

**REGULAR MEETING**

**Salute to Flag: 8:03pm**

**OPENING STATEMENT:**

**This is the Regular Meeting of the Wanaque Board of Adjustment and adequate notice has been given and it has been duly advertised by the placement of a notice in the Herald News and the Suburban Trends on January 18, 2015 and a notice thereof has been posted on the bulletin board in the Municipal Building in the Borough of Wanaque and a copy thereof has been on file with the Borough Clerk**

**ROLL CALL: Chairman Jack Dunning, Vice Chairman Bruce Grygus, Members Frank Covelli, Joseph D'Alessio, Peter Hoffman, Michael Levine, Attorney Ronald Mondello and Engineer Christopher Nash**

**ALSO PRESENT: Kenneth Albert, Wanaque Borough's Planner**

**ABSENT: Members Donald Ludwig and Suzanne Henderson**

**Application #ZBA2015-03 – 1049 Ringwood Avenue, LLC, Applicant, 1049 Ringwood Avenue, Haskell, NJ, Block 430, Lot 1**

**Charles Lorber, Esq. of Mandelbaum Salsburg, Applicant's Attorney**

**Attorney Lorber questioned if there was a possibility that the Board would have 7 members present if a vote was taken tonight. Chairman Dunning advised that we had not heard from the Absent Members so we don't know.**

**Attorney Mondello stated it was the applicant's call as to whether or not to go forward with 6 votes as opposed to 7.**

**Applicant will proceed tonight.**

**Attorney Lorber commented that, since we were at the last meeting where the Board made some very good suggestions with regard to this project, our engineer and architect made revisions to the project's plans. Our engineer also did speak with the Fire Chief. Our Engineer, Architect, Traffic Engineer and Planner will be testifying tonight.**

**Exhibits: (Engineer)**

**A-11 Colorized Revised Site Plan Showing No Trees (Updated Sheet 3 of 16)**

**A-12 Revised Fire Truck Turning 1 (Sheet 1 of 3)**

**A-13 Revised Fire Truck Turning 2 (Sheet 2 of 3)**

**A-14 Placement of Garbage/Dumpster (Sheet 3 of 3)**

**Engineer Keenan is still under oath from being sworn in at the October Meeting.**

**Testimony of Engineer Keenan**

**We revised the plans after our last meeting, addressing the following issues:**

- a. Parking**
- b. Snow Removal**
- c. Recreation Area**
- d. Guard Rail**
- e. Relocation of Fire Hydrants Per Fire Chief**
- f. Fire Vehicle Access In and Out of Site**
- g. Fire Vehicle Access Around Building/Turning Radius**
- h. Dumpster Access**

**Parking:**

**This is a big concern for the Board and we have included additional parking into the site. We had an area up north of the building where we had an opportunity to capture some additional parking. We have added an additional 15 parking stalls in the new area, and we were able to reconfigure some of the parking in the larger area and we end up with a total of 16 additional parking stalls. The original plan had 67 parking stalls, which were required by RSIS. We now have 83 total parking stalls under the new proposed plan, which is a 24% increase from what is required. We just took out the dumpster at the end of the parking lot and created a drive aisle that wrapped around the north end of the building to create that additional lot and then reconfigured some of the existing area to include the dumpster.**

**Snow Removal:**

**We identified on the plan two particular areas for snow removal. One is right at the corner by the dumpster and one at the back corner of the new parking lot. We incorporated some features such as depressed curbs to make removal of snow a little easier in these areas. We identified six parking stalls for snow removal so we actually end up with a ten parking stall increase. For approximately ten months of the year, we will use all 16 parking stalls, but when we do have snow, we may get some piles in the corner and may lose a couple of stalls. With the additional parking stalls, I feel comfortable that we are providing adequate space for snow removal and still have plenty of parking.**

**Engineer Nash stated that the locations you have shown just don't seem like logical locations for a snow plow. Just looking at the fire truck turning, the snow plows are going to come to the north end of the building and push the snow to that stripped area, you are expecting them to turn 90 degrees to the north and I just don't know how it is going to get there. This is the same on the other areas on the radius, but it is not opposite an aisle so they are going to push snow in and it is not in the location that is easy for the direction they**

are coming from and the bulk area of where the snow is. You almost have to open up that whole outside curb, and then they can drive in and just push the snow off the edge. It is on a curve which makes it harder to get it off the road. Snow plowing is always tough because you lose parking spaces and you don't want to pile the snow on the north side all the way to the east because it will interfere with the access for the firefighters, and that is where they are going to pile it. The guard rail is going to cause an issue with snow removal and also plowing up the driveway since they can't plow the snow down the driveway into Ringwood Avenue.

Engineer Keenan stated that they really tried to find the best location from a grading standpoint where we had available flat areas.

Engineer Nash stated you should offset the guard rail from the curb line and provide some space. You have it right at the face of the curb so if you offset it at least on the south side. Engineer Keenan stated they will review the areas for snow removal.

#### **Recreation Area:**

For the exercise/recreation area, we found a location down at the southwestern corner of the parking lot. It is a level area where we are looking at putting some sort of fitness area or a small playground. This area is approximately 45' x 25' (1,235 square feet).

#### **Guard Rail Along the Drive Aisle:**

The updated plan provides guard rails on both sides of the drive aisle coming down.

#### **Fire Vehicle Access In & Out of Site & Fire Hydrants**

We met with the Borough's Fire Chief Mark Oliveri

Exhibit A-12 shows the Borough's Ladder Fire Truck as it would enter the site and circulate around the property through the parking lot and back out. When I met with the Fire Chief, I was able to take measurements of the Ladder Truck and was provided with a copy of the drawings for the fire truck. This plan is an actual representation of the fire truck through the site.

Exhibit A-13 shows the fire truck entering the property to the rear of the property where the additional parking has been provided and exiting out. This shows we do have adequate room within the parking lot for the largest fire truck to navigate through the property.

Vice Chairman Grygus questioned, when you met with the Chief, did the subject of the area around the building in the rear come up and was it discussed?

Engineer Keenan stated "yes" this was discussed. We realistically talked about how they were going to fight a fire on this property, also discussed the location of the hydrants and access to the east side of the building. The Fire Chief said that if he had to rescue someone on that east side, he is going to bring fire personnel with the ladder to rescue someone from the upper floors. The Fire Chief pointed out that, if had to fight a fire (not rescue) and hose down the building, he will actually fight it from Ringwood Avenue, especially since he has a 100' ladder truck. So the Fire Chief is well aware of the height differential between the road and the building.

The two fire hydrants requested will be located one at the end of the drive aisle and then the other is located just as you enter the parking area from the drive aisle.

**Member Levine questioned, when the fire truck gets to the north end of the new parking area, how does the truck get out?**

**Engineer Keenan stated they would back out.**

**Vice Chairman Grygus questioned if the stripped area to the east of the new parking area was for a fire zone?**

**Engineer Keenan stated that is really just to allow easy access for vehicles, not specifically for fire.**

**Vice Chairman Grygus stated maybe make that an extra parking space since it wouldn't hinder anyone's driving ability and people are probably going to park there anyway.**

### **Dumpster**

**A-14 (Sheet 3 of 3) shows the location of the dumpster. The dumpster is going to be located at the corner of the parking lot. The plan shows a typical garbage truck that would come in and enter the site, unload the dumpster and pull right back out. They are able to come in head first to the dumpster area, unload and exit the site pretty easily. It is a nice location because we were able to cut that corner off to provide better turning movement.**

**Chairman Dunning questioned how many dumpsters fit in the location?**

**Engineer Keenan stated that right now we are showing a 10x20, which is a good size dumpster with the recycling as well.**

**Chairman Dunning advised that we have paper recycling one week and co-mingled the next week. So how many dumpsters will fit there?**

**Engineer Keenan stated that what may happen is you have one large dumpster and then two smaller dumpsters that would fit in there. I will take a look at this and make sure we are okay. We also have additional room where we could put another dumpster if we had to.**

**Chairman Dunning, referring to Sheet 1 of 3, how big is the retaining wall?**

**Engineer Keenan stated we expect it to be around 8'.**

**Engineer Nash stated that any wall that size would need to be designed and sealed with calculations.**

**Chairman Dunning, still referring to retaining walls, questioned how big are the walls in the recreational area?**

**Engineer Keenan stated those will be relatively small. We have to figure out exactly how to grade that area. It is a relatively flat area, but just to maximize how big we can that area, we expect we are going to have some small retaining walls.**

**Chairman Dunning stated you will also have to fence all that in so nobody falls over the retaining walls.**

**Chairman Dunning stated on a different plan you had a discharge area out there for your stormwater management. Engineer Keenan stated we would have to relocate that.**

**Chairman Dunning stated you would have to move it closer to the property line to the west. Engineer Keenan stated "yes".**

**Chairman Dunning questioned, with the enlarged parking, where does that stormwater go? Engineer Keenan stated that will all go right into the detention system.**

**Chairman Dunning stated the detention basin now has to handle more water. Do you have to recalculate its capacity?**

**Engineer Keenan stated that this discharge is not required anymore because there was a comment that we actually had a french drain right in the top corner. As part of Engineer Nash's concerns, we decided to take that pipe right into the detention basin, so we wouldn't need the storm pipe.**

**Chairman Dunning – what surface is going to be on the east side of that building for firemen or equipment to work off of because originally you had trees behind there?**

**Engineer Keenan stated we are anticipating just a grass surface, but would like to put in some trees and some landscaping back there to screen it off better as long as the fire department is okay with it.**

**Chairman Dunning stated with all the leaves off the trees you can really see that building from Ringwood Avenue.**

**Member Hoffman questioned how much room do you have on that easterly side when you add the 15' before you hit the drop?**

**Engineer Keenan stated the flat grading on the eastern edge of the building extends further than 15' and some areas are right at 15'. Certain areas we have 20' and it will pinch down at some point right at 15' before it drops off.**

**Engineer Nash stated that you should think about putting a 4' feet fall protection fence along there because it is flat than drops right off down onto Ringwood Avenue. You would also need one on top of the 8' retaining walls should there be a need for a wall.**

**Engineer Keenan stated that would not be a problem.**

**Member Covelli - At some point, whether it is Engineer Keenan or another professional will tell us how you are going to landscape that area relative to the Chairman's point that you are going to see that from Ringwood Avenue. You are balancing an area of access, which may also turn into some kind of passive recreational usage.**

**Engineer Keenan referred to the Site Rendering Exhibit A-2 from the prior meeting, which shows a pretty good description of all of the vegetation and proposed plantings, etc.**

**Member Covelli questioned what is the elevation difference between the driveway at that point, the evergreens, the reds and the building?**

**Engineer Keenan stated the building itself is sitting at elevation 257. The trees themselves are planted from that elevation right down to elevation 230.**

**Planner Albert stated the area in front really needs to be engineered a bit. It is a steep slope, kind of messy and right now the plans sort of show it being left alone. The two issues I see that at some point should be addressed are combining that site distance, which clearly you have to deal with, and the other part if you go in there and clean up that area, you are really left with steep slopes and it is hard to tell whether it will be stable. On one hand we are asking you to clean it up and probably remove some of the trees, particularly the scrub trees, and those trees are holding that area together at the same time. So we may be asking**

you to do something that will make it unstable. You may need retaining walls in there at some point, in certain areas particularly on the southern area right to the north of the driveway.

Engineer Keenan stated that once they start clearing for the site distance they will look at this issue. If this application is approved, one of our next steps is going to be to go out there and do some test bores, look at the rock and see what is developing and make sure we don't have to do anything extra for safety.

Planner Albert suggests that, because you can't do the engineering beforehand until you get in there and clean out the area to a certain extent, is putting a note on the plan that allows the Engineer to make changes at that point during construction.

Engineer Nash stated that they may wind up having to re-grade the whole frontage between the road and building, but that is going to be a field issue.

Engineer Keenan stated once we start removing trees, etc., we will have to make sure the loose rock is not going to come tumbling down, and make sure what is left is stable, but we can only make any decisions in the field at the time of construction.

Member Covelli stated, as the applicant, you have to be mindful that this is going to be a very transparent site coming up Ringwood Avenue. The town just encouraged and secured that Haskell Town Center, which is now a very attractive site, and you are just north of it. Based on the elevations, you are going to see a lot of what is going on up there so we all collectively in this room will be judged on what the appearance of this project is.

Attorney Lorber stated that my client and I have discussed this issue many times. We have actually driven back and forth to try and see where the plantings would be appropriate, where we would need screening, etc. As indicated, until they actually get in there, we can't pinpoint anything definitive.

Member Hoffman stated that, as you are driving north on Ringwood Avenue, you can see that trail and it is only 16' high.

Attorney Lorber agreed and stated going south is not nearly the same as going north. Going north we absolutely recognize that and again until we actually get there and start doing the work it is going to be hard to tell.

Chairman Dunning stated obviously this building is going to be seen and look like it is hanging on Ringwood Avenue and it is going to be very close when you are down on Ringwood Avenue looking up. Has any consideration been given to moving the building to the rear of the site? Flip flop it – put the parking to the front and the building to the rear or sideways.

Engineer Keenan stated we looked at quite a few scenarios and part of the problem is access, and it is the elevation change. Part of the advantage of doing it the proposed way is we are able to take as much advantage of a driveway going up the slope to a high elevation since we don't have enough room to turn and go up. The other issue was the "meat of the property" or flatter portion of the property is kind of in this triangular shape where we could modify the parking lot to really match, but it was harder to take a building and fit in it there. The biggest aspect of that is to figure out how we could get the vehicles up the hill in a reasonable fashion.

Chairman Dunning stated if you flip the building and the parking lot and you left the driveway where it is, you could drive around the back of the building. That would give you

fire access from all four sides of the building.

Engineer Keenan stated we would have to cut into the slope back about 25' and I would have to have a 25' drop with severe walls.

Chairman Dunning recommended maybe making it two buildings.

Engineer Keenan stated we had 11 or 12 concept plans. We had smaller buildings, parking in the middle, parking underneath, driveway going through a building and a lot of other configurations. We really found that this plan seemed to match the property best with the terrain, the grades, minimizing our disturbances to the slopes and vegetation, and kind of dovetail the development into the property itself.

Member Covelli believes the applicant referenced the previous plans for this site, which I believe had two buildings in that proposal.

Attorney Lorber stated he never saw the previous plans. I only knew the number of units in the previous plan and we tried to match the number of units.

Chairman Dunning believes there were two-story multi buildings which were spread out from the north to the west so there wasn't the encroachment on top of Ringwood Avenue. There was a lot less impact on the look of Ringwood Avenue.

Engineer Keenan stated we did our best to look at those plans and see if it was something that would work.

Member Levine questioned if the application spoke to the First Aid Squad, since it is not an elevated building, as far as getting somebody out of the building into an ambulance since it is a three-story walk up. If not, it should be a concern.

Engineer Keenan stated he did not.

Member Hoffman stated carrying somebody in a stretcher down two flights of stairs is a concern. There is no elevator to get anyone that might have a medical condition down to the first floor.

Attorney Lorber stated that this concludes the testimony of his Engineer.

No other questions from the Board Members.

**Chairman Dunning:** Does anyone in the public have a question on the testimony we just heard by the applicant's engineer?

**Robert Anderson** - Owner of the property on the north side of this site.  
(1025 Ringwood Avenue - Block 408/Lot 14)

My primary concern is the snow removal on the property. Our driveway actually encroaches onto the development site, and that is where we put our snow.

Attorney Lorber stated that he will represent that we won't require that they remove their driveway or their snow from our property if that is an issue. I had previous discussions with my client privately on this issue. When my client signed the contract, I explained to him that we could make you remove the driveway.

Mr. Anderson stated it has been there for 100 years. I think it is grandfathered in.

**Attorney Lorber questioned if there was a shed or something else on the property?  
Mr. Anderson stated no.**

**Mr. Anderson wanted to point out that on the other side of my property the driveway encroached as well and they built a development there. No one approached us at all. We were on vacation one day and our driveway was cut in half. So those sorts of things we are concerned about with this development.**

**Mr. Anderson, using Exhibit A-11, explained how his driveway curves up and explained how his driveway gets plowed. His concern is now how the development will perform its snow removal.**

**Attorney Lorber questioned if Mr. Anderson was putting his snow where my client's parking lot would be?**

**Mr. Anderson stated not on the parking lot, but the grassy area between the parking lot and my driveway.**

**Attorney Lorber stated we would object ultimately to that. We are not going to allow that. Assuming this application is approved, I can tell you right now we are not going to allow your snow to be pushed in. We are not going to ask you to remove your driveway, but we are not going to allow your plow person to put snow on my client's property if, in fact, the sale is consummated. I don't think that is reasonable. The snow hasn't been there 100 years, it melts every year.**

**Mr. Anderson stated that all the concerns the Board has brought up about fire and safety are legitimate. I have a friend who works in Harrisburg, Pennsylvania as a firefighter and access time is extremely important at a fire.**

**Attorney Lorber objects to this. I thought this portion was only supposed to be questions addressed to the engineer and there would be a time later for comments. Also, if he wants to present witnesses I don't have an objection to that, but he is talking about some friend in Pennsylvania that is hearsay and I really can't ask his friend questions. I think that is a little unfair.**

**Attorney Mondello stated that Attorney Lorber's points are more than valid. Neither I nor anyone on the Board is going to give Mr. Anderson an opinion as to whether or not the 100 years results in some type of adverse possession rights. You guys can talk a Superior Court Judge about that or resolve it as neighbors. The applicant has already indicated that they are not going to remove that driveway and it appears that it might be their right to do that. I would suggest that you perhaps speak at some point in time to try to resolve those issues that you have. The objection by Attorney Lorber is correct.**

**Mr. Anderson has a concern about parking and that we are going to have residents, when this parking lot is full, parking in our driveway.**

**Attorney Mondello stated you call the police if they park on your property.**

**Attorney Mondello stated there will be another opportunity for comments with respect to this application. This period really was designed for questions specific to Engineer Keenan's testimony.**

**Attorney Mondello: Does any members of the public wish to question Engineer Keenan? Hearing none, seeing none we close the public portion.**

**Member Covelli wanted to confirm with Engineer Keenan that the only way people could trespass onto Mr. Anderson's property was if they hopped the curbs that are around the parking lot and parking stalls. If the residents did do that, then the homeowner calls the police.**

**Engineer Keenan agreed.**

**Member D'Alessio, reviewing the plans, noticed 2 hydrants and questioned if there was going to be any locations for potential fire hydrants on the building itself.**

**Engineer Keenan stated we will have a fire department connection or siamese connection on the front and back of the building. There is also a fire hydrant on Ringwood Avenue. If there is a fire on this site, the Fire Chief advised that they would battle the fire from Ringwood Avenue.**

**Attorney Lorber advised that he has a substitute architect because the Mr. Gillis couldn't make it.**

**Attorney Mondello swore in Nicholas Graviano of Graviano Design Group, 101 Crawford's Corner Road, Holmdel, NJ. My partner, a Licensed Architect Thomas Gillis, gave testimony before this Board at the last meeting.**

**I am the owner of Graviano Design Group, have a Bachelor's Degree in Geography and Urban Studies from Rutgers University; a Master's Degree in City & Regional Planning from Rutgers University; Juris Doctorate from Temple University School of Law; and Licensed Planner of New Jersey. I have designed numerous buildings as well as provided real estate development consulting and planning services. I have not testified before any Boards in Passaic County, but have in 12 Counties in the State, including Bergen.**

**Member Hoffman questioned if Mr. Graviano was an architect.**

**Mr. Graviano stated he is not. My testimony tonight is strictly limited to highlighting the changes that were made from requests at the last meeting. As you know, these are conceptual plans. These plans are designed to show you the general look, feel, layout and functionality of the building. These plans will be vetted through your Building Department as well as through your Fire Officials. My role here tonight is just to build upon what my partner testified on last month and just show you what was changed per your requests.**

**Attorney Mondello questioned Attorney Lorber. How does the Resolution read? The Board accepted Mr. Graviano as an expert in the field of \_\_\_?**

**Mr. Graviano stated I am a partner in the firm that designed the plans. I'm not, nor am I claiming to be an architect, nor do I think these plans are specific to the design of the building. The design of the building has not happened yet. Design of the building will happen in conjunction with your building officials and your fire officials and I am just here to highlight aspects of the plan that were modified based on the last meeting.**

**Attorney Mondello questioned you do have a license in planning? The Board will accept**

him as an expert in the field of Planning but he is speaking with respect to amendments to the architectural plans.

**Exhibits: (Architect)**

**A-15 Sheet A-1 Ground Floor & 2<sup>nd</sup> Floor (3 Sheets – Revised 10/15/15)**

**A-16 Sheet A-2 3<sup>rd</sup> Floor Plans and Draft Stopping & Fire Blocking (Revised 10/15/15)**

**A-17 All 4 Building Elevations & Exterior of Building**

**Testimony of Nicholas Graviano**

The Board requested changes and clarifications on the architectural plans and that is what I will be addressing.

The height of the building was changed to meet the ordinance requirements. The building is slightly less than the 35' requirement.

The Board requested clarification on the plans, whether or not the HVAC system and hot water system would be gas or electric. It is the applicant's preference to use gas for the utilities.

ADA unit has been shown on the first floor of the plan and meets ADA access requirements. The handicapped unit is Unit F on the 1<sup>st</sup> Floor. This unit is located in the central portion of the building and is approximately 984 square feet. The applicant has also indicated that additional units will be designed to be adaptable to meet the needs of handicapped residents, which means the bathroom and kitchen would have the turnaround radiuses and the unit can be utilized by someone with a handicap. All units on the first floor will be handicapped accessible, but only the one unit will be ADA compliant. Someone could use a wheelchair in the units, but not all units are designed to meet all the requirements of ADA. The Code requires 1 ADA unit for this entire building, and the applicant is willing to do 2.

Additional dimensioning was provided on the plan. The stairwell was highlighted to be clearly visible.

The balconies have clearly been marked out, as well as sliding glass doors have been shown on the units out those balconies.

The two-hour fire rated walls have been indicated on the plans. They are dark black dash lines on your floor plans. Draft stopping and fire blocking notes were added to demonstrate those characteristics in the attics and separations between the various floors.

I would like to note that none of the units changed in size or dimension. The applicant did add an enhanced kitchen plan which was designed by a kitchen designer.

Chairman Dunning questioned the hallway setup and I really wish the fire department

would address more about this but, if there is a fire in the stairwell from the 1st floor, how do the people on the 2<sup>nd</sup> and 3<sup>rd</sup> floors get out of the building?

Mr. Graviano stated this is a code compliant building. This is a common set-up, which is built all over the country. These types of buildings have been deemed to meet egress needs in the event of a fire. A second staircase is not required. The Building will be sprinklered, including stairwells and attic

Attorney Mondello stated to Attorney Lorber that Mr. Graviano is testifying as an expert in the field of architecture.

Attorney Lorber stated he is answering the questions that have been directed at him. I believe if he is uncomfortable answering a question, he will let you know.

Engineer Nash stated he is practicing architecture without a license.

Mr. Graviano stated he has been answering questions about the basic characteristics of the building.

Engineer Nash stated that, with all due respect, the Board Members are asking questions to you – they are looking for answers from you – and they are going to base their decision on this application based on your answers that you are not licensed in this area. I think it is inappropriate. I believe you are doing the application a disservice.

Attorney Lorber is not going to dispute what is being said because I think you are correct. I am going to withdraw any more testimony. You have the basics of what has been changed and I will bring the Architect, who testified last month, back. He couldn't make it tonight and I was trying to be able to get your answers since the revised plans were submitted so that you would understand what had been done and I thought he could testify in that limited area. It is obvious that there are questions that have gone beyond that, and will have to get the Architect back.

#### Exhibits: (Traffic Engineer)

A-18 Traffic Study Dated April 27, 2015

Attorney Mondello swore in Elizabeth Dolan, Dolan & Dean Consulting Engineers, 792 Chimney Rock Road, Martinsville, New Jersey.

I have a Bachelor's of Science Degree in Civil Engineering and am a Licensed Professional Engineer registered in New Jersey. Over the past 30 years I have focused in the area of traffic engineering. I have been accepted as an expert in approximately 250 municipalities. I have testified before Wayne and Clifton in Passaic County, but not before Wanaque.

#### Testimony of Engineer Dolan

The Traffic Study has been prepared following the appropriate methodologies to evaluate the impacts of the residential development. In doing so, we first performed traffic counts at the Fourth Avenue intersection, which is where our site access will align opposite Ringwood Avenue. Those counts were performed back in February of 2015. It was clear weather and the study was conducted during normal conditions with school in session. We performed the counts from 7:00am to 9:00am and from 4:00pm to 6:30pm to isolate the highest period of traffic when our residents would be leaving in the morning to go to work

and returning in the evening peak hours. The highest volume concentration was between 7:30am and 8:30am and 4:30pm and 5:30pm. The predominant movement is southbound in the morning, as people are making their way to 287, and there are heavy flows passing the site during the morning.

The proposed residential development is estimated to generate about 18 driveway movements during the morning peak hour, and 22 driveway movements in the evening hour. These estimates come from data compiled by traffic engineers at residential apartment developments such as proposed and develop a number of trips. So they are estimates, not exact, but they are forecasts based on actual counts of other residential developments.

The amount of traffic we are looking at for this development is not considered significant in traffic engineering terms. Typically, if you are at 100 or more movements in an hour, that is considered significant. At that level of trip generation you are likely to create an impact that might require improvements. In this case, we take the projected driveway movement and add them to the traffic volumes already passing by the site on Ringwood Avenue, we then determine how efficiently the volumes will enter and exit our driveway. This is done through a grading system with levels A through F. Our driveway movements will operate at a Level of Service of D or better. Meaning there will be some delay as motorists exit the site during morning peak hour and that is because of that heavy southbound flow that has been observed by our office, but the movement in and out of the driveway during peak hours will be at acceptable levels.

We also met with the County regarding the driveway placement. The issue that we need to resolve, and is indicated in our report, is a regrading across much of the site to maximum the site distance and visibility so that motorists existing the site can see vehicles coming from the north and so southbound vehicles can see our driveway location. The driveway is appropriately aligned opposite an existing street so that we keep all the movement concentrated at one location.

I think you have heard extensive testimony about the on-site circulation and parking stalls. I would concur with the engineer's testimony with regard to the appropriate design standards and certainly a surplus of parking based on the typical demands or requirements of this type of development. It seems to me that the redesign that has been proposed and submitted to you this evening and the supporting testimony certainly confirms the site has been appropriately designed to accommodate maximum parking demand and also to accommodate two-way circulation and emergency vehicles circulation.

We are here for a Use Variance. As I said early, we are looking at an 18 to 22 trips in an hour. Your ordinance requires that there be non-residential space matching the amount of residential space proposed. Any commercial activity on this site, whether in combination with residential uses or on its own, would certainly generate traffic in excess of the volumes that I mentioned this evening. A retail development at this proposed site would generate in excess of 300 trips during the evening peak hour and just under 100 trips during

**morning peak hours. So certainly a retail development would generate greater volumes than the 34 residential units that are proposed.**

**Vice Chairman Grygus questioned that you have 34 units of which the RSIS requirement was 67 parking spaces, and it is not an age restricted development, and you are saying that there are going to be only 14 out of the 18 trips between 7:30 and 8:30am southbound out of the site? Doesn't anybody work?**

**Engineer Dolan stated that is correct. Not everyone leaves at the same time. Some people leave at 5:30/6:00am, 6:30/7:00am or work from home. For example, if you have 1 to 2 cars per unit, why don't I have 60plus trips happening in an hour? The volumes are represented on Table 1 of our Report on Page 4 and would be representative of the busiest hour of traffic in the morning for 34 apartment units. This comes from the Institute of Transportation Engineers Publication called "Trip Generation". This document provides research, counts and various land uses and translates them into trip rates. This source is what is relied upon by traffic engineers all over the country and, in New Jersey, we are mandated to use this document by our DOT, but it is certainly the recognized source for traffic engineers and it is our go-to-source for estimating driving volumes. This is the appropriate and accepted methodology.**

**Attorney Mondello questioned, at what number would the Level of Service result adversely?**

**Engineer Dolan stated I cannot give you an absolute because I would have to back into that calculation, but I would think that, based on the numbers that I am looking at, if we had on the order 45 vehicles existing in an hour you would probably get to that F level. I don't think at 28 we would reach an F, we might be down into E by them, even given the existing condition of the traffic routinely backing up from the light past the Exxon Station. This also makes the model difficult to rely on because we don't really have a free-flowing condition in the morning. With residential development, we tend to travel in the same direction as the predominate flow, meaning that we would want to go southbound in the morning which would be a right turn out of the site, whereas the left turn coming out of Fourth Avenue across the street is already at an E and F level because the left is harder to make. The right into the southbound flow is easier to make. The movement has to be made into one lane as opposed to crossing a lane and getting into that flow.**

**Vice Chairman Grygus questioned what is your opinion on restricting northbound left-hand turns into the site?**

**Engineer Dolan stated she did not think that is practical. You would have to go elsewhere or go around the block.**

**Members Hoffman and Levine brought up that you can't make a left-hand turn into the Haskell Town Center.**

**Vice Chairman Grygus stated this was one of the concerns of the Police Chief. Only thing I would say about the Haskell Town Center is you have the option of coming in off of Doty Road.**

**Engineer Dolan also stated a commercial site has a higher generating site. With this development, we are looking at 3 left hand turns in the morning peak hour and 10 lefts in**

the evening peak hours. There is traffic there and going to be traffic no matter what is developed.

Engineer Nash stated if you prohibited the left turn, because it is aligned with Fourth Avenue, the cars would go straight and then make a left into the neighborhood. I think that would be less safe because you are trying to accelerate across two lanes and then you have a crosswalk on the other side too. I would say allow the left turn.

Engineer Nash also commented on the trip generation stating this is the appropriate method used. This is actual data from different sized developments and it is all plotted on a graph and then they put an average line through it and so you can find a 34 unit apartment complex and get a trip generation count. It is estimated because it takes apartment complexes all over the country so people in New Jersey live differently than people in different parts of the country. Even if you double this, i.e., 30 cars, it is still one car every two minutes so it really doesn't impact Ringwood Avenue at all.

Member Covelli questioned if the County reviewed this and has to approve it.

Attorney Lorber stated the County did review the whole application and approved it and we did include it in our package to the Board, which did list some conditions of approval.

Member D'Alessio, after reviewing the plan, would prefer to see the building 7' or 8' wider then there could be a common hallway which would fireproofed.

Chairman Dunning advised Member D'Alessio that his question is for the architect but he is not here tonight. The architect will be here at the next meeting and we can address it directly to him.

Member D'Alessio stated we have a responsibility for the town and residents and this building, in my opinion, is a potential hazard. Member D'Alessio put on the record his concerns in the event there is a fire and his unhappiness with the proposed plan/design.

Chairman Dunning: Does any member of the public have any questions on the traffic testimony we just heard? Seeing none and hearing none, we close the public portion.

**Exhibits: (Applicant's Planner)**

**A-19 Planner's Report (Dated June 9, 2015)**

Attorney Mondello swore in Jill Hartmann, 21 Sparrowbush Road, Mahwah, New Jersey. I am Licensed Professional Planner in the State of New Jersey. I am a member of the American Certified Planners and American Planning Association. I have been a planner in excess of 35 years and represent several municipalities in the New Jersey. I have never had the pleasure to be before this Board; however, I used to be the Planner for Wanaque. I am presently the Planner in Clifton, Weehawken, Pequannock and Jefferson Township. I have been before the Zoning Boards of Wayne and Bloomingdale. I have written Master Plans, Housing Elements, Zoning Ordinances for many municipalities.

**Testimony of Planner Hartmann**

**I prepared a Planning Report on June 9, 2015 for this development.**

**This site is located in an R-10 Residential District as well as B District. Neither of these zones allow what is being proposed in this Use Variance Application.**

**As far as the site goes from a planning perspective, we go to the site to see what types of constraints there are and what makes development easy or not. The site itself for the zone is oversized at 4.8 acres and presently vacant and has slopes between 15% and in excess of 25%. It is located on the western side of Ringwood Avenue with over 153' of actual frontage on Ringwood Avenue. There is a driveway on the southern side of the site along Ringwood Avenue.**

**The site is located in two districts – the R10-Residential District and B District. It is directly adjacent to the SB District, which is your Service Business District and then the R-10 District to the north and west. There are several different uses that surround the site. To the south of the site is the Haskell Town Center, to the southwest is an electrical substation and further west is a single-family residential neighborhood that accesses through Doty Road. Across the street to the east is a vacant bank as well as Arrow Trucking, and then on the north side of Fourth Avenue is a gas station and further north are single-family residences. To the north of the site on the western side of Ringwood Avenue is a three-family home (I believe) that was discussed earlier and there is a four unit building.**

**With regards to the surrounding land uses, it is a unique site and it has always been. From the years I worked in Wanaque and driving up and down Ringwood Avenue, this site has always been a very distinctive topographic lot.**

**It has been discussed at length that there are 6 – One Bedroom Units and 28 – Two Bedroom Units for a total of 34 Units. We are now at the point where we are offering 83 off street parking spaces, where 67 are required, and an exercise/play area approximately 1,235 square feet.**

**In my report, I went through the zoning. Suffice to say we don't comply with the R-10 District of single-family residences and the B District permits a host of retail/commercial uses. Even though this is a Use Variance application, we do meet all the bulk requirements, coverage requirements and area requirements, including the height requirement of these zones. We just do not meet the use. There are no C Variances that are needed. We do not need any other variances other than the Use Variance.**

**With regards to the use being particularly suited for the subject, the latest case law (*Larry Price v. Himeji, LLC and Union City Zoning Board of Adjustment*) which says basically that there needs to be a more general understanding of particular suitability and the applicant should demonstrate if a particular property as developed for the proposed use serves the general welfare because its location is particularly well suited for the use.**

**I propose to you that this site absolutely is particularly well suited for our uses. It is unique in its configuration, its zone, its physical location along Ringwood Avenue and its environmental characteristics, as well as being adjacent to the Haskell Town Center. Development of the subject site, as it is designed, will not result in any significant negative impacts to the existing steep slopes, vegetation or rock outcrops that are generally located throughout this site.**

**Development demands and requirements for non-residential development and single-family residential development, such as infrastructure improvements, parking and blasting, would be significantly greater if the site was developed for commercial use. It also insulates the surrounding residential neighborhoods to the west and the building is a significant distance from the residences that are located to the east.**

**For these reasons, I would suggest to the Board that this site is particularly suited for this development.**

**Attorney Mondello stated you mentioned that one of the reasons that this site is particularly suited because it is adjacent to the Haskell Town Center. Why?**

**Planner Hartmann stated one of the things is that use will not compete with the Haskell Town Center and will provide a population base as well to utilize the Center.**

**I looked through the Borough's Master Plan and 2010 Master Plan Reexamination Report and there was a goal in that report to encourage residential densities that will allow housing for a variety of income ranges. The proposed 34 unit complex does provide a residential density that is consistent with the surrounding residential neighborhoods. The housing type will provide one and two bedroom units. It is also approximate to mass transit and shopping making it a desirable living environment for a variety of income ranges.**

**I also looked into the Land Use Law and there are several goals I believe that this development is supported by. (The testimony given mirrors what is in the Planner's Report, pages 6, 7 and 8 under Municipal Land Use Law.)**

**I believe the use variance can be granted without substantial detriment to the public good and to the Zoning Plan and Master Plan for all the positive reasons I have mentioned and contained in my June 9, 2015 Report.**

**Attorney Lorber, to recap, questioned the Planner that she believes environmentally this is good planning, the property is unique in its shape and its environmental characteristics that makes this good planning, its proximity to the Haskell Town Center and other commercial areas make this good planning and you believe it meets all the criteria of both case law and statutes that this Use Variance would be appropriately granted?**

**Planner Hartmann answered "yes" to each item.**

**Vice Chairman Grygus questioned that in your report and in part of your testimony you feel that the 34 unit multi-family residential complex provides residential density that is consistent with the surrounding residential neighborhoods, can you tell me how many**

multi-family dwellings and how many units are in those dwellings currently exist in the surrounding neighborhood?

Planner Hartmann stated that as far as the density, it is not that far off the R-10 District. Vice Chairman Grygus stated you are not using the whole 5 acres.

Planner Hartmann stated she used that to calculate the density. Also, there are no other 34 unit apartment buildings on Ringwood Avenue.

Attorney Mondello questioned now that COAH is abolished, the Board has somewhat the responsibility or function to do something with respect to affordable housing. What do you suggest?

Planner Hartmann stated she has no idea. I am in the process of representing several municipalities and trying to figure what their numbers are and what to do. Every single decision from the courts are different. I know there are communities that are requiring payment in lieu of construction, and other communities requiring a set aside requirement of 10% or 15%. However, I don't know what the numbers are for Wanaque so I don't know what you need to do.

Attorney Mondello questioned if your client has a preference?

Attorney Lorber stated we have no objection to a payment in lieu of units.

Attorney Mondello asked what are some of the negative criteria associated with this application?

Planner Hartmann stated, other than not developing it, it already has been impacted by whatever work has been done to the center of the site. I look at a piece of property as to what negative aspects are for that type of development and I think this is one of the better applications that I have ever seen with regards to respecting the actual environment in which the site is being developed.

Attorney Mondello questioned if the visual aspects from Ringwood Avenue are a negative?

Planner Hartmann stated I don't believe it is because your ordinance very specifically allows 35' and it doesn't say where it needs to be located. You have a minimum front yard setback in both the Business District and Residential District and this far exceeds that. It allows 35' high building and this building is slightly under. It is what has been represented as approvable and acceptable in your ordinance.

Since Planner Hartmann is familiar with Wanaque and you did prepare a Master Plan and prior Redevelopment Plan along Ringwood Avenue, which envisioned a mix of business and professional along Ringwood Avenue, Borough Planner Kenneth Albert questioned if at any time did you look at this site as part of the Master Plan process?

Planner Hartmann stated she looked over the plans, but I can't remember. I know the site has always been a unique aspect to Ringwood Avenue.

Planner Albert, following up Attorney Mondello's comments, are you familiar at all with the numbers related to the requirement for Wanaque on affordable housing either through the Kinsey numbers or before the court?

Planner Hartmann stated "no".

Planner Albert stated what happens if I told you that the number was 300 units.

Planner Hartmann stated she would not be surprised given Kinsey loves housing.

**Planner Albert questioned, given that and as a planner, would you have a sense of whether a contribution or a specific number of units percentage would be more or less beneficial to Wanaque?**

**Planner Hartmann stated, given that it is a policy decision that Wanaque would have to make, I don't accept Kinsey numbers. I will tell you that the City of Clifton winds up with a number of zero so I like it, but as a general rule I don't like Kinsey numbers. I think it really needs to be a policy decision by the governing body because I don't know the status of Wanaque numbers or what processes have been done.**

**Planner Albert advised that Wanaque has filed a Declaratory Judgment.**

**Planner Albert questioned, in the other communities you work in, have your requested in like developments certain percentages to be set aside for affordable housing?**

**Planner Hartmann stated Pequannock chose not to participate, Weehawken and Jefferson Township do not participate. In Clifton, we have excessive affordable housing with several group homes. We have 100% municipally sponsored through our development fees.**

**Planner Albert questioned do you find there is a need and/or shortage for multi-family housing in Wanaque? Have you done an assessment?**

**Planner Hartmann stated it is a very good transitional type housing use. Given where it is located is great for mass transit to get to certain places; it is on Ringwood Avenue as far a well-traveled road that doesn't impact the local interior streets; and it is an excellent compliment to the Haskell Town Center and downtown. I also have not done an assessment.**

**Vice Chairman Grygus questioned if there was any analysis or projections with respect to the impact on the school from this development.**

**Planner Hartmann stated she has not, but I can tell you statistically, historically and from other developments that I've had in towns that I've worked with, a one or two bedroom unit would normally get a few pre-school children. By the time children go to grammar school, they tend to be out of the apartments, and you almost get no high school children.**

**Member Covelli appreciates Planner Hartmann's candid observation of COAH, but I think we have to make a concerted effort to at least be mindful that whenever we can encourage it, we do that because it is always a moving target. Whenever someone can demonstrate you've done nothing, you are in the worst position to defend nothing, as oppose to defending you did something.**

**Attorney Lorber stated that when we first met with the Mayor and Borough Administrator, which I know this has nothing to do with this application, but we did talk to them about COAH requirements, and the number 10% was given to us and we determined that we could accept 10% if we got 34 units that we are requesting. However, we would absolutely prefer a contribution from an economic point of view is much better. We would also consider doing 5% (2 units) and a payment as suggested by a Board Member.**

**Member D'Alessio questioned if they had done an analysis on the type of community Wanaque is? Do you realize that better than 60% of the people here are senior citizens? In that building, there is no elevator, and one can't be put in there as it has been designed. If you did it differently, you could have one main hall with an elevator so that senior citizens could get up to the higher floors.**

Also every unit is no more than 900 square feet with small sized rooms? What apartment would you live in?

Chairman Dunning stated these questions are for the Architect, not the Planner.

Member D'Alessio voiced his concerns about the design of the building.

Planner Albert is a little concern about when the next Board Meeting is going to be. I will be about of the country.

Attorney Lorber voiced the same concern. When is the next meeting of the Board?

Chairman Dunning stated December 2<sup>nd</sup>.

Attorney Lorber requested January since he will be away.

Chairman Dunning stated the January meeting is the 6<sup>th</sup>. Will you be back by then?

Attorney Lorber stated he will be back.

Planner Albert stated he will be available on the 6<sup>th</sup>.

Planner Albert made some comments for the Applicant and Board to review.

On affordable housing, Wanaque has participated in a mass filing of League of Municipalities in a Declaratory Judgment simply stopping any possibility of a builder's remedy suit in protecting the town. Wanaque has also filed an Affordable Housing Plan. The numbers that arose out of fair housing, which is an advocate of affordable housing submitted to the court, were quite high and I don't think will be upheld. It is becoming very clear that Wanaque will be left with not an insubstantial affordable housing requirement. Having said that, I think this Board is faced with two things. If you do nothing, there will be no affordable housing and you will not impact positively, that is, reduce whatever requirement is imposed. It is almost impossible to concede that you won't have a requirement. I think that the choices before the Board, and I can't make that choice you have to make that choice, are accepting the 10% or 4 units of the applicant, or you do have another alternative. You have an ordinance that allows you to impose a 1.5% fee of the assessment once this project is completed and that gets put into a pool that the town then administers in a variety of ways. It can subsidize developers, it can build their own affordable housing and hopefully if that fee is administered correctly, it will be leverage, that is if an affordable housing unit costs \$200,000 to build, the town may only need \$20,000 or \$30,000 to leverage a developer to construct that. The advantage to the 1.5% fee is it gives the town great flexibility. The advantage of having 4 units built here guarantees this fixed number of units and it may, in the end, be more units than you can leverage. This is what you are faced with. I wish I could be much more definitive but, as you know, things are very much in flux right now, and Wanaque does not have a final number. I would urge you to choose one of those two things as opposed to doing nothing. The nice thing about the 10%, some towns have chosen 5% and others 20%, is it does provide for a very workable and viable housing project in the sense that the number of affordable housing units are very well integrated into the overall housing. I don't think you can go wrong if you do something, but those are the choices I would suggest to you.

Member Covelli asked what about the combination? It is the best of both worlds.

Planner Albert stated this is the first time I ever heard about a combination. It is an interesting approach and I agree with you that it certainly is a viable approach to take .75% which can certainly be leveraged into a few units, if not more, and at the same time have 2 units be built in this development. It is a clever approach.

**Chairman Dunning:** Does any member of the public have any questions on the Planner's testimony we just heard? Seeing none and hearing none, we close the public portion.

Attorney Lorber advised that he had no more witnesses. He also advised that they will sign an extension of time for this application.

Chairman Dunning advised that certain Board Members' terms will be up on December 31<sup>st</sup>. Whatever happens, we will make a concerted effort to get everybody in here to listen to the testimony of these two meetings we have had.

**MOTION TO CARRY APPLICATION TO JANUARY 6, 2016, WITH THE UNDERSTANDING THAT THE APPLICANT WILL AGREE TO ANY EXTENSIONS THAT ARE REQUIRED:** made by Vice Chairman Grygus, seconded by Member Covelli. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, D'Alessio, Hoffman and Levine. Motion Carried.

**Recess 10:29**

**Reconvened 10:44**

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

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

**RESOLUTIONS:** None

**CORRESPONDENCE:** None

**VOUCHERS:** submitted by Ronald Mondello, Esq. on 1049 Ringwood Avenue, LLC Application in the amount of \$300; and for attendance at the November Meeting in the amount of \$300.

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

**MOTION TO APPROVE OCTOBER 7, 2015 MINUTES:** made by Vice Chairman Grygus, seconded by Member Hoffman. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, D'Alessio Hoffman and Levine.

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

Board Secretary advised that Jeff Brusco, the Construction Official, Building Inspector and Zoning Officer gave his resignation. His last day is November 12<sup>th</sup> and he took a position in Wayne.

Member Covelli stated he will be missed greatly. He was an asset to the community and appreciated his service to the community. Chairman Dunning agreed.

**MOTION TO ADJOURN AT 10:45PM: made by Member D'Alessio, seconded by Member Vice Chairman Grygus. Motion carried by a voice vote.**

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