some relief from that. The Board even thinks that's a good idea, right? Same thing essentially for the C-2?

**Planner McManus:** Absolutely. I think this produces a better result and with the changes we are actually increasing the safety of the property as well. I think we also have relief that is required for the lighting. By not providing lighting in the rear, I think that's a clear C-2 Variance as well. The ordinance requires that we provide lighting throughout the rear wherever our activities are. I think this produces a much better result. It has a significantly reduced impact on the surrounding neighbors by not lighting that area. As we heard from the Applicant, it's simply unnecessary.

**Vice Chairman Grygus:** I would like to see, at least an attempt, and I'm not even talking the full depth of the property, but even if you could get property from the adjacent property owner back as far as the zone line could actually make that a two-way driveway and give much more movability from the site and take away one of the side yard variances.

**Attorney Mondello:** Any idea how many feet they would be asking the adjacent owner to sell? Is that where you are going with this?

**Vice Chairman Grygus:** Yes

**Planner McManus:** It's 10-1/2' right now at the driveway, where 12' is required. I forget the required setback from of the driveway to the property line, but we'd need a handful of feet.

**Vice Chairman Grygus:** About 10' from the depth back to the lot line. It would make that swing coming in and everything, I think, a lot easier. Whether or not they would be willing to sell it to you is another issue. We typically like to see that as another reason for an Applicant looking to get a variance because I tried to get more property from my adjacent property owners.

**Attorney Davies:** On the northerly side from the car dealer? We're looking for a 10' strip if possible.

**Vice Chairman Grygus:** Yes and whatever the engineer or whoever would deem to make it feasible to make that driveway more moveable and also to alleviate the one requested side yard variance.

**Attorney Davies:** I would be very surprised, but pleased if they agreed to sell an inch. So we will go ask.

**Vice Chairman Grygus:** It's probably going to be no, but it's usually something that we like to see because it is an option other than granting a variance.

**Attorney Mondello:** And you are you sure about that no because they use every single piece of that property for car storage?

**Attorney Davies:** It is completely stuffed for everything I've ever seen.

**Vice Chairman Grygus:** You don't have to go back as far as where he's got everything in the back. Like I said, you only have to go back as far the zone line actually.

**Attorney Davies:** Mr. Anderson just brought up these window wells. I'm not certain whether they are required or not on the side building. It could be something we can bring up with the Building Department to see if they are required and by eliminating them, you would meet your 12'.

**Member Ludwig:** I don't have an engineer's ruler, but it almost looks like the one towards the front might possibly be at 12 if the one at the back is 10.6' with the angle of the building.

**Attorney Davies:** We can certainly have that discussion with the Building Department to provide some insight as to whether those window wells are required.

**Attorney Mondello:** Any questions for Planner McManus on her planning testimony from residents within 200' or residents in general? Board Members any questions? Hearing none, seeing none.

I'm guessing that is your last witness.

**Attorney Davies:** That is my last witness. I could give a short summary, but I don't think you need it.

**Attorney Mondello:** I am sure you are aware of this, but there are 5 Members here.

**Vice Chairman Grygus:** And I don't see that changing in the near future either. Just so you are aware, you know you have to bat 1000.

**Attorney Davies:** I do. You don't believe that we have anybody else being appointed in the near, immediate future?

**Chairman Dunning:** We have a Member that is out of state right now and we may have a new member put on by the next meeting, so we might have 7 people at the next meeting.

**Attorney Davies:** If they have the pleasure of listening to the cd and reviewing the documents.

**Attorney Mondello:** They have something better than that. Our secretary does almost verbatim Minutes. She listens to this and types them up.

**Attorney Davies:** I guess the question is whether the Board wants to hear from me. I don't think I'm going to be adding anything particular.

**Vice Chairman Grygus:** I would like to hear with the adjacent property owner has to say. I really would like to see that tracking plan on the site to show that the 50' combination can work without going onto those parking spaces.

**Attorney Davies:** The requests that I heard from the Board are ask the neighbor to the north to sell a strip of 10' or maybe less, depending on what our engineer says, along the north side up to the zone line; a plan showing the truck tracking in and out of the truck parking area towards the rear; and test pits needed to show percolation adequate and notify the Board Engineer two days ahead.

Those are the only requests I heard from the Board.

**Chairman Dunning:** The only other question is we talked about the fence. If you are going to put another fence in front of the existing fence, they may impact on the driveway width.

**Engineer Greco:** We're not providing a new fence along the existing impervious driveway area, only around the yard area.

**Chairman Dunning:** If you're putting up a new fence, just note it on the plan so we know we have enough space in here.

**Attorney Mondello:** I don't know how the Board feels but instead of having a fence behind a fence, if you were to have some conversation with the owner to the north and maybe he says I don't care you can replace my fence and make sure it stays in good condition. Obviously that is up to the Board and Applicant, but a fence behind a fence. You could have maintenance problems between the fences.

**Member Levine:** Are they going to pay for the fence on the other people's property?

**Attorney Mondello:** Yes. They'll approach the owner and say listen we want to tear down your fence and put up a new one. No or yes. I'd probably say yes.

**Chairman Dunning:** That is between the two property owners.

**Attorney Davies:** I also heard fabric under the gravel and add an electrical line to the rear near the 2x2' containment area. Move the rear parking spaces closer to the south property line, which we are asking to the Board to allow us to do. Spacing for the evergreens is now 4' on center and those have to be maintained or replaced.

**Engineer Nash:** That 4' on center is on your plan.

**Attorney Davies:** We would just be agreeing that we are going to maintain. We are asking for a variance to allow the driveway on the north to stay within 10', but that is not being changed so I don't know that we are asking for anything new. It is an existing non-conformity. To the south, there is no driveway on our property. It is on the neighbor's property so we really can't ask for variances there.

**Chairman Dunning:** That's on the County's letter.

**Engineer Greco:** Yes, and I have to address that.

**Attorney Mondello:** Am I hearing that the Board would like the Applicant to return with some of those modifications.

**Vice Chairman Grygus:** Yes. I can't see how some of that can be a condition. I would think it would possibly behoove the Applicant to, at least, know going in that he'll have at least 6 Members in the next meeting, possibly 7.

**Attorney Mondello:** That's their call.

**Vice Chairman Grygus:** In any event, I would rather see that tracking plan and here what the outcome is with the north neighbor before I would bring it to a vote.

**Attorney Davies:** We don't want to jump through hoops and hoops and then come back and find out that there are going to be 3 or 4 people that are going to vote no anyway. Can I get a temperature of the Board on the main Use Variance?

**Vice Chairman Grygus:** We always get down this road with Use Variances where they want to bifurcate it and get a vote on the use and then the site plan. The problem is part of how you are going to vote on the use could be dependent upon what could and couldn't be done with the site. That becomes difficult.

**Attorney Mondello:** I usually don't permit the Board to have a straw poll. I can understand and appreciate you don't want to spend additional monies to do the things that the Board wants only to come back and find that the Board decided not to grant the relief sought by the Applicant. It is, what it is. You can ask for a vote right now.

**Chairman Dunning:** The tracking plan is very important because you have tight site and if you can't prove that you can move the vehicle and trailer around that site properly, you have to come up with another solution.

**Attorney Davies:** I agree and that means my Engineer is going to be running around making sure that this works well and then puts it in a certified plan that you rely on.

**Attorney Mondello:** I can tell you this much that, from my experience with this Board, they don't make Applicants do a,b,c,d,e,f&g and vote it down, but I can't say this will happen, but I've never seen them do that to an Applicant.

**Attorney Mondello:** You can cut Planner McManus loose. She need not appear again. I think you do need your Engineer and that should do it. Is the Board comfortable with that?

**Vice Chairman Grygus:** I would say yes.

**Chairman Dunning:** Our next meeting is February 5<sup>th</sup>. Can the Engineer get whatever paperwork together by then?

**Engineer Greco:** Absolutely.

**Attorney Mondello:** In addition to that, does the Secretary need more time to put those Minutes together and get them distributed.

**Vice Chairman Grygus:** I believe it is easier to listen to the cd. I've done it before.

**Chairman Dunning:** Any revised plans have to be in ten (10) days before our next meeting.

**Vice Chairman Grygus:** The only thing that would have to be in 10 days before is the tracking plan.

**Attorney Mondello:** We are going to be supplying the missing member, Mr. Malone, with the cd. I don't know how anxious your client is but it might make sense to carry until March if we are going to be swearing in new members and we'd want them to listen to the cd. It is completely up to the Applicant.

**Vice Chairman Grygus:** That's not a decision you have to make now. We are going to carry you to February and, if you decide you want to be carried to March, you can always notify the Secretary.

**Attorney Mondello:** That may be a problem. What if there are objectors in the audience and how are they going to know.

**Vice Chairman Grygus:** If they come in February, we just tell that they have requested to be carried to the March meeting.

**Attorney Mondello:** The application is going to be carried to February 5<sup>th</sup>, with the caveat that it may, in fact, be carried to March. Procedurally speaking, we're going to open up the meeting for comments from any resident whether within 200' or just residents from Wanaque to comment. No questions, but comment on the application. You like it, you don't like it and here is why, and then you are going to sum up and then Board Members will vote.

**PUBLIC DISCUSSION:** Let the record show there was no one to come forward.

**RESOLUTION:** Application #ZBA2019-09 – 20 Colfax Wanaque LLC  
Demolition of existing one-story single family home and construction of new two-story single family home.

**MOTION TO MEMORALIZE THIS RESOLUTION AS PREPARED BY BOARD**

**ATTORNEY:** made by Member Ludwig, seconded by Member Pasznik. Voting yes were Chairman Dunning, Members Pasznik, Ludwig and Levine Motion Carried

**CORRESPONDENCE:** 2019 Variance Applications Approved to be submitted to the Mayor & Council

**VOUCHERS:** submitted by Boswell Engineering for 895-897 Ringwood Avenue, LLC's Application in the amount of \$1,138.50; and for 20 Colfax Wanaque, LLC's Application in the amount of \$828.

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

**VOUCHERS:** submitted by Ronald Mondello, Esq. for attendance at the January 8, 2020, Meeting in the amount of \$400; and for 20 Colfax Wanaque, LLC's Application in the amount of \$450.

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

**MOTION TO APPROVE DECEMBER 6, 2019 MINUTES: made by Member Ludwig, seconded by Member Pasznik. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Pasznik, Ludwig and Levine.**

**ENGINEER'S REPORT: Nothing to report.**

**DISCUSSION: Nothing**

**MOTION TO ADJOURN AT 10:55PM: made by Chairman Dunning. Motion carried by a voice vote.**

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**Jennifer A. Fiorito**  
**Board of Adjustment Secretary**