

TOWNSHIP OF LOPATCONG  
PLANNING BOARD MEETING

February 22, 2017

The meeting of the Planning Board of the Township of Lopatcong was called to order by Chairman Johnson at 7:00 pm. A silent prayer was offered followed by the Oath of Allegiance.

Chairman Johnson stated “adequate notice of this meeting has been provided indicating the time and place of the meeting in accordance with Chapter 231 of the Public Laws of 1975 by advertising a Notice in The Star Gazette and The Express Times and by posting a copy on the bulletin board in the Municipal Building.”

Present: Members Fitzsimmons, Fox, Pryor, Schneider, Woolf, Mayor McKay, Vice-Chairman Olschewski, Chairman Johnson, Alternate Fischbach. Also present were Attorney Sposaro, Planner Ritter and Engineer Sterbenz.

**Old Business:**

**Minutes** – Approve January 25, 2017.

Member Pryor – Noticed Ms. Schneider left a couple of times last meeting during testimony.

Member Schneider – I left once.

Member Pryor – And then you left early correct? You left briefly and then you left early.

Member Schneider – No I left and I left for good and that was already approved by the Chair and the Vice-Chair.

Member Pryor – It doesn’t matter. If you miss testimony you have to submit written certification that you reviewed the tape.

Member Schneider – Okay.

Member Johnson – Yes, absolutely, so we can do that moving forward, of course and I knew you were leaving and you had a prior engagement

Member Pryor – But if we vote on Ferruggia today, she cannot vote.

Member Johnson – I’ll ask the attorney if that’s applicable in this case?

Attorney Sposaro – It is unless someone has heard all the testimony, they are not qualified to vote. If you listen to the tape and certify to it, you are qualified, but if this comes to a vote this evening, she cannot under the statute be qualified to vote and it doesn’t matter if she’s excused or

not excused. You're either present and you've heard the testimony or you listen to the tape or you are not. It is not something that is within the discretion of the Chair, it is a requirement of the statute.

Chairman Johnson – Right, and I believe you left at 9:45.

Member Schneider – Yeah, 9:42 and the meeting was over at 10:00.

Chairman Johnson – Right, so I mean, I know you missed the comment at the end. Does anybody know how long the testimony went to on that one?

Member Pryor – You know, may I point out, when you are hearing testimony; you're sitting as a quasi-judicial body. It's just like if you are in a jury box, you couldn't come and go, you couldn't (inaudible) the judge and who can determine whether one piece of testimony is essential or not. That's why the law is the law, so.

Chairman Johnson – Yep, so check out the tape, and I don't think you left any testimony but I know you left before comments, but that's okay, we're not going to make a big federal case about this. We'll just look at the tape when you can. So, we are going to move on then to the minutes for approval. Any comment on that? The one comment I would like to say is just remove the unannounced from Mrs. Schneider leaving. I was aware of it, as well as Peter was too. Again, it was known so just take out the word unannounced and we'll move forward.

Secretary Dilts – If she left unannounced, she did not announce she was leaving. It should remain there.

Member Fox – I would make a motion to remove the word unannounced

Vice-Chairman Olschewski – I second that

Member Fox – it sound like (inaudible).

Secretary Dilts – It should be on record.

Member Pryor – Again, you are a quasi-judicial body and the record is important.

Member Fox – So, a motion has been made, a motion has been seconded.

Vice-Chairman Olschewski – That's right.

Chairman Johnson – Roll call for the meeting minutes.

Roll call:

AYES: Members Fitzsimmons, Fox, Mayor McKay, Vice-Chairman Olschewski, Chairman Johnson

NAYS: Pryor

ABSTAIN: Schneider, Woolf

Chairman Johnson – Move to Coordinated Health is the next item.

Secretary Dilts – You have to approve the minutes.

Chairman Johnson – I believe we did right?

Secretary Dilts – No. All you did was make a motion to take out the word unannounced.

Chairman Johnson – Then we'll go through – I figured it was a two in one shot. Let's do the roll call for approving the minutes.

Secretary Dilts – I need a motion and a second.

Member Schneider – Motion

Vice-Chairman Olschewski – Second.

Roll call vote:

AYES: Members Fitzsimmons, Fox, Schneider, Woolf, Mayor McKay, Vice-Chairman Olschewski, Chairman Johnson, Alternate Fischbach.

NAYS: Pryor

Chairman Johnson – Next item is Coordinated Health. I think we're looking for, you're here, okay.

Attorney Souders – I'm here on all three matters tonight in the absence of Mr. Peck from my office. My name is Don Souders. I'm an attorney with the Florio, Perrucci, Steinhardt and Fader Law Firm here in Phillipsburg. Good evening everybody. This first matter as I understand it, it's a request that was presented to the Board by our firm on behalf of Coordinated Health asking the Board to authorize your Engineer, Mr. Sterbenz to relax the sole remaining condition of approval on this phase of Coordinated Health's approval as that condition relates to Warren County Planning Board approval. My understanding is that the issue is on the Board's agenda, at the County Planning Board agenda for February 27<sup>th</sup>. It was anticipated but no way predictable that we'll get our approval there but I think we succeeded in at least initially. Mr. Sterbenz said it is highly likely given the fact that there's no county road and there is no facilities within the county that will be impacted by this project. We would be asking to give authority to the engineer to work with us to begin construction and the next phase with anticipation that it would be at our risk and we are not asking to waive the condition just allow us to proceed now as opposed to later should it be delayed further at the end of the month.

Chairman Johnson – When did you want to start construction?

Attorney Souders – As soon as possible as I understand it.

Engineer Sterbenz – Just to give the Board the background. There was an approval on this particular matter. There were a series of conditions that had to be addressed by the applicant. Recently, we're very close to satisfying all the conditions. I conducted the pre-construction meeting. I indicated to the applicant that there were several outstanding conditions from the approval that had to be addressed. One of them was the County Planning Board approval. The applicant since that time, and I think that was the February 3<sup>rd</sup> meeting, has addressed the bonding and inspection fees, and gotten the plans fully approved at this point. This is the remaining condition. So I've been holding, I haven't allowed them to go to construction because this is a condition in the resolution. So the question is, are you willing to set that aside and allow me, administratively, to allow them as the Township Engineer to go to construction? They do have a hearing scheduled before the Planning Board in Warren County on the 27th. It is very low risk. I looked at the comments from the first phase of this project and there was no substantial, actually there were two comments that were given by the County Planning Board on the previous phase of the job which is now constructed so I don't really expect any substantive comments on this project. It is not located on a county road. It is not affecting any county facilities so it is and there is a check here if they don't go and get this approval and they go into construction and have the building ready for CO; they're not going to get a CO. So to get the county approval, so the question is, do you want to work with this applicant and allow them to go to construction at this point without the county approval? It seems to be on the verge of being issued but we don't know; we don't have a crystal ball here or do you want to hold the line in the resolution and not allow them to go to construction at this point until they actually have an unconditional County Planning Board approval. So that is why Mr. Souders is here tonight to talk to you about this.

Attorney Souders – And I acknowledge on behalf of Coordinated Health, the fact that you hold that hammer over our head with respect that that is the ultimate authority of the Township to keep us (inaudible).

Chairman Johnson – And any conditions of approval would be known in five days, obviously, we would move forward

Attorney Souders – County approval.

Chairman Johnson – Yes, the county approval and any conditions the county

Attorney Souders – Assuming that we're heard and the decision (inaudible).

Engineer Sterbenz – The only

Attorney Souders – Thank you very much. I appreciate that.

Chairman Johnson - And we are here with Sycamore Landing as well.

Attorney Souders – I am. The applicant is technically Peron/JSML. I am here with their engineer Mr. Aulenbach and Rob Deber, the other principals and representatives of Sycamore Landing. I'm going to ask our engineer to approach if that is appropriate and provide a summary

of where we stand with respect to this Loop Road connection between the project and the mall.

Attorney Sposaro – If we start to hear testimony, then it's sort of turning into a hearing and then the people have a right of cross-examination. I think perhaps a better course would be why don't we hear from our engineer on this?

Engineer Sterbenz – Let me give the Board the background and the reason why this applicant is here tonight. Sycamore Landing is a project on Rt. 22 adjacent to the Phillipsburg Mall. It is a multi-family development of 247 units including 50 affordable units. The original approval for that development was approved by this Board back in 2010. There were some amendments approved back in 2012. There was a second set of amendments that were approved back in 2013. What that amendment had to do with was an access road that was proposed that was going to connect this particular development to the Phillipsburg Mall Loop Road. The original plans from 2010/2012 showed that connection. Those plans were fully approved by our office. So there's not only a vehicular connection but there was also a pedestrian connection. There was a sidewalk network that was going to run from the site all the way to the Sears, actually to get people in and out of the mall on foot. The applicant ran into difficulties with the owner; the new owner of the mall, at the time, and came back to the Board and asked the Board to relieve that particular requirement. The applicant had actually referred to it as a postponement at the time and had indicated that they were going to continue to try to get the legal right to make that connection both from the vehicular perspective and the pedestrian perspective to the mall site from the Sycamore Landing project. The Board, in 2013, allowed, granted the amended approval but there was a condition that said they had to continue trying to make the connection happen. I'm happy to hear that in 2016 they were actually able to make that happen and I do have a copy of the approved easement that was recorded to allow that to happen. The chief question tonight is we had a set of plans that showed this vehicular connection was approved from an engineering perspective and they took some of that information off the plans in 2013 but now they put it back on. Does this Board want to see this applicant come back and amend the approval again to, you know, because now they have the legal right to do it or can I just deal with this applicant administratively and have them move forward into the construction with the Loop Road. They actually want to move ahead and do the work at this point. The engineering plans that we saw back in twelve are the same plans that we now have back in the plan set in sixteen right now; there's no difference.

Chairman Johnson – So the connection is in exactly, in the same spot?

Engineer Sterbenz – It is exactly the same right now. So it presents the question, does this applicant have to return to the Board and amend it to get the approval a third time because now they were able to execute the mall road connection or are we allowed to handle it administratively as the engineers because this was always contemplated and the applicant had a condition that he had to go out and try to make this happen in 2013? That's the chief question to the Board tonight. If you believe that it doesn't have to happen, then I can work with the applicant like I've been working with them for the last two years on the construction of this site and be allowed to move forward with the mall road connection. If you want them to amend the approval and have a paper trail so to speak, then they're going to have to make an application to the Board and formally amend their approval to get that connection back approved as part of the

application. So that's the issue for you tonight.

Chairman Johnson – The conditional approval that happened in 2012; there isn't an expiration date or a time frame on that right? So we're okay there now?

Engineer Sterbenz – It runs with the land.

Attorney Sposaro – No, there is not. It's apparent to me that this Loop Road was part of the original improvement just held in abeyance. The connection wasn't until they could work out the legal issues. There is nothing for this Board to do in reviewing this. It is also clear to me that this will only enhance public health and safety and I think we're putting form over substance to require the applicant to come back. This is what my kids call a no-brainer.

Vice-Chairman Olschewski – I remember, I remember and (inaudible) Eric the thing is three years old and we have one, two, three, four, five new members and I prefer if they come back just because most of the guys have not seen the plans and know nothing about it, so it's my opinion or what I understand the road is a good idea. It needs to be done because I was always concerned that there was no entry for fire personnel if there is ever anything happening at the entrance but we have so many new people and its three years old. It's not like it was last year and I prefer, my preference is that they come back, all right.

Member Pryor – I hate to vote against a no brainer, I really do, but I don't know, I was told it was approved; it got its final resolution on May 22, 2013. I was not here. I've never seen the plans and honestly, I just as a Planning Board member, I have a difficult time voting on something I've never seen. I don't know if there is a way we can expedite the process to work with these guys but I just really have a hard time voting on something I've never seen.

Member Woolf – I was on the Planning Board at the time and I was strictly against the development to start with because there was only one egress and ingress. I brought it to the attention of the Planning Board and the general public at the time. If we would have a fire in there, and if we would have to call Pohatcong Township, Greenwich Township, Alpha, Bloomsburg, Stewartsville, if they would have to respond to a call there, they would have to take Rt. 22 westbound to the Third Street junction in Lopatcong Township, make a U-turn and go back down to the entrance of the Phillipsburg Mall. This road was on the original plans. It was deleted because of the problems with the owners of the Phillipsburg Mall. I thank the people for continuing to pursue this even though they couldn't get the access with the owners of the Phillipsburg Mall, they did move their condos, townhouses, garages to leave that road right of way vacant and it is my understanding that they are going to come up through the same roadway that was proposed originally.

Vice-Chairman Olschewski – Well Gary, you are right.

Member Woolf – I think that any time that we waste making these people come back again and I'm talking as a safety aspect.

Attorney Souders – It is my observation, it is very seldom does an applicant come back over

deliberating over something that they didn't have to at a significant expense, but that's what we have here. I guess trouble shooting, looking forward, if the matter comes back as a formal application because that was the Board's preference tonight and the Board would do something to or with respect to the road in question and the access in question, within the context of the Board and the entity of the Board, not all the Board members that are sitting today, changing a condition previously approved by the Board and running with the land that technically still exists and hasn't been rescinded, it's going to be as much a problem for the applicant as it's going to be for the Board.

Vice-Chairman Olschewski – No. Let me say this, we just had the issue with Donna not being able to vote on 15 minutes she missed and we didn't want to vote on an application I have one, two, three, four, five, six, seven new members on the Board who is supposed to vote on plans they have never seen.

Attorney Sposaro – Were not asking the Board, and I say this respectfully, we're not asking the Board to vote on plans you've never seen. This Board is the Planning Board whether it was ten years ago, five years ago; two years ago, it is still the Planning Board. Its constituent's maybe fluid, its members may be fluid but it is still the Board. The Board approved, and I don't want to beat a dead horse, but this Board approved those plans with that connection. The connection was held in abeyance but the approved plans, as I understand, it shows that connection. I don't think there's any action formally for the Board to take so, I just have to call it the way I see it.

Member Pryor – I understand everything you are saying Tony but we could have just as easily had the resolution of approval here tonight and maybe the plan sheets so we see what we were talking about. I have no idea about what we're talking, I pick it up from the discussion but very hard for me to vote on something I've never seen before.

Member Fischbach – I'm saying that there's really no need to vote.

Engineer Sterbenz – The plans are approved. I already approved them. If there was an application here, I would not have any review comments on the mall Loop Road because I already approved the plans. I had an exhaustive review several years ago and they're already into the plan set again. So, it really would just be administrative in nature. I'd have zero comments on this whole thing because we already approved it.

Chairman Johnson – We have an approved application where there is a condition that they work it out with the owner of the mall. They met their condition, so my question is, is why are we doing anything? You know

Attorney Sposaro – Because we have an abundance of caution, Paul brought this to the Board wanting to make sure that you were aware of what's going on. I don't wish to speak for Paul but I'm of the opinion that no action by this Board is necessary.

Engineer Sterbenz – It is really my respect for the Board and the conditions of approval that's why the first matter was here with Mr. Souders you know, I'm not going to allow somebody to go to construction without meeting the conditions so I just wanted, you know, if this was a major

issue for the Board going back four years ago in 2013 and I just wanted the Board to be aware that this applicant did come through and find out if I could continue working with them through the process, through the construction process and make sure that you are okay with that and that you didn't want to see maybe a step taken back and having some sort of amendment to the approval. That's really what it is all about. It is my respect for the Board.

Member Woolf – Eric, I have all the respect for the other new members and stuff like that, but to drag your feet and hold these people (inaudible) strictly on the safety aspect – this place is getting close to residency now.

Member Fitzsimmons – What's the timing? When does it open?

Mr. Deber – We anticipate starting the leasing process over the next 30 to 60 days. We have 72 units that are nearing completion and we expect Mr. Sterbenz to give us the Certificate of Occupancy.

Member Woolf – The sooner that road is in there, the safer them people are going to be.

Member Fitzsimmons – Makes a lot of sense.

Chairman Johnson – And that was hashed out before, the previous application.

Member Fox – And of course, with the public works getting that second in, is important from a paperwork perspective, I'd be concerned if you had any modifications approved through DOT and County or Soil Conservation District, that they are also aware. Are you also going through the process with them? Let them know, because they have any comments, you know, disturbing more soil again and you put your traffic controls up in place, if you do that work, so again, it would just be paperwork that if you have other approvals with other agencies, if you've done modifications for that, you're also letting them know and you're not moving forward

Attorney Sposaro – The original approval contained all those conditions of approval. It is my understanding they had them.

Member Fox – But they have approval of modifications that removed them. You said 2013 they removed some stuff and now they're putting it back in, that they did that with other agencies. I was concerned that they're reaching out to them as well.

Attorney Sposaro – If the Board gives our engineer the authorization to move forward with this administratively Paul doesn't miss anything. If there is another agency that reviewed the plans that are different than Maser then they need to review and again, it will get done but I think we're just putting form over substance here.

Member Pryor – Let me cast this a different way. We approve a lot of things with conditions and you might have five, six, seven conditions. Paul wouldn't come back to the Board with each condition as these are fulfilled and I'm relying on your legal opinion that he has a valid approval, and it's in your opinion he is not obligated to come back and if that's the case, I can go along



with this.

Attorney Sposaro – That is my opinion.

Chairman Johnson – I think as a courtesy, at the very least, we would want to see, if you can submit the set of plans just so we can catch up so we know what is happening. I mean tonight we can take a roll call on this thing and get Paul, you know, attempt to get Paul working on it but I think a lot of us would like to see it. We really don't know anything about the project and as a courtesy to our new Board members

Attorney Sposaro – It is a courtesy they came back. As a courtesy, they came back and brought this issue to our attention. As a courtesy, I'm sure they can give us the plans.

Members talking over each other.

Chairman Johnson – We don't need to see them now. We're not doing a review now.

Members talking over each other.

Member Woolf – Even anybody living there and stuff have to come up to Third, if they were heading westbound, they would still have to come to Third Street and make the U-turn and go back down to Sycamore Landing. Well this way, with the back entrance being put in, they could turn there at the stop lights at the Phillipsburg Mall now, go back into the Ring Road and go into the backside of Sycamore Landing.

Chairman Johnson- At this point, I'm looking for a motion to allow Paul to work with them and making sure

Member Pryor – You know do we even need a motion? Do we need a vote?

Chairman Johnson – I was going to say do we need to do anything?

Attorney Sposaro – I think the Board should make a determination that no further action by this Board is necessary. This is part of the original approval and the engineer is authorized to move forward to review, to the extent it is even necessary, to review the plans for the (inaudible).

Member Fitzsimmons – Will that generate any paperwork? I'd like to see it. I would go along

Attorney Sposaro – I will prepare a resolution memorializing the Boards decision on this particular issue.

Attorney Souders – We'll get a set of plans to the Board's Secretary in the next day or two.

Attorney Sposaro – Is there a motion along those lines?

Member Pryor – I'll make that motion Jon. I'll make that motion.

Attorney Sposaro – Second.

Member Fox - Second.

Chairman Johnson – Roll call.

AYES: Members Fitzsimmons, Fox, Pryor, Schneider, Woolf, Mayor McKay, Vice-Chairman Olschewski, Chairman Johnson.

NAYS: None

Vice-Chairman Olschewski – Can I ask a question while I have you, I don't know if it is the right place, right time, but I was made aware of something Sycamore Landing which (inaudible) something with the removal of the trees within Sycamore Landing and I'm looking at our Zoning and Land Use Ordinance and it says that for cutting all these trees down there was a permit required and it also says that if you cut down more than 100 trees, that 70% of the trees which are cut down need to be replaced. Do you know if that has happened in any form?

Engineer Sterbenz – They obtained a Site Plan approval and there were requirements in the Landscaping Plan.

Member Fox – Part of the reason why, if we brought them back into the road, we'd all want to look at every other detail that has already been approved by the Board which is why I kind of didn't want to see it because I think I would have a lot of questions but the previous members of the Board would have asked or not asked years ago. I wouldn't want to rehash all that under an approved plan you know,

Engineer Sterbenz – I would be glad to bring the approved plan to the next meeting and bring the Landscaping Plan with it. It's extensive landscaping that's proposed. In light of the vast tree removal that took place on the site, it is a 20 acre site.

Vice-Chairman Olschewski – All right thanks.

Engineer Sterbenz – Extensive grading on the site.

Chairman Johnson – Okay, well thank you for bringing that back to our attention and keeping us in the loop on that. Next item is the continuation on Ferruggia Self-Storage application from last month.

Attorney Souders - I don't know how I drew the lucky card. Again, for the record my name is Don Souders. I'm an attorney with the Florio Perrucci Law Firm. I'm here representing Ferruggia Self-Storage. My understanding is that there was rather extensive testimony before the Board last month. The hearing commenced, there was a completeness determination made with respect to Preliminary Site Plan approval; an open issue remains as I understand it. The issue with completeness, with respect to Final Site Plan approval and I think that the most recent early February, February 6<sup>th</sup> there were substantial plan revisions and data transmitted to the Board by our engineer and professionals which I think should have adequately addressed most of the open completeness issues with respect to final. So at some point, probably early on, we should deal,

I'm asking the Board if we can deal with the issue of completeness on the final because if we can get through testimony tonight, we're going to have a decision, if you're ready to make a decision or vote on the application.

Chairman Johnson – Just real quick, I'm not so sure that the Board granted the waivers for Preliminary Site Plan approval. They granted it for completeness just so we could hear the expert testimony. So you do not have Preliminary Site Plan approval at this point.

Attorney Souders – I understand that but there was this sort of this distinction made on the waivers relative to preliminary and final so administratively, housekeeping that remains completely open. The issue of waivers to the extent they're still remaining and there are still a couple that are remaining, but I think a lot of them have been addressed.

Attorney Sposaro – If I can suggest, why don't you have your project engineer run through the changes to the plans? You can address the reports that address those changes from our professionals to make determination on completeness and final and go from there.

Attorney Souders – That's fine. Tom Decker is our project engineer. He testified from the VanCleaf firm extensively at the last meeting.

Attorney Sposaro – And he is still under oath.

Attorney Souders – If I could ask Tom if he could provide the details to the plan revisions and to the extent necessary when you're done Tom, if you can kinda go through Paul's review letter to the extent he addresses the changes and any remaining waivers that might be

Chairman Johnson – A quick suggestion, if you could start with a quick one to two minutes summary of the experts that we heard on the last meeting for the members of the public that may have missed the January meeting on what, just run through the list of experts we've already heard from.

Attorney Souders – Well, we had and I wasn't here, and I didn't listen to the tape, but I did go through the files extensively and Mr. Peck provided me with an outline. Mr. Decker testified on the engineering and technical issues relative to the Site Plan and the waivers, and obviously, some of the C and Bulk variances that precipitated in large part because of the unusual shape of the property. John Angeleri testified; he is the principle of On Site Crossing, LLC, which I understand is the record owner of the lot and he has, his family has a history in the Township. His son is here; he operates an automotive repair business on Rt. 57. So the Angeleri's having been doing business in the Township for a long time but he gave a history of the site and his unsuccessful efforts relative to attempts to market it for other permitted uses such as the use before you now. Mr. Ferruggia the contract purchaser and developer, and he is proposing the self-storage site in question, he testified about the nature of his plans, the economics of the plan and some of the background facts that were relied upon by Mr. Monteforte who was a consultant in the area of self-storage facilities. He discussed from a technical standpoint what is being constructed, why it is serving, a very specialized, they call third generation self-storage facility, and I believe he testified to the extent that there is a real need for this type of facility in the

community and it is cutting edge so and then Mr. Snyder who did not testify, he was present, he is our professional planner, he'll testify tonight with respect to the variances that are being requested.

Attorney Sposaro – Also, the traffic engineer will testify about the limited number of trips in and out on a daily basis

Attorney Souders- That's correct.

Attorney Sposaro – and what parking spaces that would be sufficient in

Attorney Souders – And no offense to Mr. Polyniak; he is here and he is prepared to testify on some supplemental data he generated and I think if he did not submit it previously, we'll table it. It is my understanding, who testified, was a long night; looks like we're going to be here all night tonight as well, which is fine. Tom, why don't you get back to the business at hand, which is your revised Site Plan?

Mr. Decker – We submitted revised plans. What we have in front of you is the colored rendering showing those revisions.

Attorney Sposaro – Why don't you mark that; what was the last item marked Beth?

Secretary Dilts – Page 30 is Exhibit A-2 which was the Colored Building Elevations. I think that was the last exhibit.

Mr. Decker – So, it should be A-3. Major revisions that occurred on the plan as was discussed at the last meeting there was discussion about parking requirements and so forth. There was testimony that a self-storage facility really requires less parking than what we had depicted and we discussed land banking the nine spaces in the front of the property, which is what we have shown here. On the plan, those spaces are still shown but they're designated as land banked and as you recall, land bank means that the area has been designated, stormwater has been designed for it, rest of the site has been designed, so that should sometime in the future, if it is determined that the nine spaces along the front of the building are not adequate, the applicant can comeback in and construct the nine spaces. So, if there is an issue, that will be part of the approval, just not built at this time, built if needed at a future date.

Member Pryor – Can I ask you a quick question Eric? Would it make sense to put a mountable curb there or I mean if you need an extra space or two now

Mr. Decker – Well, it is going to stay as grass.

Member Pryor – I understand that, but there's lots of places where rather than park sideways along the curb, guys get you know, park on the grass.

Mr. Decker – Well, we can certainly do that. It's at the Board's discretion.

Chairman Johnson – I don't believe that we had a final determination at the last meeting. We were talking a lot about the parking spots and I think there was some people, some people had some different opinions, but we're going to have to talk about that later cause we might want to see the full 18 or at least, the pavement area so people can do U-turns with the trailers and what not.

Mr. Decker – And (inaudible) trips and so forth. I think we have additional data we can share with you as far as other uses and so forth so I believe we'll be able to discuss that but we wanted to show that we did revise the plans to show that and it is banked. We also talked about the applicant having a box truck on site that they would loan out and taken a look and spoken with the self-storage expert who testified last month, Mr. Ferruggia, and the size of the truck that would be offered would be essentially a ten foot box truck. It is the smallest box truck you can rent from U-Haul; for example, it would fit within a standard parking space, so there would not be any larger space or expansion to accommodate that and you would still have the loading area to the north which accesses not only the sidewalk for bringing in materials to be stored but also to access the (inaudible). Also, there was discussion with regards to the entrance and movements along Strykers Road and intersection with Baltimore Street. So we met with Mr. Sterbenz out in the field. I understand Mr. Sterbenz has also met with the Police Chief with regards to our currently proposed alignment and I believe both, and Mr. Sterbenz can correct me if I'm wrong, both have agreed that this layout works. What the layout proposes, is we'd widen the entrance slightly and we proposed a mountable island at the road entrance; that would be a concrete island that is mountable, as mountable curbing, and it would restrict turns on the site to making only a right hand turn out onto Strykers Road. So, and that's also signed, with a sign that says no left turn and by putting in that island, it physically directs the traffic to make that (inaudible). The ingress would be a right turn in from Strykers as well as a left turn in to eliminate any, to remove the vehicles from the road before they get up to Baltimore Street, which was a concern with the intersection. So the intersection, our entrance rather, has been designed for a right in, left in and a right out only. So, it is no lefts permitted to come out. With regards to, there is a question; I believe Mr. Pryor bought up about fresh water wetlands. We did have a wetlands expert go out to the site, evaluate it, he's issued a report which I forwarded to the planner and engineer as well as the Board Secretary. It's on file and the findings were that while there's a C-1 Stream located to the west, it is more than 800 feet away and there are no wetlands or wetland transitional's within 300 feet of the subject property. So there's no wetland permits or regulations to abide by.

Attorney Sposaro – Is there any need to mark that wetlands letter as an exhibit?

Attorney Souders – It has been submitted from PAW Land Consultants, Inc.

Attorney Sposaro – I think we should.

Attorney Souders – Dated February 17<sup>th</sup> so, is it A-4?

Mr. Decker – There was also an issue with regards to completeness Will Serve letters from utility companies. We did submit letters to the utility companies requesting Will Serve letters. Those weren't included in the submission package. Since that time, we have received responses to three of the utility companies. I also forwarded those to the professionals and the Board

Secretary, for the Board's file.

Attorney Souders – I might as well, if I could, mark those, A-5, 6 and 7 respectively. Elizabethtown Gas sent a letter February 10<sup>th</sup> – A-5, Service Electric – A-6, dated February 14<sup>th</sup> and JCP&L; I'll mark as A-7. Their letter's dated February 10<sup>th</sup>.

Member Fox – Are there any outstanding letters still to be returned?

Mr. Decker – I think there's a couple that might be due. Maybe telephone. The other thing is that we did receive a letter from the Warren County Planning Board stating they don't have jurisdiction and don't affect a county road or structure. So they have no interest in the application. We also received a review letter from the Warren County Soil Conservation District with a few technical comments which we've addressed and resubmitted to the Warren County Soil Conservation District. There was comment, I believe, in Mr. Ritter's letter with regards to the sign on the building and its height. The sign measure's 18" high. The letters are 18" high 27 feet wide, for a total area of 41 square feet. The ordinance permits a total of 100 square feet for both the building mounted and a ground mounted sign combined. We are currently not proposing a ground mounted sign. I spoke with Mr. Ferruggia and adjustments to be made to the building face to lower the sign, and we'd certainly be able to work with Mr. Ritter on that.

Attorney Souders – Mr. Fox's question on what's outstanding; we are waiting to hear back from Aqua and Verizon.

Vice-Chairman Olschewski – One of the, I read George's report here and the thing which, for me, is one of the most important, and Gary, you may appreciate that, is did anybody speak to our fire chief?

Secretary Dilts – Actually, I did. I let them know that there was an application before the Board.

Vice-Chairman Olschewski – So, George indicates here that for buildings over 10,000 feet, you have to have certain fire protection in place and it's not.

Mr. Decker – What we, one of the completeness items that we had on Mr. Sterbenz's prior letter of January 20<sup>th</sup> for the completeness items, which I can go through, included location and design of all fire prevention measures and what we've done, is we've added notes to the plan stating both fire prevention measures are in accordance with the approval of the fire official and so forth, and we do show a FDC connection at the front of the building but again we have the note in there that that has to be worked out with the fire official. I believe we also have a note on there

Vice-Chairman Olschewski – Who's reaching out to the chief?

Secretary Dilts – It's actually Kevin Maguire, he is our fire

Member Woolf – Fire Subcode Official. There is, in either George's letter or Paul's letter, that said, it has to be reviewed by the departmental fire chief and with this (inaudible). That is addressed in one of the comments of either our engineer or our planner.

Mr. Decker – And, that would certainly be done before any building permits are

Vice-Chairman Olschewski – Very good, thank you.

Mr. Decker – There are other completeness issues in Paul's January 20<sup>th</sup> letter. I can run through those; I think that was one of the first things we wanted to get out of the way. On Page 3 and 13, completeness for Preliminary Site Plans, Item 1A, I believe we provided that. Item B, we provided that and we provided the additional calculations for the storm sewer and Mr. Sterbenz indicated in his recent letter that the stormwater calculations be acceptable. With regard to sanitary sewer flow data, that has been included on the plans with calculations. The vertical profile of Strykers Road has also been added to the plans. Under Item 2, where we had requested waivers, the first item was Traffic Impact Statement. We did provide traffic testimony at the last hearing. Item 2B refers to the Will Serve letters which we made the request and received three; we're still waiting for two and Item 3, there were a few items. I believe the only one that was a concern, was eight, regarding wetlands, which we've addressed by having our wetlands expert go out in the field and confirmed that there are not wetlands or wetlands transitional impacting that (inaudible).

Chairman Johnson – Has our professional seen that letter or certification that there is no wetlands?

Engineer Sterbenz – I have not.

Chairman Johnson- I have not either.

Mr. Decker – You haven't seen it Paul?

Chairman Johnson – When was that submitted?

Mr. Decker – I emailed it to you yesterday.

Engineer Sterbenz – I didn't get it.

Attorney Souders – We'll mark it though, is it A-4; it's fairly brief.

Mr. Decker – I can jump to the last paragraph which is the conclusion and Paul I can give you a copy of it.

Attorney Sposaro – If you have any extra copies, you can pass one up to the Board's professionals.

Members talking over each other.

Mr. Decker – If I jump to the conclusion, there's data and so forth in here; it's three pages long. If you want, I can read the entire letter into the record at this point; it's the Boards pleasure.

Attorney Sposaro – George and Paul can have an opportunity to take a look at it. Perhaps you can, instead of reading the entire; you can just provide us with a summary.

Mr. Decker – Sure. I'll read the conclusion on Page 3. "From preliminary site investigation is completed on Block 116, Lot 24.01, Lopatcong Township, Warren County, New Jersey there is an upland site that is not impacted by wetlands. No wetlands were identified within 300 feet of the property limits in addition to the nearest waterway which is Category 1 water is over 800 feet from the site. There were no extensions from that waterway that would impact the addressed site."

Attorney Sposaro – In other words, wetlands and stream buffers are a non-issue?

Mr. Decker – Correct. Those were the completeness items for Preliminary. Final Checklist items some of them repeated; Item 1A, regarding the affidavit for the owner, Mr. Angeleri testified at the last meeting said he was the owner, and consented to the application. Item 1B, again, those were the calculations the downstream storm sewer which have been accepted by Mr. Sterbenz. Item C, was sanitary sewer; profiles of the sanitary sewers which have been added. Item D, location, size and type of utility lines were added to the plan for water, gas and the underground wired utilities. Item E, location, design of all fire prevention measures have not been provided. Again, we put in the FDC connection and note that the plans need to be or are subject to the approval of the fire official. Item F, would be a request for waiver at this point and that is a complete list of site improvements. This is prepared to generate a cost estimate for the site improvements to determine any required bonding and inspection fees.

Engineer Sterbenz – Actually, it was submitted. You did comply.

Mr. Decker – Oh we did. I'm sorry, we did.

Chairman Johnson – Question on that item. Is that cost estimate supposed to include the cost of the structure?

Engineer Sterbenz – No.

Member Woolf – No.

Chairman Johnson – It isn't okay.

Mr. Decker – No, it's only site improvements. So we did provide that. Item 2, waiver requests; again, Item A, 2 A, where the Will Serve letters. Item 2B, location and size, type of off-site improvements, we're not proposing any offsite improvements with this application and Item 3, again, I believe the only issue at the last meeting was with regards to the letters that Item D, addressed. So those were the completeness items that have been addressed. So at this point, I guess Don we are looking for completeness for

Attorney Souders – We're asking for, to the extent any remaining preliminary waiver requests and also waiver, an acknowledgement that we've satisfied the Checklist items that were



delineated, in the January 20<sup>th</sup> letter subject to, I guess a partial, I did my best to take notes, I think Paragraph one on the Final Site Plan Checklist from Mr. Sterbenz letters, I think we provided that information on the plans and/or through testimony. On Paragraph 2, which is the Will Serve letters, we partially complied so, I guess technically, we need a partial waiver with respect to the remaining two letters from Verizon and Aqua and Checklist Item 2B, it is our engineers testimony doesn't apply because we are not proposing any offsite improvements, and I don't think that Mr. Sterbenz more recent letter of February 16<sup>th</sup>, dealt in any further depth with respect to the issue of waivers. It was more technical review of the revised plans.

Chairman Johnson – As far as completeness goes, we're looking to our engineer to give his opinion on that. A couple things that I wanted to just ask on the completeness issue, is we only have an email from Highlands. We don't actually have their determination. Do we need more than an email to be complete or is that email going to be sufficed? The fire protection measures on this, they haven't done that yet; they intend to. He mentioned a couple of other things that they were partially outstanding, so taking all that into consideration, should we be deeming this complete or just be looking for some more information before we do that?

Attorney Souders – If I could just impose a polite objection, on the Highlands letter we marked it as an exhibit. If it hasn't been signed (inaudible) earlier today with our planner and it was addressed to the Planning Board Secretary, I don't know if you did not receive it but why don't we just mark – will be signed tomorrow and any waiver could be, I guess, conditioned upon receipt of a signed copy of the letter that I could mark as A-8 if that's the Board's pleasure.

Attorney Sposaro – Previously, we've accepted emails from Highlands and certainly accept the applicant's representation that a letter is just waiting to be signed. I don't, that doesn't, stand in the way of completeness from my standpoint.

Engineer Sterbenz – I think the email we received prior to last meeting indicated that this applicant was consistent with the Highlands Regional Master Plan and the Township's approved petition. They did note that they were looking at the plans versus their policies and would have a detailed letter and what we probably need to do, is once we get that letter, if there's anything in the Highlands letter that indicates they have to do any plans revisions or report revisions, we should make our approval conditioned upon that. This is just a normal process.

Attorney Souders – For the Board's benefit, they issued a Consistency Determination subject to two specified conditions. Let me just read the conditions into the record: Condition No. 1 is with respect to carbonate rock, the Geotechnical Report approves and evaluation and recommendations regarding the development of construction measures, the municipal engineer's review and approval of these measures prior to any construction being performed, would be a condition of any Highlands Council approval. Condition No. 2 says copies of the final approved Site Plans, one hard copy and one digital copy, and approving resolution must be submitted to the Highlands Council. That's probably a general catch all condition in all their approvals so.

Chairman Johnson – We have other outstanding items as well, which might deem this incomplete, but Paul what do you think about, what is the protocol here? I mean we want to hear the last expert testimony so we're deeming it complete as far as the presentation goes. We want to hear

your next experts obviously but as far as, can we hear the expert before we deem this to be complete or not, or do we have to do that first?

Engineer Sterbenz – Clearly, last meeting, the Board was troubled with the number of completeness comments particularly as related to the Final Site Plan application. The number of technical comments that George and I had, so the Board made a decision to only deem the Preliminary Major Site Plan application to be complete. We deemed the Final Site Plan application to be incomplete at the last meeting. So, the question is, do you deem that particular application complete tonight? I would note that there has been substantial changes made to the plans and Mr. Decker indicated some other documents that were provided to the Board to try to deal with some of those technical issues, to lower some of those completeness issues at the last meeting. From my perspective, I actually think the Final Site Plan application should be deemed complete now so that both applications are complete. This doesn't preclude you from asking for other information as we proceed our way, through this particular hearing process, but I think they provided the information that's on the checklist now; on both Checklists. I think it should be deemed complete. It is my opinion.

Chairman Johnson – And we need to do this before the expert testimony continues?

Attorney Sposaro- Not necessarily but I think just for housekeeping so that the application is deemed complete and we can move forward, there should be a motion. If anybody has any questions fine, if not, somebody should make a motion to deem the application for Final complete.

Chairman Johnson – And, it doesn't eliminate us from making comments or changes to the Site Plan. It is only an administrative item; it's only administratively complete.

Attorney Sposaro – You are not approving anything.

Chairman Johnson – Okay.

Attorney Souders – And, I've marked as A-8 the February 22<sup>nd</sup> letter from Highlands.

Chairman Johnson – So, as far as the fire protection and the signage goes, and the adjustments that have to happen moving forward, that can happen on the Site Plan review and comments. The completeness doesn't stop us from making comments on any of the issues.

Attorney Sposaro - Just as we're going to hear it.

Chairman Johnson – All right.

Engineer Sterbenz – The Board has some choices here as we accumulate information that we may, that needs to be done to the plans or the reports. We can you know, unless we get to the point where perhaps a vote can be taken, you can make a decision as to whether or not you want to deal with all these things that have accumulated as conditions or you can tell the applicant to go back and make some further revisions and clean stuff up – that's really the Board's call, it is a

policy decision.

Attorney Sposaro – I think we'll get to that when, after the testimony has been offered. I understand there is an objector here with testimony to offer and we'll hear all of it and then we can start to talk.

Chairman Johnson – Is there any additional comments as far as the completeness is considered? So then, we'll look for a motion to deem it complete so we can hear.

Member Fox – I'll make a motion that the application that is presented is now complete for Final Site Plan review?

Attorney Sposaro – Is deemed complete.

Member Fox – Is deemed complete.

Attorney Sposaro – I knew you meant that. Second?

Member Fitzsimmons – Second.

Roll call vote:

AYES: Members Fitzsimmons, Fox, Pryor,

Member Schneider – Abstain right, I can't vote on anything – right Tony?

Attorney Sposaro – You can vote on completeness for this. This has been something that has been addressed this evening.

Member Schneider – Okay, then yes.

(Continued) AYES: Members Woolf, Mayor McKay, Vice-Chairman Olschewski, Chairman Johnson

NAYS: None

Attorney Souders – Okay, so the next order of business I would suggest is the balance of any engineering subject to technical testimony from Mr. Decker using Mr. Sterbenz February 16 Technical Report No. 2 as a guide and outline for some additional testimony for Tom.

Mr. Decker – The February 16<sup>th</sup> letter, sent to me, includes the comments from the January meeting with both texts as far as what's been addressed. The majority of the letter is being satisfied. I represent to the Board that all the other items that may have some minor cleanup to them, that we've agreed to comply with, and we'll take care of those minor revisions to the plan. The only thing that I would remind the Board is that there were a few design waivers that are noted in Mr. Sterbenz letter, and just refresh the Board's memory. A waiver with regards to the off-street loading berth size which was testified to at the previous hearing, that would be to provide a loading berth to meet the Township requirement and we testified as to the size

restrictions on the (inaudible) end of the site. The, another waiver was for the isle widths; the ordinance requires 25 foot wide isle width; we proposed 24 foot. Mr. Sterbenz indicated in his letter that he has no objection to the waiver for that. With regards to landscaping for the parking lot, there was certain requirements for open space and this is comment No. 4.07 on Page 10 that leads over to Page 11, has to do with landscape islands 25 foot buffers and I believe that those were all of the waiver, design waivers, and that's all I have.

Chairman Johnson – So, as far as expert testimony, does this conclude

Attorney Souders – This concludes our engineer's testimony obviously he's available now for comment. He may be called back later depending on how the hearing goes relative to any other

Chairman Johnson – And to be consistent with the way we did it, on the last meeting, we'll take comments from the audience; we'll take questions from the audience as far as this expert witness

Attorney Sposaro – First, the Board and the Board's professionals and then, if they have any questions, we'll open it up to the public for questions.

Chairman Johnson – Yes, absolutely.

Member Pryor – I did have one getting back to the (inaudible) mountable curb, if our truck had to get in there and maneuver, does it need a fire lane, there could be cars in there, could a truck get in there and get out, these tall buildings, they like to get some water on the roof and I ask that question.

Mr. Decker – Our traffic expert can provide some additional testimony in regards to this but there is limited availability for turning around, doing a turnaround in the parking lot. There is room, there is availability and there is room one of the reasons why we kept it as a mountable curb so larger trucks can

Member Pryor – Yeah, but I'm saying if you had a mountable curb, where you have your banks, at least that gives the truck a little more room.

Mr. Decker – We can certainly look into that.

Member Pryor – Yeah, it is a question and if you want to lay that off on your traffic engineer, I'm okay with that.

Mr. Decker – I don't think we have any objection, putting in a mountable curb there. The drainage, the drainage drains from east to west, so the curb doesn't serve any type of drainage purpose so it could certainly be mountable for emergency services.

Member Fox – (Inaudible) I kind of agree with Joe but as another alternative, if you wanted to keep the parking banked, the land bank for those cars, I know even just right up the road on the (inaudible) Warren Heights property they have the GO pavers that let the grass come up through the squares. Could you get permission to pop straight through to the adjacent parking lot?

Through that strip right there as an emergency egress to fire? So, if there is no room for them to turn around, they can still get in and then just drive straight out.

Mr. Decker – Well, the other thing, I was going to say, the other thing that the fire truck may likely do, in case of emergency, is probably going to pull in here where he can access the building from this side

Vice-Chairman Olschewski – I went there today and without having the fire chief here, we can all, it's all guess work, if they are fairly large trees in between and what you don't see on the plan, there's like a power transformer I think

Mr. Decker – Yeah, it's right here.

Vice-Chairman Olschewski – which is there, it's a fairly, I would like, really like to speak to our fire chief. I don't know how you get to the building there.

Member Pryor – They can really only get there from there, there's parking, there's no fire lane and I know the towns I worked at, they always, a tall building like this, they want to get (inaudible)

Vice-Chairman Olschewski – Now, let me ask you this, if there is a fire in the building and the truck has to go in the parking lot, is that how close to be to a building which on fire just

Member Pryor – That's out of my expertise but the, you know, they generally like to get up the ladder and get some water on the roof so that's what I've seen, that's what I usually hear, so

Member talking over each other.

Mr. Decker – The other thing, just as a reminder to the Board, the building is totally sprinkled cause of the sprinkler system.

Member Pryor – I know. That doesn't (inaudible).

Members talking over each other.

Mr. Decker – That's going to be your first, the first response will be the

Vice-Chairman Olschewski – I mean and because it is so tight there, adjacent buildings fairly close, I don't know. I'd like to speak to the fire chief.

Member Pryor – He did not comment on this Beth?

Secretary Dilts – No.

Mr. Decker - And we don't have a policy on circulating (inaudible).

Member Fitzsimmons – Get a fire engine and how they're gonna get in; do they have the space to turn? What would be the size on that, of a fire engine?

Mr. Decker – We did, we provided truck turning for a garbage truck, if you will, on the plans that shows a garbage truck has adequate ability to come into the site and pull out. I don't know what type of equipment the fire department has.

Secretary Dilts- They did say they would like a set of the plans.

Member Woolf – If it would be a fully involved structure fire, we wouldn't be into the parking lot anyhow. Other than just one attack truck to tie into your (inaudible) in the front of the building. The other attack sites would all be fought with either platforms or aerial ladders. In the Township, we have 100 foot, Harmony has

Member Fischbach – A fire truck would never go into the main parking lot. A fire truck would probably be anywhere from

Member Woolf – It would take up on the road

Members talking over each other.

Member Fischbach – or one of the other two parking lots.

Member Woolf – and our ladder truck is 100 foot.

Member Fischbach – It is not an occupied building, in other words, like so there's no residents in there, right so, it's basically, surround and drown.

Attorney Sposaro – I canvass our professionals to see if we had in our collected experience ever heard a fire official or a Township testify at a Planning Board meeting and I have the answer to that as, no. It doesn't mean you can't ask for it, but generally, we defer to the fire official as to whether adequate fire protection can be provided to the building and if it is that person's opinion that it cannot, they have to come back. That's the bottom line. I don't think anyone here has the expertise to offer an opinion on whether there's adequate access for firefighting equipment.

Attorney Souders – I've had this issue before in actually, Harmony Township, where the fire official there was refusing; he ultimately did refuse to appear at the board and there was hardy discussion with the board as to why their fire chief wouldn't come and testify, but I think his response was in part was, I'm a volunteer, I spend a hundred hours per week at my fire station. I reviewed the plan. I presented a letter which is typical of them beyond discussing about how you can compel your fire chief to come but we are comfortable deferring to whatever recommendations obviously that the fire department makes with respect

Members talking over each other.

Member Pryor – We didn't (inaudible) a letter here though right? We didn't even get a letter did

we?

Attorney Souders – And that's kinda, it's unfortunately out of our control. We can do anything really as the applicant to compel your municipal official to do A, B, C, or D. We've done what we could and we're acknowledging an obligation to comply with his recommendations and come back if we can.

Member Woolf – In regards to Tony's comment about firemen, you're not going to get our departmental fire chief to come in here and testify.

Attorney Souders – I wouldn't think so.

Member Woolf – And, I'll tell you the reason for it, is everybody in this country today is sue happy. We are all volunteers. You're not going to put your neck out there on the line and commit yourself to say we're going to do this and we're going to do that. We'll do the best we can, when we can.

Chairman Johnson – So, I heard that the fire chief wants to look at the set of plans so

Member Woolf – They always do.

Chairman Johnson – yeah, so we haven't done that yet obviously

Attorney Souders – If he needs another set of plans

Chairman Johnson – Do we have other sets?

Secretary Dilts -Yes.

Chairman Johnson – Questions from the Board? Okay, so we're going to open up to public. Questions for this expert; for this witness only.

John Betz – Once again, traffic situation. As a person who travels that route quite often, you have school children traffic, school traffic coming out of there twice a day, there's the right hand turn off of Baltimore onto Strykers, there's what you proposed is a left hand onto Strykers into the structure. The pile up of all the traffic at one time and that left hand turn into Baltimore and a left hand turn into your building and then right hand turns down Baltimore and the size of the street itself in front of this right, at that curve, is really, what would you think you should do on that one?

Mr. Decker – Actually, I'm going to defer to our traffic engineer.

John Betz – And, the other thing is this fire situation, I just want to make a comment that if the fire company doesn't make a statement, nobody makes a statement, this is just maybe not you but who is going to determine what the adequate insurance on the building is going to be and contents?

Mr. Decker – That's not, that's outside of my

John Betz – And um, yeah okay, so I think the statement about the fire department should be made and the public, somehow the public should know about it.

Chairman Johnson – If you could just identify yourself for the record.

John Betz - Yes my name is John Betz and I live in Brakeley Gardens at 225 Red School Lane.

Chairman Johnson – Thank you. Do we have the public questions?

Attorney Visconi – Thank you. My name is John Visconi. I am an attorney representing Larken. So, what we provided some additional testimony, but just very quickly, it's just the one loading area that's contiguous to the garbage?

Mr. Decker – Yes, there's one loading area that's contiguous to the garbage. What was testified at the prior meeting was this would also serve as a location for delivery trucks to enter and offload equipment or I'm sorry offload whatever anybody wants to store there and there would be a restriction that there would be no tractor trailers permitted.

Attorney Visconi – Are you doing anything to ensure that there's no residents or tenants parked with a box truck when garbage is attempting to be picked up?

Mr. Decker – Not to my knowledge, I mean, that would be an operational thing for Mr. Ferruggia to answer or our traffic expert with regards to what the movements would be. Garbage pickup could be scheduled, so ideally not during business hours.

Attorney Visconi – Is there a reason you are not asking for a waiver, excuse me, for a variance for two loading spaces? Pursuant to the ordinance, aren't they required to have two? It's one for every 30,000 feet or part of 30,000 feet of usable space.

Chairman Johnson – I'm not aware of that.

Attorney Visconi – Of well, of gross floor area; it is 31,000 feet gross floor area. I recognize this may be more for your professionals then, but it relative to this (inaudible).

Chairman Johnson – You have the ordinance number?

Attorney Visconi – It's Section 243-51. It is Section A and it's one berth for every 30,000 square feet or part thereof a gross floor area of non-residential uses.

Chairman Johnson – You're gonna come back up and have some other experts. I think we can

Attorney Visconi – That's fine.



Chairman Johnson – certainly address that. That will give us a few minutes to look at and that will keep the meeting moving.

Attorney Visconi – Just one final question for this gentleman. If I can find it. Excuse me, two questions. There is a basin in the back. Is that correct?

Mr. Decker – Right.

Attorney Visconi – Retention or detention?

Mr. Decker – It is a, it is a detention basin, bio detention filtered bottom to it for water quality. Below that, is an impervious liner because we are in a carbonate district. In most cases, it has been previously testified to combine quantities for water quality and ground water recharge.

Attorney Visconi – What is the maximum of depth of water that could be there standing in a, you know, a hundred year storm? I don't mean to put you on the spot that way, but what are the specs for how much standing water can be there?

Mr. Decker – It would be less than four feet.

Attorney Visconi – Is there any fencing surrounding that?

Mr. Decker – No.

Attorney Visconi – Should there be? Isn't there a daycare right next door, within 50 feet?

Mr. Decker – There's no requirement that it be fenced. The standing water in there would be eliminated within 72 hours. Actually, less than that. We're not talking about a lot of flow into or out of that basin. If it fairly small in size. All I can say is there's no fence proposed now.

Attorney Visconi – Would the applicant consider any buffering or fencing or anything like that to prevent access to anyone who's going by?

Attorney Souders – There would be no objection for the applicant to put fencing in the detention basin.

Chairman Johnson – We would want to look at that ourselves too. Right, we have a lot of fencing around our detention basins which we're considering removing. It doesn't work and it's an eye sore. This might be a different situation because of where it is located.

Vice-Chairman Olschewski – He most certainly did his homework and stayed up late. He's right. There's a daycare center right there and its four feet of water.

Chairman Johnson – All right, does the care center have a fence around it? Like I said, we need to look into it and come up with

Mr. Decker – There is fencing around their play area in the back.

Chairman Johnson – So, all things to take into consideration. That was of course my point.

Mr. Decker – And, I'm assuming that the children are supervised but

Vice-Chairman Olschewski – On top of that, we're talking about developing property behind it, right, so there will be residents and people and children playing so

Mr. Decker – We're agreeable to put the fence up too.

Attorney Visconi – Just very quickly (inaudible) does the mountable island at the entrance change any of turning radii (inaudible)

Mr. Decker – Actually, by putting in the mountable island, it actually opened up the overall opening of the entrance drive. It makes it easier for a larger vehicle such as a garbage truck to access the site because there is a wider throat.

Attorney Visconi – Well, if the island

Mr. Decker – The garbage would, which is one of the reasons we made it mountable, the garbage truck would have a couple tires that would go over the concrete curb at the median as it enters but that was the reason for the mountable curb and we also include that island to again channel the traffic leaving the site.

Attorney Visconi – How wide is your, just in front of the front facing the building you can see the wider section of the loading or parking area; how wide is that?

Mr. Decker – The parking area here? Um 42 feet.

Attorney Visconi – Okay, thank you.

Chairman Johnson – What's that? Are you an expert or are you with public comment?

David Gardner – I'm David Gardner.

Attorney Sposaro – David you're with Larken. You are represented by counsel.

David Gardner – Correct.

Attorney Sposaro – Are you going to, you have your attorney here to question this witness. Is there anything that you want, anything else you want your attorney to ask this witness? There is going to be an opportunity for public comment and certainly we'll allow you that.

David Gardner – Well, because this gentleman is the engineer and I have design questions. So, I don't have a (inaudible) right now. A planner

Attorney Sposaro – but you do have a lawyer.

David Gardner – I do, but (inaudible) ask

Attorney Visconi – His entity is represented, but he wanted to ask in an individual capacity, there's really no harm in that. We certainly don't want to stretch the Board's (inaudible)

David Gardner – I think some of you know we have a huge objection with all these variances and all these waivers right, you know, that entertaining right now. So we have tremendous concerns with the building. I want to point out about the design on this thing. We worked in this town for 23 years to not have a spot for the fire trucks to go around back, our shopping center right over here what if there's

Chairman Johnson – One second please, one second please.

Attorney Sposaro – Hold on – you're represented by counsel and if you're counsel, that's why you have an attorney here. Let your attorney ask the questions. If you want to huddle with him for a few minutes

David Gardner – No that's fine.

Attorney Sposaro – otherwise

Chairman Johnson – These questions look like it's relevant to your presentation you are going to be doing in a few minutes.

Attorney Sposaro – They're entitled to ask all the questions they want. I think they should be

David Gardner – ((Inaudible) since I'm going to testify its fine, I'll sit down.

Vice-Chairman Olschewski – One second, why can't you not ask yourself?

Attorney Visconi – In fairness to counsel, it is a reasonable, he's represented by counsel so his entity is represented by counsel, so his questions through one thing, should go through his attorney.

Vice-Chairman Olschewski – Okay.

Attorney Visconi – That's a legitimate request.

Attorney Sposaro – And I know David for 20 years, and I'm sure he'll ask good questions or have testimony but you have to follow the rules.

Chairman Johnson – Any further questions come on up?

Attorney Sposaro – And you're not represented by counsel correct?

Marissa Marinelli – No. My name is Marissa Marinelli. The house over there belongs to my family. Just a couple of quick questions; the pole, you said Verizon you don't have a letter from Verizon. I think that's one of the things that's missing. Does Verizon control the telephone pole that's there or is that

Mr. Decker – It depends. I'm not sure; sometimes the telephone company owns it, sometimes the electric company owns the pole so (inaudible) utilities tie into it. What we are proposing for utilities is there's a pole located to the northeast corner of the site. We are proposing underground, it would come down the pole and an access to it.

Marissa Marinelli – Right, but I mean that pole gets hit frequently, and it's been replaced two or three times a year because of accidents. It is a very dangerous corner, so I would just think that or somebody, whoever is in charge of that pole, should have a comment on what's going on or someone should look into that because it is a dangerous corner. We've had cars on our property; we've had cars hit our house. That pole gets hit quite frequently. My second question is, and I'm trying, I wasn't at the last meeting but I heard you talk about waivers for the parking spaces; waivers for open spaces, how tall is the building by the way? I heard you talk about height of the building.

Mr. Decker – The building itself is 44.68. The height permitted by ordinance is 45. So we are permitted 45 feet and the building height itself is 44.6.

Marissa Marinelli – Okay, so there is no waiver required for that. Okay, so there's waivers for parking. How many waivers are there?

Vice-Chairman Olschewski – There's one waiver because we cannot, how many stories?

Mr. Decker – Well, from a height standpoint, we comply

Vice-Chairman Olschewski – That's right.

Mr. Decker – with that. There is also, and our planner will provide additional testimony from a planning perspective, that three stories is permitted, four stories is proposed and there was testimony at the last hearing with regards to the architecture of the building.

Marissa Marinelli – All right, so that's going to be like the tallest building in the area by far, right? I mean there's houses across the street, there's the little mall, there's the daycare center.

Mr. Decker – Right.

Marissa Marinelli – There's nothing four stories high in the area. Is that correct?

Mr. Decker – Not that I'm aware of.

Marissa Marinelli – Okay and you need a waiver to go that four stories?

Mr. Decker – Right, but you can have a three story building that’s 45 feet tall too.

Chairman Johnson – What’s the correct height of the buildings there on the strip mall? Do we know that?

Mr. Decker – The buildings in the strip mall, I don’t have an exact measurement. I’m going to say there’s a cupola on the back portion of this building.

Chairman Johnson – How about roof. The highest point on the roof?

Mr. Decker – The highest point on the roof, I’m going to say is probably about 25 feet.

Attorney Sposaro – I think Mr. Gardner would be in the position to answer that question.

Chairman Johnson – A good question.

Marissa Marinelli – Okay, and so do you know how many waivers that you’re asking for, for the whole site? I mean I think the acreage too is below an acre right and you need two acres. So, you need, it’s a variance right?

Member Fox – It is a non-conforming lot. Pre-existing, non-conforming lot.

Marissa Marinelli – Right, so you are less than 50% of the acreage that you need in order I mean to build this project right? How many waivers do you need to actually build this project?

Mr. Decker – I have to go through, they are enumerated in the Township’s professionals letters.

Attorney Sposaro – Perhaps their planner when he testifies can identify that because

Mr. Decker – Yes.

Attorney Sposaro – his testimony is going to go to the issue of the variances and the waivers, so I think he’d be more than capable of answering those questions.

Marissa Marinelli – Okay, thanks I’ll come back.

Chairman Johnson – Thank you. Any further questions? Okay, any question oh wait, we have

Marissa Marinelli – This is my father. So he’s, he wants to make his comments but is that

Attorney Sposaro – That’s at the end.

Marissa Marinelli – That’s at the end.

Chairman Johnson – These are questions for the expert witness.

Attorney Sposaro – Don, are you going to call your traffic expert back or is (inaudible)?

Attorney Souders – I will.

Chairman Johnson's – This is your last

Attorney Souders – I have Mr. Polyniak who will testify very briefly with respect to a schedule that he's prepared

Chairman Johnson – Real quick, what do you have left as far as

Attorney Souders – I have our traffic engineer who should be very, very brief. I have Mr. Snyder who is our professional planner who will testify on the specific variances and the burden with respect to them and I have Mr. Ferruggia who is going to provide some testimony.

Chairman Johnson – Okay, so we're going to take a five minute recess and we'll resume at 8:40 and continue right? We're going to continue our meeting, everybody take their seats. So we're ready for your next expert witness.

Attorney Souders – I call Mr. Polyniak the traffic expert. He did testify I believe at the last hearing already sworn and he's qualified as such. I marked, as an exhibit tonight, the small table that will be marked as A-9. I don't think it was previously distributed but he brought extra copies. We can circulate those. This is a chart that's titled IT Trip Generation Comparison Self-Storage vs. Permitted Uses. I think this was an issue that was raised at the last hearing. Mr. Polyniak, I direct your attention directly to A-9 exhibit A-9 tonight – would you summarize the data that's reported from that table are the same?

Mr. Polyniak – I was at the last hearing and someone requested the information. I did a comparison of the peak hour trip generation for the proposed use. From what you can see, is calculations performed using (garbled speech). Particular during evening peak hour the 2900 square foot office and the 960 square foot retail building generate a substantial amount of traffic more than the use proposed on site. What you have a vacant piece of property that has the ability and right to be developed with the driveway proposed at a location that is the best for this location due to site lines as agreed upon by your engineer and with a use that will generate less traffic than simply any other development that could be put on this property. From a traffic perspective, it is my opinion that driveway location, impact traffic, that this development here is the best you are going to get with respect to traffic pattern.

Chairman Johnson – That concludes your testimony on the, that was concise. So any questions from the Board?

Attorney Sposaro – I have a question that has to do with the reduction in parking. Can you just briefly again, identify why you reduced the number of parking spaces (inaudible – garbled speech).

Mr. Polyniak – Yeah sure. (Garbled speech) found that approximately eight or nine parking spaces would be sufficient for (inaudible). My testimony last time was with respect to reviewing (inaudible) it says six spaces would be enough. I believe that (inaudible) that eight or nine would be enough. So we proposed eighteen.

Vice-Chairman Olschewski – Do you know how many individual boxes are in that (inaudible)?

Someone said 264

Chairman Johnson – And the requirement of the number of spaces according to code is 40?

Mr. Polyniak – In the 30's, I believe code requirement.

Vice-chairman Olschewski – Thank you.

Chairman Johnson – It was (inaudible) by 30 so. We're looking for a waiver to go from what it was originally in the high 30's to 18 and now it is back down to nine.

Engineer Sterbenz – It's 40 spaces.

Chairman Johnson – 40 okay. So 40 down to 18 and now we are down to nine. I think we're going to revisit that at little bit later. We may want get back up to the 18 but that's something we're going to discuss.

Mr. Polyniak – Why I think that was the original proposal but from the testimony you heard (inaudible) I think that's why the concept is banking some spaces which allow us, correct me if I'm wrong, it either (inaudible) municipality or the applicant to (inaudible).

Attorney Sposaro – How many spaces are you banking right now?

Mr. Polyniak – It will be nine. Half of what's proposed.

Chairman Johnson – I think some of that conversation was eluding to the fact that you might want a little bit more space for turning around trailers and just give yourself more (inaudible) maneuver that very tight spot so 18 spots would give you that buffer you would need. I don't think you know we need to decide right this second but I think I'd like to see the 18 back but you know I'm not bringing that to a vote right now. Now it's just a discussion between you and me. I'm not sure why (inaudible) nine.

Vice-Chairman Olschewski – I know I have to, in the real world, if somebody shows up at the facility I would think they show up either with a box truck or with their SUV or they come with a car and a trailer. Is there room if somebody shows up with a car (inaudible) where do they park? Where does somebody park with the SUV and the

Attorney Sposaro – In fairness to the applicant, they reduced the number of parking spaces based

upon the information they received from our professionals. None of that is etched in stone. They came in with 18. You want 18 they started with 18, they'll give you 18. They think less is needed but ultimately that's your decision. It is nothing to argue about over it. Whatever, if you want 18, they'll give it.

Attorney Souders – It doesn't matter the nine versus 18 or the manner by which we create impervious substance there; the nine paved with asphalt is nine with some permissible vegetative component.

Chairman Johnson – Any other questions from the Board for this witness?

Mayor McKay – My concern is (inaudible) trailer in there. Most people can't really maneuver those very well and I don't see how you would ever turn it around or back it in.

Mr. Polyniak – We have the ability to make essentially a "K" turn. This site is going to be very sleepy and you're gonna have two, three visitors at a time. So, you pull into the site, come down the drive isle and kick in reverse to back up your vehicle into the refuse site, use that as your goal position.

Mayor McKay – If it's just a vehicle but if you're pulling a trailer behind you, that combined, that's what 25 feet of a car and a trailer like that.

Vice-Chairman Olschewski – In reality, most people, many people (inaudible) trailer behind a car. I don't see happening though.

Chairman Johnson – May I make a suggestion that we continue this discussion later on in the testimony when we hear everything and move on. I think this is not a dead issue yet. We'll talk about it later. If that's okay with everybody, we'll move it on if there is no other questions from the Board; we'll go to public comments on this expert.

Attorney Sposaro – Or questions of this expert.

Chairman Johnson – Questions, yes questions on this expert.

John Betz – Coming down Baltimore Street, Larken building the development right behind the property and off on the Piazza Tract, I don't know where the entrance is in (inaudible) from Larken's. You have a right hand turn and traffic coming out of there. You have a right hand curve which cars are going right. You have a second left hand turn lane which is already on (inaudible) which means that is very difficult to get over into the side where you are supposed to turn. Then you got the right hand turn coming out. The right hand turns back in. You have oncoming traffic out of Strykers Road. You have the potential of increasing population and car flow and then you've got the Larken Strykers Crossing entrance there. Then you got the Larken entrance and exit up further on their retail development there. So you've got like and then on Baltimore you got exits from the nursery school and the medical plaza all potentially increasing flows. Now has that been looked at? The potential of increased flows, future flows has that been looked at, at all?



Mr. Polyniak - Sounds to me like there might be an issue with Baltimore and the Larken driveways and all the off-site driveways associated with this property. This property is going to generate a fraction of any of those other driveways that are located along Stryker. Those retail driveways like an absolute fraction, like a negligible amount of traffic.

John Betz – Could the plans be changed to make a right hand turn in and a right hand turn out only with no left hand turn which will barricade that coming up curve turn to the left?

Engineer Sterbenz – I’m just going to jump in. I had a meeting with the police chief out there and discussed the right in, right out driveway versus other driveways and the police chief was not amenable to a right in, right out. He felt that that was going to present other hazards in the area; namely, that people that would be approaching this particular driveway when they realize they couldn’t make a left hand turn would go and potentially make U-turn movements or go onto private property to do a turn around and that’s just an undesirable thing. So he felt the best thing to do, was to prohibit a left going out but to permit the left hand turn going in.

John Betz – (Garbled speech).

Engineer Sterbenz – So, I did meet with the chief and the chief also shared accident information. There’s been two accidents at the intersection of Baltimore Street and Strykers Road. They were both weather related. So nothing out of the ordinary there.

Attorney Visconi – A few questions. Is that marked as an exhibit? I just want to make sure I’m, is it A-3 is that right?

Engineer Sterbenz – That’s A-3.

Attorney Visconi – So, if someone were to come in with a box truck or with a SUV and a trailer they’re, the applicant’s desired location for them would be in the loading zone or across the front of the property?

Mr. Polyniak – No, you would have to be in the loading.

Attorney Visconi – Okay, so if someone pulls in forward into the loading zone, how are getting out?

Mr. Polyniak – They could reverse their vehicle and drive out. They can make a “K” turn and head towards

Attorney Visconi – Does the turning radii submitted contemplate that, and show enough room for that to happen? Is there any turning radii with regards to a trailer behind any vehicle at all?

Mr. Polyniak – (Inaudible).

Attorney Visconi – Now, when someone is reversing out of the loading zone, you know, if

they're making a "K" turn in front of the building, how much room is there, let's say we have the busiest day of the year and we've got three cars at one time, is there enough queuing room so that anyone trying to get in while that car, that trailer is reversing are not extended out into the street?

Mr. Polyniak – We have a pretty long throat on this driveway and we're not (inaudible) what's the word drive out?

Attorney Visconi – If someone's reversing there, even if it would get to the drive out or are they in the driving range, the entrance way?

Mr. Polyniak – I'm not sure, I understand.

Attorney Visconi – You've got someone reversing right up here; you testified that they come into the driveway by the parking spots so we come this way. So, if they're here, can anyone, is there enough room here for people to wait?

Mr. Polyniak – Oh yeah, sure I mean, this is, a parking space is 18' deep so from looking at, just using that as a scale, when you are looking at three to four cars in the driveway and reaches the

Attorney Visconi – What's the max length on the box truck?

Mr. Polyniak – The box truck that the facility is going to use is I think that's the height a 10' box truck. (Inaudible) 19'straight truck.

Attorney Visconi – And, if someone were to pull in with a truck or a trailer in front of the parking spaces, do the turning radii determine whether they can turn around without interfering with the parking spaces or do the turning radii include them cutting off parking spaces; meaning if there's a car there they won't be able to turn around?

Mr. Polyniak – I don't know if I understand that question, but I think we're talking about a very hypothetical situation where there's multiple confluence of vehicles on site

Attorney Visconi – Let me simplify the question.

Mr. Polyniak – Well, my testimony is that there'll probably only be two vehicles entering over the course of an hour.

Attorney Visconi – Let me simplify the question. If someone has a box truck or a car with a trailer, and they are in what we'll call the driveway, in where the parking spaces are, do the turning radii for them to turn around does that contemplate them making or going into parking spaces or can they turn around without touching parking spaces?

Mr. Polyniak – I haven't run that template, but I'm just assuming they would be able to make a turn into, if a garbage truck is able to navigate this site based on the templates provided, it is very likely that SUV's, it's obvious SUV's but larger vehicles can also navigate the site.

Attorney Visconi – Is there anything preventing box trucks, garbage trucks, whomever from coming across the parking space area or are they free to do so? Are they limited to the loading zone or

Mr. Polyniak – Physically, there is nothing preventing anyone from doing anything on the site.

Attorney Visconi – Any signage or anything that says you know no box trucks in parking?

Mr. Polyniak – Well, if the box truck fits in the parking space then it can certainly use the parking space.

Attorney Visconi – How big are the parking spaces?

Mr. Polyniak – Eighteen feet deep.

Attorney Visconi – So a 19' truck would stick out then even if it's up against the curb?

Mr. Polyniak – Correct.

Attorney Souders – A little bit of the rear would hang over the curb stop, if backed into the space.

Attorney Visconi – So, then it would be over the sidewalk. Does that create ADA issues?

Mr. Polyniak – The only concern with an overhang of a parking space is the ability to get out of the parking space. If you have a 24' isle and a 19' and there are cars, this is not used because they're banked, a vehicle, the wheels can go to the curb line and overhang that grass area.

Attorney Visconi – Well, let's look at the parking spaces up against the building side, is this a sidewalk here?

Mr. Polyniak – Yes.

Attorney Visconi – So, if someone were to back in and overhang, would they overhang on the sidewalk?

Mr. Polyniak – If they were to park that way, however, there's no, I don't have a concern if there's an extra foot in the 24' drive out because there's sufficient room for (inaudible) in a 25' drive out.

Attorney Visconi – Aren't you requesting a waiver for this (inaudible) drive out?

Mr. Polyniak – You have a 25' drive out, for two cars coming out of a, they work in a shopping plaza, so, should be parking back to back, you got to make sure you are able to get out of a parking space. In this instance with banked parking, the vehicle, there's no vehicle behind you, it's a curb. Your wheels can go to that curb, not even your car, there's plenty of room to navigate

that. You don't need the full 24' to do that if there are not cars behind you.

Attorney Visconi – Does it impact other cars being able to pass through the drive out?

Mr. Polyniak – No.

Attorney Visconi – Or turn around in the drive out?

Mr. Polyniak – No because (inaudible)

Chairman Johnson – State highways are around 12 feet.

Mr. Polyniak – Not all state highways.

Chairman Johnson – In New Jersey they are.

Mr. Polyniak – Not all

Chairman Johnson – State highways.

Attorney Souders – (Inaudible).

Attorney Visconi – Now are you just traffic or circulation as well?

Mr. Polyniak – (Inaudible).

Attorney Visconi – Now, I don't know if you know this, but that behind (inaudible) to the north, there is a fire (inaudible) is there any reason that this building, that's a one story building, is there any reason this building with storage in it, wouldn't need something like that?

Mr. Polyniak – I can't say. I wouldn't know. There is a lot of discussion up there, what the fire official, what he needs. I don't know his needs.

Attorney Visconi – What kind of vehicles can get from the front of the building to the back of the building using only this property? Can you get a car back there? Can you get a truck back there? Can you get a fire truck back there?

Mr. Polyniak – I would say no. Looks like there is a ten foot grass strip. You can drive a car in a ten foot grass strip. (Inaudible).

Attorney Visconi – Of course.

Vice-Chairman Olschewski – With that in mind, can I interrupt you for a second? What happens if there's any issue with the space of the building being built? Just saying if there can be anybody because any issues behind the building after the building is built, how are you getting there? Or if there is any issues with the building itself in the back, how are you getting there?

Mr. Polyniak – (Inaudible).

Vice-Chairman Olschewski – Okay. Who knows?

Attorney Visconi – Changing topic, with the parking spaces, the nine that are there, not the nine that are banked, will there be any wheel stop going forward? Is it possible that there's overhang onto the sidewalk?

Mr. Polyniak – Looking at the plan, there is no proposed wheel stops to prevent overhang on the sidewalk.

Attorney Visconi – And again, does that create a

Talking over each other.

Attorney Visconi – box trucks might be able to. Does that create ADA issues with the sidewalk?

Mr. Polyniak – I don't have the width of the sidewalk here so.

Engineer Sterbenz – The sidewalk's six feet wide. I can tell you if it did, we'd have a comment, George and I on the plans; perfectly acceptable to have a couple feet of overhang from a truck or a vehicle over a sidewalk as long as the sidewalk is six feet wide or greater. So, it's probably going to leave four feet for a pedestrian to walk by the truck.

Attorney Visconi – Okay, so that's built in already.

Engineer Sterbenz – Yes, that's correct.

Attorney Visconi – Okay, I think that's all we have for now, thank you.

Chairman Johnson – Thank you.

Member Pryor – I did have one question you're going have a box truck available for tenants?

Mr. Polyniak – That's the intent.

Member Pryor – And, it's going to be parked in front of that dumpster most of the time, right?

Mr. Polyniak – That's what I understand.

Member Pryor – So, that space is really not going to be available for turning

(Inaudible)

Mr. Decker – That's not

Mr. Polyniak – I'm sorry, yeah, you're right. The truck that they're providing we will use the space; it's a smaller truck that I think was originally

Member Pryor – Yeah, we were all talking about

Mr. Polyniak – Sorry about that.

Member Pryor – moving in and out of that and won't be available most of the time.

Mr. Polyniak – No, the truck will stay in the parking space.

Attorney Souders – In fairness to Doug, I understand that our engineer addressed the issue regarding access to the rear of the building and because that's an issue that (inaudible) interest, if I could ask him to just identify

Mr. Decker - That comment was raised, actually, in Mr. Sterbenz report; his initial report and at the last meeting, the space between the building and the property line is, is ten feet wide. The space in the back is relatively small once it is constructed. As far as maintenance, maintenance vehicles, a pickup truck, if it had to get back there with the landscape equipment and so forth, can certainly go down the, this ten foot strip along the southern portion and we were also, although this plan doesn't show it, moving vegetation out of the way so that that would provide access.

Vice-Chairman Olschewski – So, you're saying a pickup truck could go, I mean, that was the question right? Could a vehicle get, it can.

Mr. Decker – And, should they need to get back there with a backhoe, or something like that, a backhoe could certainly be offloaded in the parking lot and traverse back there and temporarily they could put down temporary mats to stabilize the ground so that they can drive over the grass without creating any ruts, make it to the rear of the site.

Member Woolf – An opinion with your comment there, Lopatcong Fire Department does that where we'd pull in the attack truck that would, with four wheel drive, they would be capable of going down that ten foot right of way, that ten foot clearance down the side. We wouldn't get our big trucks in there but our small truck would fit in there.

Member Fitzsimmons – Can I ask, the plans appear to show at least one tree there

Member Woolf – And, we carry chain saws on the truck. We don't hesitate to

Members talking over reach other.

Chairman Johnson – Is there any other questions for, yes come on up.

Marissa Marinelli - Would you mind if I looked over that?

Attorney Souders – Sure.

Marissa Marinelli – Just a couple of questions. So if you had to go back to 18 spaces, I think you said you didn't need the 24 or 25 foot drive through or whatever cause you only have nine spaces and you don't want (inaudible) but if you went back to 18 spaces, you will then need that width of space?

Attorney Sposaro – Twenty-five foot isle.

Marissa Marinelli – Is that right?

Mr. Polyniak – We're asking for 24

Marissa Marinelli – Right, but you're asking for 24 on the basis that there's only nine spaces right?

Mr. Polyniak – Twenty-four is not dependent on whether it's nine or 18; 24 is acceptable for

Marissa Marinelli – So, it wouldn't have the effect if you added those nine other spaces.

Mr. Polyniak – No, I wouldn't go less than 24

Marissa Marinelli – Okay.

Mr. Polyniak – for parking

Marissa Marinelli – So, then your testimony this was traffic

Mr. Polyniak – Vehicles correct.

Marissa Marinelli – Okay, and so how did you do this study? Did you do the study or how did you come up with this

Mr. Polyniak – There's reference material. The Institute of Transportation Engineers that create a reference material called trip generations and they study uses across the United States and you know engineers submit data and then it is tabulated (inaudible) created to estimate traffic associated with the land use based on the site.

Marissa Marinelli – So there's nobody who actually looked at the traffic on Stryker Road to come up with this exhibit?

Mr. Polyniak – No, that has nothing to do with the traffic on Stryker Road. That is an estimate of the traffic generated by the facility that's proposed and two facilities that could be proposed on this property without variances.

Marissa Marinelli – And without variances

Mr. Polyniak – Correct.

Marissa Marinelli – So, the two others that are used for comparisons would be smaller facilities?

Mr. Polyniak – In square footage, but not in traffic.

Marissa Marinelli – Yeah, and I'm trying to understand how do you come up with, how do you reach that number? If you build something on there that fits within the permitted use, you're saying there'd be more traffic, then I want to come to understand how. What is the basis

Mr. Polyniak – By nature, self-storage facilities do not experience a lot of traffic. If you go to (inaudible) on 22 or anywhere else, there's nobody there. If you were to put a car wash or convenience market, 900 square feet on here, you're going to see tenfold of traffic then what a self-storage facility generates. It is the nature of the use.

Marissa Marinelli – What about the size of the vehicles going in and out of there?

Mr. Polyniak – The type of delivery vehicles with a retail component you have trash and small, less deliveries with not this component but (inaudible) from time to time

Marissa Marinelli – And you, would trucks with trailers and U-hauls and things like that going in they're trying to make a left hand turn off Strykers Road.

Mr. Polyniak – If you offered coffee, or morning type items that would have landscape vehicles, people shopping, you could have those type vehicles, yes?

Marissa Marinelli – Then you wouldn't have, you wouldn't have a building that came up as close to the edge of the street if you had a smaller facility.

Mr. Polyniak – Oh, you may.

Marissa Marinelli – And, how would that happen?

Mr. Polyniak – I mean, I don't know personally the requirements for setbacks from the roadway and what not, but you could put a building right there. You could have an office building using that foot print right where it is located now.

Attorney Souders – I don't want to interrupt; I just want to verify, I can wait till you're done if you want?

Marissa Marinelli – I'm just trying to understand so you did no actual study of the traffic

Mr. Polyniak – At the last hearing, I testified that we took traffic counts, but I do know the volumes that table



Marissa Marinelli – has nothing to do, this has nothing to do with

Mr. Polyniak – Correct. Those are projections for traffic for land uses that could be put on the property.

Marissa Marinelli – Okay.

Attorney Souders – Doug, just get down in the weeds a little bit with respect to the basis and data and it's reliance as a standard in the industry for traffic and engineering professionals.

Mr. Polyniak – Yes traffic (inaudible) bible if there's something you projecting traffic for (inaudible).

Attorney Souders – It wasn't a resource that you sort of cherry picked

Talking over each other.

Vice-Chairman Olschewski – Can I ask a question just for my benefit? Somebody ever compare real world things to the book?

Mr. Polyniak – Yes, of course. I mean the book recommends that if you have available data, you use that, but many times, you know, I can't go find a

Vice-Chairman Olschewski – How accurate is your book?

Mr. Polyniak – Depends on the use. Generally, I think (inaudible) it depends on what book you're looking, you know, what neighborhood you're in. You know a gas station how high are gas prices? There's all these variables that are the changes, it's not exact, but if something doesn't exist you have to make a projection (inaudible).

Marissa Marinelli – Because, take into account this building is projected to have 269 units, but don't know how many are going to be full or not. If it is at full capacity, it's not clear to me if doing the study, whatever the ones that are being looked at, in the study, have the same number of units, whether they are at full capacity, you are saying there is another storage unit on Rt. 22 or whatever it is that there is no traffic, that nobody uses it in which case why another one is necessary is beyond me, but that's a separate issue but, you know, if nobody is using it, then yeah, there's not going to be any traffic.

Mr. Polyniak – This is based on square footage so, if the facility were three times as large, it would generate three times as much traffic based upon that data.

Marissa Marinelli – But not, but yeah you could have three times the square footage and have bigger units. If you had bigger units right, you can have the same building and have twenty units.

Mr. Polyniak – That's but, and it's a great question with respect to if you have practical and real

world data. You heard testimony at the last hearing where my projections are actually higher and what a specialist in the field said with the current facility. I believe four vehicles in the peak hour, I think he was saying (inaudible) so I'm doubling his traffic to one car every 15 minutes visiting the site. I mean, you're, I can't (inaudible) enough, how low traffic is going to generate on this property.

Vice-Chairman Olschewski – You know, I would assume, in the beginning, the traffic is much higher than it's going to be (inaudible) down the road. The building opens up; it's going to be advertised. People want to be, he wants to have the spaces filled. You're not going to have these numbers in the first five years, you may, and it's going to be much higher because people are going to start renting the space, getting in and out

Mr. Polyniak – That's true but during Christmas time malls are busy, you don't study, the one time the mall is busy during Christmas you do an analysis for a general conditional (inaudible) of the year.

Vice-Chairman Olschewski – So, from what I learned, from the gentleman who wants to, it seems to be fairly seasonal as well, right? He was speaking about its very small storage, it's not like the ones we have with the garage space. He's talking about bringing your Christmas ornaments in there or your, your snowboard equipment so I'm not sure how accurate it is, but I assume that the first five years going to be much higher than what this is

Mr. Polyniak – It very well may, but I, you know, I don't look at it

Attorney Sposaro – Actually, I just want to ask one question. Maybe it puts this in perspective. Of all the uses that are permitted in this zone, is there any permitted use that generates less traffic that would generate less traffic than this use?

Mr. Polyniak – I don't know of any. It's near impossible to have less traffic than what this would generate. This is as low as it would generate what you could possibly get.

Attorney Sposaro – Thank you.

Chairman Johnson – Any more questions for this witness from the public or Board members for that matter too? Do you have any other witnesses?

Attorney Souders – We do, yes. I'm going to call Mr. Snyder, our professional planner. If I could just, was he sworn last month or not?

Secretary Dilts – They were all sworn. Just needs to be qualified.

Attorney Souders – Could you provide the Board summary of your education, your professional license, history of testimony before boards such as this?

Mr. Snyder – I am a licensed planner in the State of New Jersey and a charter member of the American Institute of Certified Planners. I have a Bachelor's of Science in natural resources and

a master's in city and regional planning. I've been in planning practice for a little over forty years. I am the northwest area representative for the New Jersey Chapter of the American Planning Association. A board member of the New Jersey Planning Officials and have been so for about thirty years. I have testified in hundreds of boards, many of which in Warren County. I have representative boards. I have run my own company for 35 years testifying in matters such as this.

Chairman Johnson – I assume this is going to be accepted as an expert witness?

Attorney Sposaro – He's not going to be a problem. Proceed.

Mr. Snyder – Proceed. So, I'd like to begin with some facts that you've heard during the testimony so far. You've heard that this property has been for sale, actively for sale, for at least eight years. You have seen, based on the plans that have been submitted, exhibits and so on that this property is an odd shape. It is in fact a property which is less than the required area; the zone requires two acres this is .91 acres. So, it is a little bit less than half the size. I heard that this proposal is the minimum size to make it economically feasible. It's not something that is overblown. It's not something that has a lot of (inaudible) to it. Spent a lot of time trying to design this property and this proposal so that it would fit the site. You heard Mr. Angeleri testify at the last meeting that there had been a number of ideas for the site none of which played out for permitted uses. You heard just now that this proposed use has an extraordinary small traffic impact. It has a very low intensity, if you will. Yes, we do require some waivers and variances but it's next to impossible to suggest that any kind of use that made any kind of sense would not. So, we can argue that the variances and waivers fall into perspective. You've all heard these arguments before. They come under Section C-1 of New Jersey Statutes 40:55D 70 and they also come under Section C-2 and the first case it's hardship. The applicants have demonstrated through their testimony that this lot, because of its peculiar size and shape, has been extraordinarily difficult to do anything with. There is a hardship that is attendant to the size and shape of this property. There is no arguing about it. All the testimony that you've heard so far indicates that that's the truth. There is really not much you could do. We have an exhibit that we were showing and if you excuse me, I'll pull it out of the folder here. I don't see an exhibit number on this. This is an exhibit that was prepared by Mr. Decker indicating what you could do or you wouldn't need all these variances and what have you. Just looking at it, it is pretty clear that it is a very small building which really wouldn't make a whole lot of sense. We are not here to argue that you should be able to build anything you want but we're here to argue that you should be able to build something that is economically feasible to as the property not being zoned into a utility. Applicant is entitled to some reasonable use of the property. Zone standards generally are arrived at with a look at the neighborhood. Certainly standards such as the height. This is something we'll get into as well are often entered into with reference to fire equipment so that the fire company can get under the roof so that adequate access is available. You heard that our building meets the height requirement less than the maximum permitted and you also heard that the building is four stories when only three are permitted. You've heard that unless the fourth story goes in, this project doesn't make any sense and you've heard that we've taken into account the concern with regard to three stories because the number of stories in the building typically is a function and concern of two things. The first is intensity of use and the second is the sort of the busyness perspective, if you will. We designed this building with a mansard roof

and I forget who said it, but you would require X-ray vision to be able to see there is a fourth story because the mansard roof covers that fourth story. So, you have a building that is consistent with the height that is permitted in the zone that looks for all intense and purposes like a three story building. There is no intensity impact here because the use itself is a lower intensity with those four stories than anything else you could possibly build. Testimony from our transportation engineer here backed up by the professional who testified Mr. Monteforte at the last meeting, indicates that the traffic expected to generate (inaudible) in fact the traffic is almost impossible to count. We've also listened to concerns that were raised by members of the public and the Board with regard to access to the property. We talked about the right in, right out, left in and avoiding the left out. We've taken into account the concerns and consulted your safety expert the Police Chief and your Township Engineer and so what we've done with regard to, specifically to the height, we disguised it. We made it such that it is consistent in terms of height itself with other buildings in the area and I haven't done any analysis of the apartments in the rear but they look fairly tall for the zone. I'm not sure this is the tallest building in the neighborhood but perhaps that can come out later with somebody else, but long story short, dealing with the number of stories with this building you won't be able to tell that they're there. The number of stories does not materially contribute to the intensity of this use. You are going to go from four trips in an hour and you are going to cut that by three quarters that really has no impact. So, a three story building, a four story building, your traffic impact would be for all intense and purposes (inaudible). So, there is no substantial or other or any kind negative impact that would be caused by four stories in this building. Okay, so let's talk about the other variances that we need. We need operating variances, we need side yard variances, and they are also (inaudible) of the size and shape of this lot. If this lot were a nice regular two acre lot, we could very easily meet side yard, provide you with 25 foot buffers; we could do all those things. We could provide you plantings in the parking lot because that's what your standards are based on. A standard lot; this is not a standard lot. There is no land available to secure that. What we've done is we've designed this project so as to minimize impact on the neighbors. We have designed it and in fact, due to input from your planner, to retain as much of the tree line as is humanly possible on the north side of the property and to of course take advantage of the existing shrub line on the south side of the property between our property and the strip mall. Then the question becomes, why would you really need a lot of buffering between commercial uses in the first place? Well you might need it because there's a lot of coming and going. There's a lot of lighting. There's a lot of noise. There's a lot of activity and maybe the adjacent commercial use is one where quiet is something they would really like to have. Well again, on this property there isn't a lot of noise. There is not a lot of coming and going. There is not a lot of activity. They'll need some security lighting but not a heck of a lot. It is not open 24/7. It has defined business hours and so the need for buffering becomes much less. (Inaudible) The point is the town's ordinance says that's okay. You can have (inaudible) next to this daycare center. We are not asking you to put something that your code won't allow us to do anyway. The only height issue is the number of stories. The only issue with regard to buffering and what have you is levels of activity and we talked about the levels of activity that are negative. So, here again, yes we need these variances, yes they are specifically a function of the size and shape of the lot, no they're not necessarily nor will not cause any significant negative impact because they are pretty much consistent with what's in the area. So, I said it earlier that we could also talk about these variances under Section C-2 (inaudible) perhaps the planning would be advanced by this proposal and that any negative are outweighed by the positives. You all heard these arguments. This is the Highlands Center.

Your Master Plan which was revised in I believe 2011, let me make sure I got the date right, excuse me, 2013 specifically incorporated the Highlands criteria. As you know, the Highlands is a very restricted regiment and looks to focus development within existing community centers. As you are probably also aware, the State planning effort began back in the 90's also looks to create centers. Smart growth is a topic I think you've heard talks about things like (inaudible) is strong. While you've also heard that this is a third generation facility. This is not one of those facilities that's spread out over a number of acres, all little one story buildings. This is concentrated. This is a, the density is the same in terms of number of units but it occupies a much lesser space. A much lessor impact on the land, on the community as a whole. Reduced the amount of impervious coverage enormously by going to four stories instead of just one that you can see like the one out on 22. Reduced impervious coverage (inaudible). It is also a facility that is climate controlled and as such provides services not otherwise available for most of the units in the area. You all heard that this area is generally underserved according to the expert Monteforte who testified last month and that is not even taking into account the proposals for 254 units out for the mall and however many units are going to be built behind this property and how many other units that were not counted in his analysis but the long story short there is a need for this. This is an excellent location in terms of proximity to a substantial housing development, obviously. So, what else. (Inaudible) talk to about putting things in appropriate locations at appropriate densities. The sidewalks connect to this development with a mall strip center and an apartment complex. People could actually walk to get there Christmas stuff if they wanted. They could walk to get their bicycles or whatever it is that they can't (inaudible). So again, locating this facility here actually reduces traffic that you might otherwise find on Baltimore or Strykers for that matter because you could actually walk there. Your Master Plan also talks about the Center designation and you already did that but the goals and objectives and policies and so forth that the Highlands Center which was a special district which was to promote and encourage appropriate growth and development compatible with the existing community character. That's a quote out of the Master Plan. We suggest this is exactly what this is. To encourage development of underutilized properties within the town's center. To provide for concentrated development within the community core. All these things are objectives that you have said in your documents that you want to see happen. This proposal makes those things happen. Remembering the fact that other things that your zoning ordinance otherwise permits that this is the one thing in the last eight years that's made any kind of sense that's gotten to this level. So continuing we're talking tonight as a matter of fact about using impervious materials and so forth and minimization of impervious surfaces. Here again, if we were to try to develop this property for one of the other permitted uses in the zone, we'd be looking for serious variances because we would be covering a lot more of the building and a lot more parking. A lot more building and a lot more parking and a lot more drainage issues. More drainage, more building and more parking equals much greater impact on the environment, much greater impact on the resources that you have indicated are of concern to you and that need to be taken care of. Seeking to protect, preserve or store enhanced the natural resources of the Highlands area. Again, out of your Master Plan. Encouraging the use of Smart Growth Principles in locations of the area deemed appropriate for development and/or redevelopment. Our proposal clearly meets and advances the purposes of planning. Our proposal has negligible impact. Not no substantial negative impact. Negligible impact anyway you look at it remembering the fact that you can have a 45 foot tall building in the zone. Remembering the fact that we designed this building as such that you don't know it is four stories. That's my testimony.

Chairman Johnson – Right, thank you. We’re going to start with questions from the, I have a couple questions real quick. The things that just caught up. You had mentioned, we heard about the fourth story making this economical, economically feasible. The third story was the base for their breakeven; four stories what you needed to make it worth it. Now what I haven’t heard before was saying that the 31,000 square feet is the minimum size that’s economically feasible. So are you suggesting, are you suggesting that a 27,000 square foot four story storage facility would not be economically feasible?

Mr. Snyder – I’m simply building on the testimony that my client offered at the last meeting.

Chairman Johnson – I have not heard, I don’t remember that

Mr. Snyder – He’s here tonight and he’ll clarify that for you.

Attorney Souders – I think Mr. Ferruggia will talk about some of those issues and maybe answer the question.

Chairman Johnson – Okay, and my second question is, just to kind of correct something that I believe you were implying, you said there’s no negative impact to a fourth story, absolutely not but what you are not taking into account is that fourth story adds square footage and square footage does have an impact so I just wanted to, I think I knew what you were saying but I just wanted to clarify that that it’s the square footage that has the impact which the fourth story contributes to, but the fourth story by itself is what you meant when you said it didn’t have any impact.

Mr. Snyder – Well, no I said it has negligible impact and is very difficult to measure between three and four stories. If you look at the parking the lot, it would be the same. If you look at the drainage, it would be the same. If you look at lighting, it would be the same. If you would look at the height, it would be the same. So the difference between three and four, I don’t know how you measure that unless you were able to tell by a design that when you know that there was something different about this building. It (inaudible) more intense then (inaudible) and that’s why we designed it, so you can’t tell that.

Chairman Johnson – And, you do not have a waiver for impervious surface correct?

Mr. Snyder – That is correct.

Chairman Johnson – Okay. They’re my questions, I’m sure there’s more.

Vice-Chairman Olschewski – Tony can I ask you a question?

Attorney Sposaro – Sure.

Vice-Chairman Olschewski – The testimony raised in my mind some questions that we are somewhat obligated because somebody bought a property which is some crazy shape and tried to

do something with it over a period of time and it didn't happen that we somehow have to be I don't know what the word is, getting along with all the (inaudible) neighbors because they tried, it didn't work but it would work if we would grant all these waivers and that's what we are kind of obligated to.

Attorney Sposaro – Not obligated. I think the testimony was that property (inaudible) is entitled to reasonable use of the property and I think the point that Mr. Snyder was trying to make and other witnesses are trying to make, if you look at that drawing what (inaudible) plans?

Mr. Snyder – This is a separate sheet.

Attorney Sposaro – (Inaudible). The point here is that in theory someone could come up with a conforming design that meets all the ordinance requirements but you look at the size of the building and what it could be used for and judge for yourself if that's economically feasible, if it's viable, if it makes any sense for anyone to invest the money for the approval process, for the site work, for the construction, for

Vice-Chairman Olschewski – Now, with that said, if I buy a piece of property, I know that when I buy it I should know what I can do with it based on the dimensions and the size. That is my opinion. I should know if I buy this property I cannot put these things on it cause it just doesn't fit, so from our perspective, at the Board, is that something that needs to be taken into consideration? What does it mean reasonable expectation of use? What does that mean? Reasonable. I don't know what that means.

Attorney Sposaro – I think I'll let Mr. Snyder answer that question because he's the planning expert. If someone had owned a larger piece of property and this was subdivided off and they left themselves with this that would be called a self-created hardship. That is a different issue but this is not that. This was a standalone lot that someone acquired. Is trying to develop it.

Vice-Chairman Olschewski – So what does reasonable mean?

Mr. Snyder – Again, you say that if you were to buy a piece of land that you would know what you could get on it this property apparently (inaudible) either before the ordinance was put together requiring two acres or in fact it was created after that in which case, any variances or what have you would have been granted by your predecessor board as far as subdivision. Now, I don't know what its history is, but the fact is this, this is for all intense and purposes a free standing isolated lot. There isn't any land available on either side to make it better because both properties on either side are now developed. Owning property comes with the idea under zoning, that some use, some reasonable use can be made on the property. Now you can go way off and say well, you know, you bought yourself a cliff, nobody in their right mind could possibly build on this (inaudible) relatively flat piece of land. It sits on a significant roadway in the Township. There's no reason to believe that you couldn't build something and so you look at the economics. Somebody owned this land since it existed, this lot okay, somebody has owned it. The fact that other people have bought it doesn't mean that they created their own problem. Okay. If they had subdivided this thing into two smaller pieces that you really couldn't do anything with it, well that's too bad. That's self-created hardship. This is a piece of land that comes with the

expectation of use. You heard expert testimony; my client is a well-known, well regarded developer. A lot of experience in this and he has told you under oath and on the record, that this is the only thing that's made any kind of sense in eight years. I think that's a reasonable period of time to try this, try that, you heard Mr. Angeleri testify at the last meeting that there have been a number of proposals none of which worked. This is the first one.

Vice-Chairman Olschewski – For various reasons.

Mr. Snyder – For various reasons. They did not work economical. They didn't make any sense. And economics is part of this. Whether we like it or not, some use of this property makes some sense. In-fill is one of those things that happens in town centers roughly over pieces, pieces that for whatever reason were split off from others. We don't know what the reasons may have been but good planning practice, state policy; Highlands Policy encourages in-fill. Municipal policies good planning practice and very good to in-fill. That's what this is. You have a town center here. Things are a little bit more crowded in town centers and open spaces and so on. I understand that there is (inaudible) for open space and a parking lot and that's kind of an interesting, interesting way of putting it but by the same token, we're talking about providing a service that is needed in the area. That's already been testified to. We're talking about providing it without having a significant impact on the neighbors. Yeah that's going to be tall but that's what your code permits. I can't get away from that. If your code said 35 feet and we're going for 45 then you got an issue there

Vice-Chairman Olschewski – I'm not worried about the height.

Mr. Snyder – but other than that, the side yards and so forth, the buffering are minor in this context in a town center. As you recall, in town centers you've got buildings right next to each other. Here they are separated. If you look at setbacks for example, the actual setbacks between buildings which is your provision of adequate light here and open space. It's got to be; there's 100 feet between buildings at the closest corners of what we are proposing and the next door neighbor and here is 90 feet close to that the other way. Your side yard setbacks are 50 feet of 100 feet would fit into that. So, there's enough space to put in (inaudible) again, according to your code, so light, air and open space, a useful service that directly works to the benefit of the people who already live in the neighborhood or will live in the neighborhood. We had testimony before about people who are downsizing, people who are my age who are getting out of houses and into smaller spaces. You have to get rid of stuff and have to store some stuff, that kind of thing. It's a community asset and it's climate controlled and it's not open 24/7.

Member Pryor – May I ask a few questions?

Chairman Johnson – Absolutely.

Member Pryor – You could (inaudible) just for a C-1, you testified for a C-1 and a C-2. You said some things, I really don't follow or agree with you, were talking about walking. I don't know why you walk there unless your push it in a wheel barrow, put your stuff in (inaudible) you're either moving stuff in or your taking (inaudible) it's more reasonable.



Mr. Snyder – If I could answer that. One of the things that I have always suggested, was important, is providing options. Now, you're not going to have hordes of people walking to this facility. I'm not arguing that, but I'm saying that you could have somebody who wants to walk. I'm saying that the things that make a town center attractive are options. I can do this or I can do that, that's my choice as opposed to my necessity cause you're right. You're not going to have a whole bunch of people walking to this facility.

Member Pryor – I'll tell you what, we're getting close to ten so let me try and get my questions out here. You said a lot of good stuff. I mean I recognize it all right. To give this some shape. Your negative criteria that you have to demonstrate and the one is without causing substantial detriment to the public good. So, your basic argument is, it has negligible impact, it fits in with the surrounding area and so on. There's no real negative impact to it. Minimizing parking, minimizing pervious coverage, etc. is that your testimony (inaudible) summarizing that correctly?

Mr. Snyder – Yes, it is.

Member Pryor – All right, the second part, is it will not impair the intent and purpose of municipal zoning plan and the second part of that is we've subscribed to the Highlands, we designated a Highlands Center, everything that this does is consistent with the goals and objectives of the Highlands Center right?

Mr. Snyder – Yes.

Member Pryor – And then under C-2, obviously we, it's needed for this particular piece of property. I don't really get the difference between C-1 and C-2 that much sometimes.

Mr. Snyder – It used to be called the reasonable (inaudible).

Member Pryor- I know flexible theories. So again, the variances advance the purpose of Municipal Land Use law again we go back to the Highlands and so on. I'd like you to just touch on the last one – the benefits out weight the detriments. Can you summarize that for me real quick?

Mr. Snyder – Yes. I'll do it in reverse order; there aren't any detriments. I don't see any detriment at all. I see an idle piece of property being put to use. I see a vacant gap in a center of being filled with a productive use. I see opportunities for people to store their goods within reasonable distance of their home as opposed to having to go out on Rt. 22. We heard the discussion earlier about access and so on and so forth. It would be nice to have some place right in your back yard. In terms of the purposes of planning, one of which is light, air and open space, which we talked about earlier. We talked about Smart Growth and the focusing of the development in areas such that you minimize the impact on the overall area, the overall resource. Highlands is particularly, concerned with that issue.

Member Pryor – I might suggest that concerns were raised about the mass of the building; four floors. Your answer was, it was within the height of its (inaudible) of the existing ordinance. I get that, but there has been some concerns raised about simply the access and egress to the site

and I'm sure with the project, it will be more difficult than without the project, so that's a detriment.

Mr. Snyder – It is only in the context of all right, fine, we really don't want to see anything built on this property. Well there's (inaudible) it doesn't fit real well with the local budgets, and I'm not trying to be clever. I'm just saying it's something, your zoning contemplates that there will be development on the property. Something goes there. Therefore, something has to gain access from Strykers Road to get there. No, this is not the most perfect location for access to a piece of property. We can see that. We've reduced the number of traffic movements in and out of the property in response to (inaudible). The fact is at some point access remains to be something that we are entitled to as long as we do it as safely as is possible.

Member Pryor – Okay, you answered me.

Mr. Snyder – Okay.

Chairman Johnson – Further questions from any Board members?

Member Fox – In the lighting plan, there's no (inaudible) is there an ordinance requirement of (inaudible) and are you going to meet that. (Inaudible) we established it's not a 24 hour site but there's going to be 24 hour lighting.

Mr. Snyder – There will be some security lighting yeah and the lighting will be such that could (inaudible) the code.

Chairman Johnson – And, before we go to the questions from the public, any questions from the professionals?

Planner Ritter – Well, basically, what the applicant is asking the Board or what the Board is having to consider, is the balancing test. You basically have an odd shaped lot which, basically, does not fit well, obviously, within the current zoning in terms of shape and size and acreage, but you have to look at is that it is a private piece of property that will or should be able to be developed for something consistent with our ordinance. This use happens to be one of the (inaudible) uses within the district. This applicant is asking you to really balance and weigh as compared to the other uses that are permitted in the district if this is the best fit given the location of the site, the configuration of the site, and what I mean by that, is does it address the potential negative impacts of developing this property as best can be addressed. In other words, has the access been designed to properly access the site? Has the use been picked to reflect the difficulties of coming and going from the site, the intensity of use? I think that's what he's trying to address to you. Yes, the building, he could put a smaller building on there that conforms to the use but it may have more negative impacts I think that's really what he's testified to. He can build a real small retail building you may have more traffic impacts, you may have more issues in terms of circulation in and out of the site. One of the things that this use, I think from the testimony put forward here, is probably the least impact in terms of traffic, in terms of bringing people on and off that site you can get for this unusual property and I think that's something that you have to balance. I mean, obviously, the other aspect of this that you can weigh is that this

site, even though it is very small, the applicant has not exceeded the impervious cover that's allowed, on the site or the building coverage. It is actually in proportion to the tract size. So in a sense, even though we may sit there and say well you know, look how big this building is, the point is, it's still falling within the intensities of the ordinance given the smallness of the site like (inaudible). So there are aspects that you should weigh and it's really a balancing test you have to look at on the property and it's one that I think deserves a lot of consideration particularly in the sense that it will minimize the impacts of traffic, circulation all of which we all know including the applicant are difficult given the configuration of the site. So, that's all I'm saying is a balancing act that you've seen the testimony and you really have to choose, but I think you're choosing between allowing something to happen. The bottom line is, as a private property something should be permitted to be built there; is this the best application that you can get at this stage? Is it the best fit for the very unusual conditions on this site? That's really what you're being asked to evaluate. That's really all I have to say on it.

Chairman Johnson – Thank you. Do we have any questions from the public for this witness?

Attorney Visconi – Yes. They may be extensive. Does it make more sense to hold it until

Chairman Johnson – If you can hold it. This is going to be our last witness for the night and obviously we are going to hear all your witnesses next time. I want to give you the full time that you need to do it.

Attorney Visconi – Frankly, I think I'd rather do it all at once.

Chairman Johnson – Yes, so we're going to hold off on that. So, if you want to hold off on your questions, will you be here at the next meeting?

Mr. Snyder – Yes sir.

Member Fischbach – One quick question. Did they ever build a building that size with the access point going into that lot, be at the same spot?

Mr. Snyder – Yes, so.

Chairman Johnson – So, there are public questions for this witness?

Attorney Sposaro – Is there questions for their planner or for there

Chairman Johnson – This is not public comment so it's just for this witness, just for the planner.

Mr. Ferruggia – Mr. Snyder, if this building built versus no building would it be economically feasible to build a 2900 square office building or a 900 or 100 square foot mini mall or convenience store, would this building that we propose generate more tax rateables for the town with minimal impact versus nothing at all on the property or even a smaller building?

Mr. Snyder – From what I understand

Attorney Visconi – Sorry, if I can interrupt, he’s a professional planner. (Inaudible) Mr. Ferruggia is represented by counsel, I’ll just note.

Chairman Johnson – That’s okay. Questions withdrawn. If there is no further questions from the Board, I have a quick one this is to consider for the next meeting to think about it a little bit. I propose a hypothetical and this is just for discussion, if you were to take a ten foot slot off the width of that building, you would drop your building down by 12%. You would lose 4,000 square foot. You’d still have four stories; you wouldn’t have to go for the waiver for two berths versus one – is something of 27,000 square feet still economically feasible? Something to think about maybe cause I’ll ask that at the next, not to answer now, cause I want you to think about it. I want you to think about that. So if there’s no further questions, then we have to move on, we’ve got to wrap the meeting. Real quick, I just have a couple things we’ve got to cover just to go through the rest of the agenda.

Attorney Souders – I don’t know if it is appropriate, but I would ask the Board if he could commit we would have some sense of who would be testifying on behalf of Mr. Gardner at the next hearing – his professionals in terms of (inaudible).

Attorney Visconi – I can say now we’ll have a representative of the company and planner but after (inaudible) there may be more. I’m not willing to put a cap on it.

Attorney Souders – Fair enough.

Chairman Johnson – We still have to do the public comment for other agenda items.

Attorney Sposaro – This matter will be carried to the meeting of March 22<sup>nd</sup>. There will be no further notice so mark your own calendars accordingly.

Chairman Johnson – So, I ask everyone to please remain seated or at least if you are going to leave do it quietly the meeting is not adjourned yet. Next items real quick here we are going to discuss the ROM/Highlands which we are not going to do. We are going to hold that off but I talked to George about it and what we need to do is we got to get a better focus on this and we need to have our discussions so what we’re going to be doing, I talked to George, and this is a special meeting for George only. We won’t need the attorney or the engineer there. Set up a special meeting for March 7<sup>th</sup> with a snow date of March 9<sup>th</sup> and we are also going to set up a special meeting for April 6 as April 5<sup>th</sup> is not available. So we are setting up two special meetings in advance. Again that’s March 7<sup>th</sup> with a snow date of March 9<sup>th</sup> and this is April 6<sup>th</sup> and George has checked his schedule and confirmed that he is available. I hope this can accommodate most everybody. Our hands are pretty tied as far as George’s schedule goes. I didn’t have any options but we have to do this and I talked to George about it and the importance of getting this done.

Vice-Chairman Olschewski – Usual time Eric 7:00?

Chairman Jonson – 7:00. The next item on the agenda was we had correspondence for the I-78

Logistics Park. They wanted a 30 day review period for that and we sent in a request for a 30 day extension. So we should, if Paul, if you want to elaborate a little bit more on what that was about.

Engineer Sterbenz- Under the New Jersey Highway Access Code, when an applicant refers submission items, items that have been submitted to the DOT and municipalities and counties, municipalities and counties have 30 days to return comments to the DOT but the DOT has shown a lot of flexibility in that regard and Mr. Rashad who testified in this matter before the Board last year has a lot of relationships with the DOT. He is a former DOT employee so he contacted the access people talked to them about getting some additional time for the Township and did submit a request for an additional 30 days which would allow us to submit our comments sometime around the middle of April so we're still waiting for a response from them and we do believe that's going to be granted to the Township.

Chairman Johnson – So this will show up on the agenda for the March meeting I'm assuming because we will need to talk about that correct?

Engineer Sterbenz – I would think the Township Council would be looking at this at the meeting on March 1<sup>st</sup> next week.

Member Fox –Are those comments (inaudible)

Engineer Sterbenz – There are documents here that you can come and review here in the building. I got a complete package from the applicant directly in my office. We have not looked extensively at it right now. I think we need some direction from the governing body as to what the governing body wants us to do in the way of review. There is also money issues here. The applicant's escrow account right now appears to only have about \$1500.00 in it so that's always a factor. Money isn't always a factor but the question is do we fit our review into what money remains in the escrow account, do we go back to the applicant and ask them to provide more money so the Township can do a more comprehensive review through its professionals. This will all have to be vetted out by Council next week.

Member Pryor – I would question his willingness I don't know because he really doesn't have an application before the Board right now. He has his General Development Plan review and he has not submitted his Site Plans so between that and not having an active application in front of the Board

Engineer Sterbenz – He's filed his documents in response to a condition that was placed by the Board in the resolution of approval for the General Development Plan in 2016 so he's met his obligation and Joe is correct, it remains to be seen if he would be flexible or amenable to proving the Township with some more money to be able to do a more comprehensive review. I mean I think we should ask just not sure what the response would be at this point. He's been somewhat hardnosed at times with his escrow account. That's been the track record here.

Chairman Johnson – The submittal was in reference to what? Was it traffic or was it

Member Fox – We had to ask them (inaudible) as a condition that when they submit their application to DOT that he’s welcome to come and we want to be aware of it so we can review it and comment too (inaudible).

Chairman Johnson – (Inaudible)

Members talking over each other

Member Pryor – To me the ongoing argument is he still wants to (inaudible)

Chairman Johnson – I think he should do the corridor

Members talking over each other

Member Pryor – I think that’s all that Council is going to be responding to. (Inaudible).

Chairman Johnson – Joe I completely agree and my concern is that this is the opportunity that we have to (inaudible).

Members inaudible

Member Fischbach – And he needs that. He needs that access into that property.

Member talking over each other

Chairman Johnson- Not seeing the application that was my biggest concern is the corridor and we want to see (inaudible).

Problem with the microphones and the speech is garbled

Chairman Johnson – Will sign the professional’s contracts. No public comment.  
Motion to adjourn the meeting by Member Fox, seconded by Member Schneider. All in favor.

Respectfully submitted,

Margaret B. Dilts  
Secretary