

REGULAR MEETING

Meeting called to order by Vice Chairman Joseph Graceffo with a salute to the flag at 8:06P.M.

READING: Open Public Meeting Announcement

This is Regular Meeting of the Wanaque Planning Board and adequate notice has been given and it has been duly advertised by the placement of a notice in the Suburban Trends on February 27, 2022, and a notice thereof has been posted on the bulletin board in the Municipal Building in the Borough of Wanaque, on the Borough's website, a copy thereof has been on file with the Borough.

ROLL CALL: Vice Chairman Joseph Graceffo, Councilman Dominick Cortellessa, Members Kevin Platt, Charles Strobel, David Slater, Jack Crilly and Mary Leonard

PRESENT: Attorney Steven Veltri

**ABSENT: Chairman Gilbert Foulon, Mayor Daniel Mahler, Members John Jordan and Engineer Michael Cristaldi
Member Donald Pasquariello resigned**

MINUTES: from the October 20, 2022 Meeting.

MOTION TO APPROVE: made by Member Crilly, seconded by Member Leonard. Voting yes were Vice Chairman Graceffo, Members Platt, Slater, Crilly and Leonard. Councilman Cortellessa and Member Strobel abstained

Vice Chairman Graceffo: On the Agenda, we have three (3) Resolutions from the Mayor & Council which were going to be discussed this evening. However, they Borough's Planner has requested they be carried to the January 19, 2023 Meeting. Anyone in the audience here in reference to those three (3) Resolutions, they will not be heard until next month.

COMMUNICATIONS: None

NEW BUSINESS APPLICATION: Eighty Seven Development (Technology Business)

Business Owner: Eighty Seven Properties LLC, 24 White Road, Ringwood

Property Owner: Kenamar Leasing LLC, 81 Ringwood Ave., Wanaque

Property Address: 81 Ringwood Avenue, Wanaque, NJ

A. Michael Rubin, 1330 Hamburg Turnpike, Wayne, NJ, Applicant's Attorney

Attorney Rubin: Proposed business owner is here, not the property owner.

Applicant: The plan is to purchase the building.

Attorney Rubin: We are purchasers under contract so there is a formal owner subject to, of course, the approval of the Borough to allow the business to exist.

Attorney Veltri: Are there any other contingencies in the contract?

Attorney Rubin: This is the only one.

Attorney Rubin: The present business, Frank's Tackle, has been closed to due to the unfortunate death of the owner. Mr. Walsh has entered into a contract with his company to purchase the building. It is a technology company and he is here to explain what he does so the Board will know exactly what kind of business he is in. We know that this is a Business Zone and there has been a business on this site for many, many years. Obviously, this is not a retail business; it is different. Mr. Walsh will come forward to give the Board the benefit of what is going to happen on this site.

Attorney Veltri swore in Timothy Walsh, the Applicant.

Attorney Rubin: Mr. Walsh, you presently have an existing company that is operating in the area and you are seeking to purchase this building at 81 Ringwood Avenue to put your business into it?

Mr. Walsh: I do, that is the plan.

Attorney Rubin: Could you please advise the Board as to what your business is? What does the company do?

Mr. Walsh: We are technology company that consults for only the major cellular carriers. We only work directly for Verizon Wireless, Team Mobile, Dish Networks. We consult on basically integrations and how they might integrate new equipment. Then the other side of the business is we also do the installations. As an example, we are putting 5G antennas in buildings, in government buildings, in sports venues, but we also put the technology on cell phone towers.

Attorney Rubin: What is actually going to happen inside this building?

Mr. Walsh: Currently, we exist on Route 23 in West Milford. We have 1,000 square feet of office space and about 800 square feet of inventory. We run wires and we use different equipment based on whether we are working in a building or actually outside on a cell tower. The building is a little bit big for our use, but we are kind of a small company that does big things. There are three (3) owners. The plan is for office space on the top floor and then basically on the bottom floor will kind of be like a staging area and some inventory for the jobs we have coming up.

Attorney Rubin: What was in former days retail and storage, now the second floor is going to be a traditional office space use?

Mr. Walsh: 100%.

Attorney Rubin: There will be people working at desks and there is nothing unusual about that?

Mr. Walsh: Not at all.

Attorney Rubin: On the first floor, the main floor, which will be an open space, there will be no retail use is there?

Mr. Walsh: No retail.

Attorney Rubin: Your employees and owners will be working within that space to design or do whatever you are doing with the companies that you are working for?

Mr. Walsh: Yes. On a typical day, we show up at the office. There are four (4) of us that basically work in the office, and then we have about ten (10) folks that work in the field. On a typical day we get to the office at 6:30am. From normal business hours, from 6:30am to about 4pm/5pm, there is only four (4) of us in the office. During normal business hours at that building there would only be four (4) of us in the building. The other employees basically take a work van and head out to whatever site they are working at. Typically, because we work in New York City, North of the City, Upstate New York and New Jersey, we work long days. It is pretty typical for our guys to work five (5) twelve (12) hour days.

Attorney Rubin: What would be the greatest number of vehicles that would be parking on this site?

Mr. Walsh: If every employee brought a vehicle, I mean it could be as many as twelve (12).

Attorney Rubin: Do you have more than that in parking spaces on the site?

Mr. Walsh: I believe they are 37 or 40 spaces.

Attorney Rubin: You don't have customers, as such, or vendors coming to the site.

Mr. Walsh: We don't.

Attorney Rubin: You would not be overflowing the parking at any time.

Mr. Walsh: Not by any means.

Attorney Rubin: Is it your intention just to keep this building with your own use?

Mr. Walsh: Yes, that is correct. We would like to occupy the entire space, even though it is a little large for us.

Attorney Rubin: There is a small residential apartment to the rear, which has been occupied for many years. Is it your intention to keep that tenant, or a tenancy as such, in that residential space?

Mr. Walsh: Yes. We have no intention of changing anything there.

Attorney Rubin: That residence will remain.

Mr. Walsh: It will.

Attorney Rubin: Obviously, there is adequate parking for whoever lives there.

Mr. Walsh: There is.

Attorney Rubin: And there is a tenant there today?

Mr. Walsh: There is and they have been there for a number of years, from what I understand.

Attorney Rubin: That person would stay as long as they want after you own it?

Mr. Walsh: As long as they are paying the rent.

Attorney Rubin: It is your intention to remain in business in the Borough of Wanaque at this site because this is where you want you to locate and be here?

Mr. Walsh: It is. I've been in Ringwood my whole life. As a matter of fact, the ballfields in Ringwood are named after my Grandpa. We've been around for a long time. It's very close to my house. I live right about the Monksville Dam on White Road. It is close to home and a better location for us. The current space we have is about 1,800 square feet; it is too small. 8,000 square feet is too big, but I'm extremely familiar with the building and the location and it would be a good move for us.

Attorney Rubin: Those are the questions that I have for Mr. Walsh. I know that his business doesn't fit squarely into what might be a retail use because it's not retail; it's a new use. We now have technology all around us and this is a technology company and I most respectfully ask the Board to allow this New Business Application to move forward. Mr. Walsh is here to answer any of your questions.

Member Crilly: I am looking at the Tackle & Field and it's a funny configuration because the side of the building faces Ringwood Avenue. Where the parking spaces are, heading to the old entrance to the left, there is a garage door, and that's going to be the "loading dock" area I would assume.

Mr. Walsh: It would be but, for us, on a weekly basis we might get two (2) deliveries.

Member Crilly: I am talking about loading vans because you are obviously going to have supplies so they would be loaded out of that "garage".

Mr. Walsh: That would be correct. That is the intention.

Attorney Veltri: From the write up, it looks like you are going to have about five (5) vans. Is that correct?

Mr. Walsh: We probably have seven (7).

Attorney Veltri: What are you going to do about signage?

Mr. Walsh: We are not retail use. I would like to keep the sign above the door and the pylon sign in the parking lot. Other than that, I don't need a lot of signage.

Attorney Rubin: So you would take whatever existing signs and just change the names and put your logo on it.

Mr. Walsh: Yes, that would be the intention. There are more signs on that building than I need by a long shot.

Vice Chairman Graceffo: I want to point to the fact that there are so many signs both on the building and on the fence above the property line and in and around the building. I am assuming that once you take sale, you can remove all those signages and I think the Board would want that and you could obviously, according to what the code requires, as far as your sign on your building and the existing sign that is on the street, to be updated to your business. If you could remove all the other garbage that is out there right now, it would be appreciated.

Mr. Walsh: I would be happy to do it.

Vice Chairman Graceffo: I am certain that once you take ownership, the boats that are there, what about the trailer that is on the property?

Mr. Walsh: So my understanding is, right where the pylon sign is, as you are heading south on Ringwood Avenue, the property ends and I believe it is Roger Redner that maybe owns the adjacent piece.

Vice Chairman Graceffo: According to the plot plan, that shed is shown as not on your property, but it is on the edge of your property.

Mr. Walsh: Yes. My intention would be to, for what it is worth, I run a clean operation. I own the strip mall where we are currently. When I brought that in 2018, it was fairly dilapidated. I have clean the entire thing up. I've paved the parking lots and, on my own dime, I've cleaned up all the tenants' signage and the pylon sign that faces the highway and even my work vehicles are clean as a whistle. So yes, my intention would be to clean up anything that is actually on that property.

Attorney Rubin: I think some of this looks like it is Redner's property. I was mistaken myself when I first looked at it and I thought some of the boats were in storage on this property, but they are not.

Member Platt: He stores them up behind the house. There's a lot of boats up there.

Attorney Rubin: That's correct, including my own boat.

Councilman Cortellessa: We are all interested in improving the look of Wanaque, up and down Ringwood Avenue. You make a point in your application to say that you run a clean operation and that the facility will look better over time. The things that you are talking about now, removing all of the old signs, putting up simple signs for you, cleaning up the building itself and cleaning up the parking areas is some of the things that you are going to do in terms of improving the look because you make that a point in your presentation.

Mr. Walsh: It is a guarantee. I would be happy to show you the before and after pictures of my other location. It is just the way that I've done everything. I've been in business for myself for almost 20 years and I started by building indoor climbing gyms and I made a name for myself in that business and grew it to ten locations in multiple states by running the cleanest climbing gyms there are. It is just the way I do things. I take pride in anything I do and certainly in the area where I've lived my whole life. The building will be clean; that I promise.

Councilman Cortellessa: That's good. We want the places to be clean, we want our wonderful town to look better and better with everything we do and every business that comes in here adds to value to our community.

Mr. Walsh: I agree.

Vice Chairman Graceffo: We received from you a plot plan showing the location of the building, the parking spaces and things of that nature. We don't have an interior floor plan, and I'm curious because it is hard for me visualize inside the building. As you walk in the main floor, that's going to be your office area?

Mr. Walsh: No, up the stairs.

Vice Chairman Graceffo: Second level. On the second floor is really your office spaces and downstairs will be there your assembly area primarily.

Mr. Walsh: Yes, like a staging area. Sometimes it is to our benefit to configure some of these things before they go out to site just to make sure that, when we plug them in, once we are done with our wiring, that we have actual connectivity.

Vice Chairman Graceffo: Basically, on the second floor, is where the apartment is and where your office space will be.

Mr. Walsh: The apartment has a completely separate entrance on the back side.

Vice Chairman Graceffo: But that's on the same level?

Mr. Walsh: It would be on the same level, yes, as the office space.

Vice Chairman Graceffo: And your only access to that second floor is from the interior of the first floor.

Mr. Walsh: Yes.

Vice Chairman Graceffo: Is there a basement to this building?

Mr. Walsh: Not that I am aware of.

Member Slater: Your property line is basically at the south end of the building.

Mr. Walsh: It is at the south end of the parking lot, right where the pylon sign is.

Member Slater: I thought you just said Redner owned the parking lot. I know he owns up the hill.

Mr. Walsh: No, he owns about 1/4 of an acre immediately south of the parking lot.

Member Slater: What about the stuff up the hill? Is there an easement access or something to that?

Mr. Walsh: My understanding is that access to Redner's property is actually south of this property and it does not come through 81 Ringwood Avenue.

Member Slater: Do you know that when that building was put up under the Americans With Disability Act, it required an elevator for the second floor and, although it turned out to be not truthful, Frank's maintained that they were going to use that upstairs area to demonstrate fishing equipment and there would no retail sales, no nothing other than that upstairs. Such is not the case. That became the hunting, fishing and camping department. I don't know if that can be waived since it's been a lot of years ago, but if it is being transferred perhaps now would be the time to make it comply and that could fall to the present owner or to you.

Vice Chairman Graceffo: Mike, would you have any information on that?

Construction Official: He is only going to be bound by what the building code is going to require and only if the ANSI code requires to have accessibility. He'll need building permits for the tenant fit-out albeit they will be minimal but he does have to do a UCC Change of Use from Mercantile to Business and for the Storage Area below will be an S-1 or S-2. We'll talk a little bit more about as you get through this process.

Vice Chairman Graceffo: Any other questions from Board Members?

Member Crilly: I am looking on the north side of the rock wall. The metal building there, I think they had storage there, is that going to be demolished or is that not on your property?

Vice Chairman Graceffo: It's by the white fence that divides the two properties.

Mr. Walsh: That is not on the property.

Vice Chairman Graceffo: Right there is solid white fence going across that property line and so that building is not any part of this particular property.

Vice Chairman Graceffo: Just one other question. I know you have vans or trucks. No high lift trucks or telescope trucks?

Mr. Walsh: No.

Vice Chairman Graceffo: Any other questions from Board Members? I need a Motion and Second.

MOTION TO APPROVE NEW BUSINESS APPLICATION: made by Councilman Cortellessa, seconded by Member Strobel. Voting yes were Vice Chairman Graceffo, Councilman Cortellessa, Members Platt, Strobel, Slater, Crilly and Leonard.

5 NEW BUSINESS APPLICATIONS – 26 Brook Street, Haskell, NJ

1. Handyman Business
2. Landscape Construction & Lawn Maintenance
3. Heavy Metal Scrap LLC
4. Sherwood Tree Service
5. O'Connell Sports, Inc.

Vice Chairman Graceffo: Next on the Agenda are 5 New Business Applications that pertains to the same parcel of property on basically 26 Brook Street, Haskell, NJ. Is the property owner here? Come up please, state your name and comment about what is going on this property.

Mr. Sbarra: Good Evening Members of the Board. I am Michael Sbarra and I'm representing Sbarra Property Management LLC, the owner of the property at 26 Brook Street. There are five (5) applicants you are going to hear from today. In general, to talk about this site a little bit, this site has been a contractor's yard for well over 30/40 plus years. I had originally owned this site through a landscaping business of mine and back in 2012 we had brought it as a contractor's yard. Testimony was given to this Board at a meeting on August 16, 2012. We had gotten approval from this very Board for that being used as a rented out contractor's yard as my landscaping business.

Attorney Veltri: What type of application was that?

Mr. Sbarra: It was a New Business Application for the landscaping business, At Your Service Landscaping.

Attorney Veltri: What was there before that application?

Mr. Sbarra: It was another landscaping business.

Attorney Veltri: So you were replacing an existing business.

Mr. Sbarra: Yes. I had sold my portion of my landscaping business back in 2013 to my partner at the time. With that, I had rights of first refusal to buy back some of the parcels as he started selling them. I had the fortunate opportunity to re-purchase this parcel back in December of last year (2021). The tenants that are on there right now, were the tenants that have been on there, some of them have been there for 15+ years. Same spot; same location; same use; same zoning, etc.

Attorney Veltri: Let me clarify for my own mind. Are you saying the applicants that are on our agenda tonight have been tenants in that building for 10 or 15 years?

Mr. Sbarra: It's a vacant; it's just a piece of land. There is no building on that property. There is one that has been there over 15 years. All the other ones have been there over 10+.

Attorney Veltri: Did they have approval from the Board to be there?

Mr. Sbarra: Now, at the time, the individual businesses had not.

Attorney Veltri: Why not?

Mr. Sbarra: They can speak to that but I don't believe that they were aware of the fact that they had to submit a business application.

Attorney Veltri: Were you?

Mr. Sbarra: I was not either. I thought that as the owner at the time when I brought it through At Your Service Landscaping, I thought that was kind of a blanket approval.

Attorney Veltri: To put as many businesses in there as you wanted without coming back to the Board, that was your understanding?

Mr. Sbarra: No. My understanding was, at the time, these tenants were already on there so I thought this was taken care of back in 2012 when it was represented at that time.

Attorney Veltri: Did you represent that to the Board in 2012?

Mr. Sbarra: Yes, I did.

Attorney Veltri: You said five other people were on the property.

Mr. Sbarra: I don't remember the exact wording.

Attorney Veltri: Is that in the Minutes?

Mr. Sbarra: It is. I did say that at the time that

Attorney Veltri: Is it in the Minutes?

Mr. Sbarra: I did. I didn't read through all the Minutes. I just noticed the date. But at the time, I did state that there was a landscaping business and there were some other tenants on that property that we were going to

Attorney Veltri: I am going guess, without looking at the Minutes, that this Board did not approve five separate businesses on that parcel in 2012. I am guessing that, but if they did, submit the Minutes to us at the next meeting because I don't want to cut you off, but we have a report generated by our Planner today. Have you seen it?

Mr. Sbarra: I just saw it when I got here.

Attorney Veltri: So did I. But he is saying, and he is our Planner, that this requires a Site Plan and possible Use Variance, which means this. We can't hear your applications tonight because they require a different type of application, possibly an application that this Board has no jurisdiction on.

Mr. Sbarra: Are you talking about a D-1?

Attorney Veltri: Yes.

Mr. Sbarra: I am a Member of the Zoning Board in town.

Attorney Veltri: So you know.

Mr. Sbarra: Yes.

Attorney Veltri: Okay so, what we don't want to do, and I don't want to waste your time, and I know it is a bad night, so I don't want to waste anybody else's time, we are, based upon our Planner's report, out of our jurisdiction tonight. It is not a proper application for this Board to hear or grant. That doesn't mean that it's going to be granted in the future, just not tonight.

Mr. Sbarra: I understand that. My only, I guess, counter to that, and I'm not being argumentative, based off past precedent, and understanding that what was there, and like I said, if you want to hear some of the testimony from my guys, you'll understand that some of these guys have been here a long time and, based off past precedent, and possibly even before the requirement of having a new business application in front of any these Boards, and I don't know when that ordinance was passed, to register the new businesses with the New Business Application, and some of these businesses may very well have been on that property long before that was even established.

Attorney Veltri: Well then you are going to have to prove that because, whether they are there or not, they had to be there on an approval, okay. If they were just there without any approval, that is an illegal tenancy.

Mr. Sbarra: Wouldn't that be a pre-existing, non-conforming use?

Attorney Veltri: No, not if it we never approved it.

Mr. Sbarra: Even if it was prior to the statutory requirement to have a New Business Application?

Attorney Veltri: The ordinance requirement was in effect longer than 10 or 15 years. I can assure you that. The zone, and you are on the Board of Adjustment, you said?

Mr. Sbarra: Yes.

Attorney Veltri: You are in a B Zone. The Planner outlined all the permitted uses in that zone and he then looked at these applications and is telling us in his December 15th report that a number of these are not permitted uses in the B Zone, which means, as you know, D-1.

Mr. Sbarra: D-1, yep.

Attorney Veltri: Which means that this Board is the wrong Board.

Mr. Sbarra: I respect that.

Attorney Veltri: It doesn't mean that you are not going to get it. It means that we can't do it.

Mr. Sbarra: Let me as you this, if this were to go in front of the Board of Adjustment, is this a blanket application or the entire site or does each individual tenant would need to file.

Attorney Veltri: That would be up to you. If you look at this report, and I don't mean to speak for Mr. Cristaldi, what he is saying is, look you have five different uses which raises some issues to begin with. Why don't you do a Site Plan Application for everybody and present your D-1 Application and your Site Plan the same night.

Mr. Sbarra: I understand that.

Attorney Veltri: I can't tell you what to do.

Mr. Sbarra: I have another question, out of respect for the time of all the gentlemen that are here

Attorney Veltri: I am glad that you are all here.

Mr. Sbarra: It was out of respect for their time that I was kind of hoping to get this knocked out today, but was this a necessary formality for them to have to submit that New Business Application knowing the current – I mean they paid their hard earned money to submit this application possibly with the intent of them now not being heard.

Attorney Veltri: I don't know if it is a necessary formality because I'm not at that level. I only see the applications that come through. I mean if there were questions about variances, you could submit a non-binding type of application to get our feelings on it, or your Board can interpret those applications and tell you directly. So, I guess this is the easiest way to get our determination.

Mr. Sbarra: Okay, my whole thought was, hey listen if this was going to go in front of the Board of Adjustment, why couldn't we just get it there.

Attorney Veltri: Probably because Mike didn't see it until now. Mike Cristaldi

Mr. Sbarra: Mike Cristaldi. I understand.

Vice Chairman Graceffo: The point being that these were individual businesses that probably did not come before the Board for approval over the years. Maybe you did, maybe the application originally from 10-15 years ago, but not these particular applicants. So they had to come really, as any new business in town, would have to come before this Board. That's where you have to start, we review it, the code says it's not within the right zoning area so you now have another alternative to go through.

Mr. Sbarra: Let me ask you this. Is there a time frame or anything. Obviously, no one is trying to drag their feet on it but is there a time frame since obviously I am going to need prepare a site plan, etc. if we are going to take the Board of Adjustment route.

Attorney Veltri: And you are probably going to need an attorney since you're an LLC.

Mr. Sbarra: Of course. In saying that, they are currently operating on that site.

Attorney Veltri: That's who you are going to have to ask (Mike Hafner). We are not enforcement.

Mr. Sbarra: Mr. Hafner, Mr. Setticone is there a time frame if we are going to go to the Board of Adjustment. Like I said, all these gentlemen are currently operating right now.

Mr. Hafner: Any application that you make to the Board, stays off any enforcement actions.

Mr. Sbarra: Okay, obviously it is going to take some time to get a site plan together and get an attorney hired and all of that. So there's not necessarily going to be an application in tomorrow, but these gentlemen are going to be operating tomorrow.

Mr. Hafner: This has been what eleven months, nine months.

Mr. Sbarra: Twelve months. It was December of 2021.

Mr. Hafner: It's been a year.

Mr. Sbarra: If that was the case, I wish we could have just went right to the Board of Adjustment.

Vice Chairman Graceffo: You have to move forward with your application to the Zoning Board, and it has to be in a legitimate time and fashion. Otherwise, there could be action taken against you and your tenants by the Building Department. Make very effort to do what you have to do and see what happens.

Mr. Sbarra: Just point of clarity, we are not hearing any of this applications this evening?

Vice Chairman Graceffo: No we are not.

Mr. Sbarra: Thank you. Appreciate your time.

Vice Chairman Graceffo: That is it in terms of the Agenda of items for new businesses. As I mentioned earlier, the Resolutions will be discussed at the next Planning Board Meeting.

Vice Chairman Graceffo: Is there anyone in the public who needs to come forward before the Board may do so at this time? Let the record show that no one in the audience has approached the Board.

Vice Chairman Graceffo: We have one Resolution PB2022-08 dealing with the Tri Borough Plumbing Supply. Steve is going to present that Resolution and explain why we are going to vote on it pending on a couple of clarifications on it that Steve will stipulate in the Resolution.

RESOLUTION:

PB2022-08 – Above All Services LLC d/t/a Tri Borough Plumbing Supply

Attorney Veltri: This was a Preliminary and Final Site Plan Approval to permit a renovation and improvements on the existing building and site for use for retail plumbing services and office space with attendant variances. The Board heard that Application on September 15th and approved it by an 8-0 vote. I wasn't here that night, but the Board voted on it subject to and contingent upon the Applicant submitting to the Board an architectural rendering and specifically said that the rendering shall be reviewed and approved by the Board prior to any building permits being issued for construction. I held off at our October Meeting hoping that there would be a rendering and there is apparently a rendering in the pipeline, but it hasn't been set forth in front of the Board. I am looking at time frames and looking at trying to finalize 2022 with the current Board so I prepared the Resolution for Approval tonight, but I specifically put that condition as part of the approval so my recommendation would be, if the rest of the Resolution meets your approval, lets vote on it, lets hold the Resolution in our records and hopefully they will present a rendering at which point we will give them the signed Resolution retroactive to tonight. If the rendering doesn't meet your approval, then we will discuss in front of the Board so everybody knows why we don't like the rendering.

Board Secretary: I have a procedural question about the Notice of Decision. Would I publish it?

Attorney Veltri: I think so because the Resolution itself is specific, the Minutes were specific and, in fact, if I was here on September 15th, I probably would have told the Board not to vote until we saw the rendering because this is what happens sometimes, but that is water under the bridge. I think at this point, we need to finalize it.

Member Slater: I would like to question him further. He's maintaining that that's not going to be a distribution place, yet all the evidence I know to the contrary he is not going to have enough parking to pull that job off. He is another one that has been less than truthful in what his purpose is.

Attorney Veltri: But Dave that was a vote and, again, most respectfully that was voted on September 15th.

Vice Chairman Graceffo: What happens if they come with the plans, and we don't like them?

Attorney Veltri: We'll have a very straight forward discussion at that time.

Member Slater: Isn't he running out of time?

Attorney Veltri: We'll then have a discussion on when the building permits are going to be issued and if they are going to be issued. My position is going to be is they're not going to be issued because of this condition and then we'll talk about it in Superior Court, if that's a problem.

Member Crilly: What is the downside of waiting for the new Board?

Attorney Veltri: Because we have statutory time frames to make the decision and prepare this Resolution so I don't want to be in Superior Court talking about why the Board didn't vote on the Resolution. I'd rather talk about the rendering not being what we wanted it to be.

Member Slater: The chances of the court ruling in our favor for waiting for his rendering isn't going to happen. In other words, if we stall him off because we don't have the rendering on our decision and he takes us to court they'll go against us. Is that the thinking?

Attorney Veltri: I don't think so. What I'm saying Dave is I'd rather make the argument on them not fulfilling the specific condition to our satisfaction rather than going there on a procedural issue that the Board didn't vote on the Resolution within the time frame. I don't think we are going to end up in court either way, but I'd rather make that argument rather than why we didn't vote on this thing.

Member Leonard: Especially when we had a stipulation in there.

Vice Chairman Graceffo: We do have stipulated in the Motion that the approval is based upon the submission of the site plans.

Member Slater: Requested by you. That was your request.

Vice Chairman Graceffo: That's one of the reasons we put that in there. It is still binding upon them to provide that rendering to the Board. So we approved the Resolution and the requirements are in that Resolution and if they, obviously, don't live up to that responsibility, then there'll be a discussion on it.

Vice Chairman Graceffo: I am going to request a Motion to pass the Resolution. Again, look on the last page. The approval is granted, subject to, and contingent upon, the following conditions - #4. That's what we are really basing our concerns about. Any other questions on this? Do we have a Motion to Approve?

MOTION TO APPROVE RESOLUTION: made by Member Slater, seconded by Member Strobel. Voting yes were Vice Chairman Graceffo, Councilman Cortellessa, Members Strobel, Slater, Crilly and Leonard
Member Platt abstained

VOUCHERS: submitted by Steven J. Veltri, Esq. for the Above All Services LLC Application in the amount of \$675 and for attendance at the December 15, 2022 Meeting in the amount of \$400.

MOTION TO APPROVE VOUCHERS: made by Member Leonard, seconded by Member Crilly. Voting yes were Vice Chairman Graceffo, Councilman Cortellessa, Members Platt, Strobel, Slater, Crilly and Leonard

MOTION TO ADJOURN AT 9:00P.M.: Motion made by Member Slater, and carried by a voice vote.

Jennifer A. Fiorito, Planning Board Secretary