MINUTES OF REGULAR PLANNING BOARD
MEETING HELD ON THURSDAY, JUNE 16, 2016

Vice Chairman Koldyk called to order the regular meeting of the Board and announced the meeting was duly advertise in compliance with the Open Public Meetings Act by notice dated June 7th, 2016 sent to the Daily Record, Suburban Trends and posted on the bulletin board and website at Borough hall. All stood for the pledge of allegiance.

PRESENT: **BLEWETT, KAUFMAN, KOLDYK, MARINO, MOELLER, RUNFELDT, WILD, TERRERO (ALT. #1) AND MORREALE (ALT. #2)**

ALSO PRESENT: **BOORADY, ENGINEER AND NEISS (FILLING IN FOR DEL VECCHIO)**

ABSENT: **NONE**

Vice Chairman Koldyk stated the first order of business is the closed session which is going to be off the agenda for tonight.

Next item is the approval of minutes for April 21st, 2016.

Ms. Ward mentioned the members who can vote are Blewett, Koldyk, Marino, Moeller, Runfeldt, Terrero and Morreale.

Vice Chairman Koldyk asked for a motion on that.

Mr. Blewett moved to approve.

Mrs. Moeller seconds.

Ms. Ward asked any corrections or changes. No okay.

Roll call:

Yes: Blewett, Moeller, Koldyk, Marino, Runfeldt, Terrero (Alt. #1) and Morreale (Alt. #2)

No: None

Abstain: None

Vice Chairman Koldyk mentioned we are going to take Michael Sarao first. This is for a Flood Plain Encroachment Application #FPE 15-03 by Michael Sarao, on property known as Block 9, Lot 27 on the municipal tax map also known as 17 Ellice Street (complete May 10, 2016 decision by June 24, 2016).

Mayor Runfeldt asked if any of the mikes were on. Can you hear me?

Mr. Shirkey stated didn't hear you at all.

Ms. Ward stated I don't know.

Vice Chairman Koldyk stated it is recording.

Mayor Runfeldt stated but the mikes aren't on.

Ms. Ward mentioned the blue light is on for the mikes.

Mayor Runfeldt stated Joan sit down I'll get it.

Ms. Ward mentioned this has to be on for recording and the blue light has to be on for the mikes. I'm sitting.

Vice Chairman Koldyk stated talk loudly.

Ms. Ward mentioned we are definitely recording everything is going in to the machine but you're going to have to speak up.

Mr. Shirkey stated good evening everyone my name is Ken Shirkey and I am the general contractor for the applicant, Michael Sarao. Mr. Sarao seeks to have the approval of a flood plain encroachment application. His property is 17 Ellis Street which is in an R-15 Zone.

Mr. Sarao wishes to construct a two-car detached garage to the rear of his property. This application conforms both in front yard, rear yard and side yard setback. Mr. Sarao sought from NJDEP flood hazard approval as of October 29, 2015 and we are here strictly for a flood plain encroachment. There are no variances with this application and Mr. Sarao has also incorporated a dry well system to recapture any displaced stormwater management issues, and he has also recreated a swale at the rear left hand side of the property to offset the disturbance of subsurface building materials.

The only thing I would add that is not included in your application in preparation for tonight is we had an arborist come out to the property and examine one tree directly behind the location where the garage is going to go and we were under the impression that one arm on that tree would need to be removed. The arborist has since informed us that the entire tree is diseased and that tree will need to be removed in conjunction with the tree immediately to its left. So there are two trees that have to come down not to Mr. Sarao's pleasure, however, the arborist says if they don't come down at some point the tree on the left is going to be on the house and the tree on the right is going to be on both the new garage and the neighbor's house. So being proactive Mr. Sarao is going to have both of those trees taken out, so other than that everything in your application package is exactly as we planned to construct.

Mr. Chairman stated I have nothing else to add.

Vice Chairman Koldyk stated okay. Do you have anything?

Mr. Boorady stated I issued a letter on May 10th, 2016. The application was deemed complete with certain checklist waivers by the Planning Board and I can briefly highlight my report. Just going off my May 10th report starting on the second page is my brief project summary. I believe Mr. Shirkey has already summarized it in detail. The one thing I would like to mention is the addition of a garage would bring the property more into conformance. There is no garage now or carport and one is required per Borough code so they are actually bring the property into more conformance with that.

On page two of my letter from a zoning standpoint, there are no variances required and no variances precipitated by the work being done. There is a zoning summary in my report if you wish to read it in detail.

Under our flood development requirements, on page three of my report, there is zero net fill and they are regrading the backyard and removing soil to create enough credit to construct the garage that meets our requirement. The foundation has been designed to be anchored to prevent flotation collapse or lateral movement of the structure which is also part of our Borough code. All of our Borough code requirements have been satisfied.

As far as FEMA and NIFP development requirements are concerned, as you know we are a CRS participating community so my review of FEMA's requirements is that the structure is going to meet with wet flood proofing requirements. So the garage is going to sit below the flood hazard area and any water that comes in will flow out through flood vents, and the materials they are using are flood resistant so that they can just be washed down and reused the next day without having to worry about mold or anything like that. The materials being used conforms with FEMA's requirements and the plans have been noted as such.

As far as NJDEP requirements are concerned, they already obtained their individual permits to construct the garage. The one thing I think still has to be done is the permit has to be filed with Morris County if it wasn't already, so that would be a condition of any C.O. that they make sure that permit is filed. The DEP also has zero net fill requirements which they have satisfied similar to the Borough's requirements.

The flood vent openings meet all agency requirements; Lincoln Park, FEMA and NJDEP the flood vents that are being put in.

On page four I have several technical comments and if you don't mind I'd like to read them into the record quickly because I think they have to be part of the resolution, at least that is my recommendation that my technical comments be part of the resolution.

Mr. Neiss stated if you wish I'll incorporate them into the resolution.

Mr. Boorady stated sure if I don't have to read them I won't unless the applicant has an objection?

Mr. Shirkey stated we don't need to hear them again.

Mr. Boorady stated okay. If you agree to the eight items, then I don't have to read them in. If you want to address any of them, perhaps we need to do that now. Is there anything in there that you object to?

Mr. Shirkey stated no.

Mr. Neiss asked can we just swear in Mr. Sarao.

Mr. Shirkey stated sure. You can swear me in as well I don't think I've been sworn.

Mr. Neiss swore in Mr. Sarao and asked him to state his full name for the record.

Mr. Sarao testified my name is Michael J. Sarao.

Mr. Neiss asked Mr. Sarao you are the applicant on this application are you not.

Mr. Sarao testified yes sir.

Mr. Neiss stated Mr. Shirkey has indicated that you are in agreement with the technical comments that are on pages four and five of Mr. Boorady's report, have you reviewed them?

Mr. Sarao testified yes I have been reading them.

Mr. Neiss mentioned you've read them and as the applicant do you agree that you will comply with those technical comments?

Mr. Sarao testified yes sir.

Mr. Neiss stated okay very good.

Mr. Boorady stated I have one last comment as far as the trees go, just file for a tree removal permit.

Mr. Neiss asked will that one permit cover the two trees.

Mr. Boorady stated he'll list the number of trees he wants to take down yes.

Vice Chairman Koldyk asked any comments from the Board.

Mayor Runfeldt stated in the absence of any comments I move that we proceed with a --

Vice Chairman Koldyk mentioned I was going to open it up for a hearing. Anyone from the public have a comment? Seeing and hearing none, I'll close the hearing. Now you can say it.

Mayor Runfeldt moved that we approve the plan as stipulated with Items 1 through 8 of the engineer's report.

Vice Chairman Koldyk asked is there a second.

Mr. Wild seconds.

Ms. Ward asked the mayor this is a memorialization right you approved it.

Mayor Runfeldt stated yes absolutely.

Ms. Ward stated very good.

Roll call:

Yes: Runfeldt, Wild, Blewett, Kaufman, Koldyk, Marino, Moeller and Terrero (Alt. #1) and Morreale (Alt. #2)

No: None

Abstain: None

Ms. Ward stated okay it will be on for the next meeting which is July 21st.

Mr. Shirkey asked Mr. Chairman, if the Planning Board could authorize the Building or Construction Department to review the permits until the resolution has been adopted since we didn't have a quorum last month I'd like to see if I can get Mr. Sarao's project started.

Mr. Marino stated I don't have a problem with that.

Vice Chairman Koldyk stated I don't have a problem with that.

Mr. Shirkey thanked the Board.

Mayor Runfeldt thanked them and wished them luck.

Mr. Sarao thanked the Board.

Vice Chairman Koldyk stated have a good night.

Next on the agenda is a request from Steven C. Schepis for a one year extension with reference to Preliminary & Final Major Site Plan and Variance Application #348 and Flood Plain Encroachment Application #FPE 12-05 by Genuine Biofuel of New Jersey, LLC, on property known as Block 3, Lots 7 and 10 on the municipal tax map also known as 425 Beaver Brook Road.

Mr. Schepis stated good evening. I'm pleased to advise since the last time we appeared before you we have secured our DCA approvals, and while it has taken two and a half years to secure we have secured it. Our request here is for a one year extension of the approval that the Board had issued by its resolution, I believe it was October of 2013. The resolution of approval was extended by the Permit Extension Act until the end of this month so we are hopefully to be able to finalize some open procedural issues with the Borough administration and be able to proceed with the project within the next say sixty days. We are still in need of a developer's agreement and ran into a procedural issue with the Borough and we are hoping to iron that out. But now that we have our DCA approval which is our only outside agency approval that was missing, there were no DEP permits, there was a Morris County Planning Board approval which we secured relative to Jacksonville Road, but the DCA was really the stumbling block. The statute gives you the authority to grant up to three one year extensions. We haven't asked for any extensions up until now this is just our first request.

I have submitted the plans that were stamped approved by the DCA and I brought the witnesses here with me this evening if there are any specific questions about the process with the DCA. If you require anything further, we can go in to that in detail. If you are satisfied with the paper submissions and everybody is on board terrific, then from there we are left to resolve some open procedural issues with Mr. Boorady and his office and then enter into the developer's agreement which we had requested but we ran into a problem with the engineering cost estimate so that is where we are, so we have as much or as little as you need.

Mr. Neiss asked the developer's agreement you were negotiating that with the Borough Attorney.

Mr. Schepis stated yes what happened is this. There was a request for a developer's agreement to be prepared but Mr. DiLorenzo prepared a draft but was waiting for the engineering cost estimate review from

Mr. Boorady's office. Our engineer submitted a cost estimate proposal and it is being reviewed by the Borough Engineer to determine whether it is right or needs to be tweaked. It became an issue relative to the flood hazard area whether it was modified by some map amendments in 2016 and as a result the project as it relates to the developer's agreement came to a grinding halt. Now we are hoping to get that revisited and resolved that open issue shortly, but the point is that we request a developer's agreement and we got hung up on this procedural issue and hopefully we will resolve it shortly.

Mr. Neiss asked Tom to comment on that.

Mr. Boorady asked on the construction cost estimate.

Mr. Neiss stated just on that aspect at least for now.

Mr. Boorady mentioned I can't review, prepare or forward a construction cost estimate unless I have an approved plans. I know they said the DCA plans were approved but I'm just not so sure they are. I have plans that are mechanical from DCA that say partial release but I don't know what that means partial release.

Mr. Neiss asked Mr. Schepis what does that mean.

Mr. Schepis mentioned that's a good question. I don't know but I have Mr. Cutillo so I can ask him to come up and be sworn in and tell us what he knows.

Mr. Boorady stated but to answer your question, I can't do a construction cost estimate unless the plans are finalized and we are awaiting for that to happen.

Mr. Neiss swore in Mr. Cutillo. Please state you full name and business affiliation for the record.

Mr. Cutillo testified my name is James P. Cutillo (C-u-t-i-l-l-o) my address is 593 Newark-Pompton Turnpike, Pompton Plains and I'm the project architect on this project.

Mr. Schepis stated there was a question raised by Mr. Boorady as to the term partial release that was stamped on the DCA "approved" architectural plan.

Mr. Cutillo testified when a project is submitted to a town and typically does not have to be reviewed by the DCA there are two options; the construction official can review the drawings and give you a complete package permit, or you can request him to release partial releases of the plan such as maybe you want the foundation before they get a chance to review something else on the project.

The DCA, and Mr. Marino you can of course correct me if I'm wrong, the DCA is completely different than that. The DCA when you send your package down there they rip it into pieces and they give every different aspect of the job to a different person to review. When that person reviews, such as the person that is going to review the fire sprinklers, is different from the person that reviews the electrical drawings, is different from the person that reviews the HVAC or the building construction, they are all individual peoples working as a team. Our project was assigned to Team #2 and basically as they are finished with the project they stamped it and it is stamped partial release because it is released from them. So what happens is you put the total package together and in the very beginning of the job that lists all of the different reviews that are going to take place. I'm not exactly sure how they keep a record of that but every time whatever portion of the building is approved they release it and it is called a partial release, so all you are looking to do is compile a bunch of partial releases. Those drawings get put together here by the client and then get submitted to the town and then the town would issue a building permit. Again based on his preference he could issue the building permit a piece at a time if so desired, or he can wait until they are altogether and issue one final permit for the project.

Mr. Neiss asked the partial release was not the approval of the entirety of the project it is just partial releases.

Mr. Cutillo testified right. So the review of the drawings are broken down into sections and then they release each of those sections as they go along. Currently there was actually something going on today with a review of the electrical drawings, but currently my understanding of it is that we have all of the partial releases and I believe there was a last comment on the electrical drawings which then would get sent

back to them and then their several copies that they require at the end of that. They stamp that off as release, partial released, and then send it back to us.

Mr. Schepis mentioned Jim just so everybody understands, what type of sub-categories are you talking about when you say partial release? What are the sub-categories of the permit?

Mr. Cutillo testified there is architectural which is building subcode, there is electrical, plumbing, mechanical and fire sprinkler those are the basic sections that they are reviewing.

Mr. Schepis asked which section of your plans were reviewed and approved by DCA so that you can get a permit in that category.

Mr. Cutillo testified all of them except the electrical and I believe that the electrical drawings are on the fringe of being approved. There was a comment letter back to my office today but I did not actually have a chance to read it. I called down there to that particular inspector and he said he was working on the review of the last -- he actually sent over the one building. As you know there are two buildings, we were waiting for the release of the last one and I do know there is an email waiting for me in my office from them but I do not know what it says from the DCA. It is on the cusp of being approved the last section.

Mr. Schepis asked as it relates to this process can you enlighten the Board members why it was that application had to be made to the DCA, the Department of Community Affairs, rather than just simply making a building permit application right here right in the Borough.

Mr. Cutillo testified I believe it has something to do with the type of building and it is beyond the licensing allowance of the town, and again Mr. Marino can correct me, so that anything that's above that specific category has to be sent to the state for them to do their review. Once they do their review they wash their hands clean of it and then it goes back to the town and then it is the town's responsibility to issue the permit and do all the inspections.

Mr. Schepis stated now we are here tonight requesting a one year extension of the approval and we note from the correspondence that you submitted submissions back and forth, letters between you and the Department of Community Affairs that your first letter went down to DCA in September of 2013.

Mr. Cutillo testified correct.

Mr. Schepis stated and here we are in June of 2016, so can you tell us when the Board adopted the resolution on October 20, 2013 what did you do from October of 2013 to December when you made the submission?

Mr. Cutillo stated we prepared a set of architectural construction drawings and we submitted them to the DCA. They had a review there and they had quite a few questions and they wanted a lot more information then what we originally provided to them. So they had a big concern about let's call it the operations of the business and not just the actual building itself and the construction in the building; but what was going in the building, what the process was, what was being stored in the building, and what was being generated in the building. It took some time for us to put all the information together, consequently they also asked for a full set of mechanical drawings.

All the professionals involved attended a meeting in the DCA and we had a conference and a round table the whole thing, and later on they got back to us and they determined that the way we originally classified the building as an F use which is a factory use, they decided that based on some of the information that was provided to them later on that the building needed to be classified as a moderate hazard use group. So in doing that we had to revise our architectural drawings, and we had to revise the mechanical and electrical drawings as well because there are certain requirements; for instance, like explosion proof things in certain areas. So the engineer we had hired originally to do that wasn't qualified to do that so we had to go out and find another engineer, and just prior to that we had hired a chemical engineer to write a report stating what the process was and what the chemicals were and all that. So during that whole process they determined they wanted to change the use category of the building which sent all of us back to the drawing board and we had to redesign certain things. So those drawings were resubmit to them, quite frankly not that long ago and once the building was categorized the way they wanted it I feel the approval process is going very smoothly. Like we said, we are on the verge of having our last release and it could have been today.

Mr. Schepis asked Mr. Cutillo can you tell me was there ever a point and time when your efforts to appease the questions and requests of the DCA was ever stalled.

Vice Chairman Koldyk asked the prints that you have now can we move forward with this.

Mr. Boorady stated I'm confused because, and correct me if I'm wrong, but I believe Mr. Schepis introduced tonight's meeting by stating that they were approved but I believe Mr. Cutillo is saying we are on the verge of approval so I don't know that they plans are approved yet. I'm still a little confused after all of that.

Mr. Cutillo testified I will say that to the best of my knowledge with the exception of the electrical review all of the plans are approved. I do not know the status of the electrical.

Vice Chairman Koldyk stated so it is not approved.

Mr. Blewett stated at the end of the day when all these plans come together that says you're approved--

Mr. Cutillo testified you get a stamped drawing from them and they have it in their file and they send you a letter saying that the plans are released and they request two copies sent back to them.

Mr. Blewett asked is that the plans you talked about.

Mr. Cutillo testified it is done by section.

Mr. Blewett stated I understand that but does it all come together as one set that gets stamped approved.

Mr. Cutillo testified no they come together as sections so it up to the owner to compile those sections together to recreate the whole set of drawings again.

Mayor Runfeldt stated kind what we were expecting tonight I believe.

Mr. Cutillo testified to be perfectly honest I don't know the status of the last go around. I know that it was reviewed but you are 99% of the way there but there is one outstanding you know partial release. It has already been reviewed and commented on and resubmitted so the comments that they originally had for the electrical were very minor.

Mr. Boorady mentioned I just have a question about that. You mentioned a lot of things that were done since December 20, 2013 and I don't know if the Building Department or the Planning Department received copies of that correspondence. You mentioned a chemical report but I don't remember seeing a chemical report. It is really hard to substantiate the diligent pursuit of approvals, mind you just architecturals, but there is a whole host of other approvals that we are still waiting on. It is really hard to prove when the Borough hasn't been copied on anything. We have a bunch of after the fact letters and a bunch of statements to indicate what they have done and didn't do, but I don't know that it is up to the Board to decide whether that pursuit was diligent or not. What is this chemical report that you mentioned about the processes?

Mr. Cutillo testified there was another engineer hired, the state had a comment about the process of what is going in there and certain information about whatever it is they asked for and Mr. DeRosa hired an engineer to provide them that report. It was satisfactory to them and we moved onto the next thing. The review process goes back and forth between the builder, the client, and the construction department it goes nowhere else until the permit is issued. So I don't believe we have a responsibility of sending a copy of every letter in our file every step of the way to any other agency.

Mr. Blewett stated that was ensconce somewhere that you would provide that correspondence.

Ms. Moeller stated we asked for that at the last meeting.

Mr. Schepis stated well everything since has been provided but it was provided as they went along from 2013 to the present. We also have some more invoices, letters and the like to augment the inch and a half documentation we provided last time. I don't see anything in the resolution that required simultaneous submissions. Now I do remember other applications where there has been a specific request by the Board

for copies of documentation going to like the DEP but there was nothing in the resolution that required those submission of this application. I don't remember it being discuss.

Mr. Blewett stated we'll have to go through the minutes but let me ask you a question. All right so where we are the DCA right now we don't know if they've approved the electrical plan and you are asking for a one year extension. If we were to grant or consider the one year extension, you still have to go through all of the approvals that are required.

Mr. Schepis stated look this is just one of the procedures associated with getting to that point. We have Tom's comments from April and we still have to address those comments. We believe we have information that will satisfy his concerns, and it is not a matter that we get these DCA stamped plans and then go get a building permit, we still have to get through Mr. Boorady and his procedural requirements. We have to show him that we've satisfied the terms and conditions of the resolution of approval which we believe we have.

Mr. Blewett mentioned I would expect that our professionals would like to see if there was a change in classification of the building and what impact that has.

Mr. Schepis stated understood.

Mr. Blewett stated how does it impact the sprinkler system and you know you are installing now explosion proof equipment that is a little bit different probably than what we've heard. I would expect it for methanol right because I understand the process. I guess what I'm hearing is the request is for an extension but we still have to get our approvals and I guess that's what we are talking about today right? We are not really in a position to argue whether the electrical plan is approved or whether it is accurate, or whether our officials can actually act on anything.

Mr. Marino mentioned regarding Jim Cutillo's testimony, he is correct as far as DCA and how they submit and issue plans. They do partial releases, however, if they are still working on the electrical that's kind of normal to them and they sometimes don't issue the whole entire package at once, so there is partial releases like the sprinkler drawing here. However, once the drawings come in and are approved by DCA, I, as the construction official, do get a letter from the state telling me this project is approved and they issue the drawings and the plans are approved I don't have that yet.

Mr. Schepis stated okay.

Mr. Marino stated he is absolutely right when they submit their plans from DCA.

Mr. Neiss mentioned just as a footnote to that Paragraph 3D of the resolution says, "Applicant shall submit to the Board Engineer proof by way of a certification from the Applicant's Engineer that it has obtained approvals from all other governmental authorities with jurisdiction".

Mr. Boorady mentioned if I can respond to that, the architecturals are one aspect of the diligent pursuit of approvals and it has been the primary focus of the applicant in their request for an extension of time, but there is a whole host of other approvals that are required that I have no information about.

Mr. Schepis asked like what.

Mr. Boorady stated well the late Brian Burns did a bang up job of really writing a long resolution of all the approvals that are required, some of which was taken from testimony from your applicant.

Mr. Schepis stated sure.

Mr. Boorady stated we have yet to receive documentation to show the applicant has obtained all necessary approvals and licenses from the USEPA to manufacture and refine fuel.

Mr. Schepis stated it was testified during the course of the presentation that prior to the operation being certified by the EPA it has to be built and then a representative of the EPA comes in and inspects the premises, then issues the certification, so in order to have that done the facility has to be built.

Mr. Boorady mentioned but they have to refine the process in some sort of license and registration.

Mr. Schepis stated at that point that was the testimony from Mr. Harrison that it was after the structure was built the EPA comes in for the licensing, inspection and then they issue the license.

Mr. Boorady mentioned okay. Where are all the approvals from the Health Department and the Fire Chief based on the revised plans and the revised site plans?

Mr. Schepis mentioned the revised fire protection plans from DCA can be submitted to the Fire Chief for his inspection. Now he did issue a memo and we have his memo which was received by the Board --

Mr. Boorady stated I mean we are bouncing around here, I mean you are asking for an extension of time and I think there should be some preparation by the applicant.

Mr. Schepis stated there are no other approval that are necessary. There are no DEP approvals.

Mr. Boorady stated but it is in the resolution.

Mr. Schepis mentioned you just names two but I told you that -- keep going. Look we have the memo.

Mr. Blewett stated I think we are talking about an extension.

Mr. Schepis stated that's right. Look we are not going anywhere until we satisfy the conditions.

Mr. Blewett stated you are still responsible to satisfy all the requirements of the Borough officials.

Mr. Schepis stated absolutely.

Mr. Blewett stated I don't know that I want to get into this debate because it is going to continue.

Mr. Schepis stated absolutely. We are happy to meet with Tom to go over what we have to submit the approved fire prevention plan to the Fire Chief to see if he is satisfied based on based on the DCA. I mean they required the entire building to be sprinkled and they required the methanol to be placed in a separate block enclosed room, so we'll certainly submit that now that it has been approved by DCA at least that aspect of the plan, and we understand should the Board graciously grant the one year extension which would only carry us until October of this year because we made this request back in October of last year we still have to satisfy all of these individuals that we've done what we are supposed to do.

I mean look I think you've got enough here that you can rest comfortably that we haven't sat on our rights since 2013 and done nothing and Mr. Cutillo outlined the tortuous procedures associated with the DCA application process, and I think a lot of it had to do with the fact that this is an unusual type of use and when it was presented to the DCA they sharpened their pencils and found every way to scrutinize it and came up with requests for different engineers and studies and the like, and look we are certainly happy to make those reports available to Mr. Boorady for his review to see if there are any concerns associated with that. We'd like to proceed with it and that is why we are asking for the extension so that we can keep going and then be able to satisfy his request, but rest assured this project doesn't go into the ground until Mr. Boorady is satisfied administratively that we've satisfied all of the requirements.

As far as I know, we had a County Planning Board requirement because of Jacksonville Road and the County approved the site plan and there was no DEP permits and they were all permits-by-rule which Mr. Mianecki will attest to. There is nothing else as it relates to the state so as far as we know DCA was all that we needed and will endeavor to satisfy Mr. Boorady on that procedural issue. But you know these requests for extensions are generally routine and I don't mean to make light of it, but here the applicant has demonstrated that clearly it wasn't because they didn't file, I mean they filed in December right after the application.

Mr. Blewett mentioned I think the issue is that you know we've heard this awhile ago and things have changed and I think our professionals need to be comfortable with the changes.

Mr. Schepis stated absolutely.

Mr. Blewett mentioned you know something like a change in a rating of the building is significant right

because it does have other implications and I just think we need to know those critical things that potentially changed from the time we originally looked at this application.

Mr. Schepis stated we are happy to submit.

Mr. Neiss stated I think the question is more simply stated is any of the DCA recommendations or changes that were put forward affect the site plan that was approved by the Board?

Mr. Schepis asked Mr. Cutillo.

Mr. Cutillo testified no because of the change of use or any other comments that the DCA had only affects the inside of the building and had nothing to do with the structure, doorways, exits, fire rating and nothing to do with any of that kind of thing.

Mr. Neiss asked locations of various structures on the site.

Mr. Cutillo testified no it had nothing to do with anything outside the parameter of the building. I mean they wanted an explosion proof room not an explosion proof room but a fire rated room for the methanol. They wanted explosion proof fixtures in certain areas only.

Mr. Boorady stated stop right there because those building classification changes and the construction of a structure within a structure that's explosion proof and that is ventilated and might have a recovery system so methane doesn't asphyxiate anybody else in that plant those are substantial changes. So extensions of time aside it is extremely difficult and impossible for me to administratively approve substantial changes to architectural plans, and there were substantial changes to the site plans as well like from you going from a 2 inch diameter water main to an 8 inch diameter water main.

Mr. Schepis asked like what.

Mr. Boorady stated rearranging the utilities, ramps coming up from the exterior up to the flood elevations of what they assume to be the flood elevation, there are substantial revisions to the plans that even if an extension of time were granted I can't -- this Board and this town doesn't allow me to give administrative approvals to grant approvals for that in the flood development zone.

Mr. Schepis stated you know I'm glad you mentioned the water line because I saw that in your memo of April 11th.

Mr. Boorady stated I'm not done yet do you mind?

Mr. Schepis stated well let me just comment on that one item.

Mr. Boorady asked I don't know who has the floor here.

Mr. Schepis stated in the resolution.

Vice Chairman Koldyk stated Tom you have the floor you can continue.

Mr. Boorady stated while we are on the subject of the flood proofing, the plan that was originally submitted to this Board showed a 12 inch high steel curtain if you will, the dual purpose was to contain any spills that might happen on the inside and also to flood proof from any flood events the contents of the building. Since the Planning Board gave their approval Lincoln Park now participates in the CRS (Community Rating System) which is run by the NFIP and we have classified rate grade which is amazing. It is a 25% discount on everyone's premium not just the subject property it affects everybody. I am going to read to you the flood proofing requirements that have been out since 1993 for commercial buildings and how they relate to our premiums as a community.

Mr. Blewett asked can I ask a question.

Mr. Boorady stated sure.

Mr. Blewett asked but was that considered at the time when we approved the application in 2013.

Mr. Boorady stated no because we weren't participating in the NFIP Program.

Mr. Blewett stated okay.

Mr. Boorady mentioned so the flood proofing they showed was to the base elevation which is 182.5 the effective base flood elevation which may change in the future. There is somewhat of an inconsistency in the preliminary maps and you can have three engineers review them and we've had three different answers on what the elevations are. I don't want to argue the preliminary elevations because at this point FEMA has to redo them and probably has to redo their study.

So working off the effective base flood elevation of 182.5 I'm going to read to you what the flood proofing requirements are for a CRS community. While buildings need only be protected for the BFE (base flood elevation) for flood plain management purposes, freeboard is considered for flood insurance rating purposes because of the additional risk associated with flood proof buildings, one foot is subtracted from the elevation to which a building has been flood proofed for insurance rating if the building is flood proofed to at least BFE. Therefore to receive an insurance rating based upon the hundred year flood protection the building must be flood proofed to an elevation of at least one foot above the BFE. Insurance premiums will be lower if flood proofing exceeds this requirement. So whereas the applicant came in under our Borough code at the time which stated that you flood proof a commercial building to the BFE NFIP in order for us to continue our CRS rating really wants commercial buildings developed to one foot above BFE and you know this has been gospel from FEMA since 1993 and it hasn't really changed.

Then they go on to say, the building must be watertight to the flood proofed design elevation which is further defined as being at least the BFE. As previously noted, flood proofing to any elevation less than a foot above will have a serious negative impact on flood insurance rating for the building, generally a minimum of one foot of freeboard is recommended. Additional freeboard is warranted for size for predicted flood depths may be inaccurate which is what we have here, we have inaccurate flood depths because we have preliminary maps that were just done in February and we have three engineers disagreeing on such as sites with large drainage areas and rapidly urbanized areas.

So it is my recommendation based upon our newly classified Class 5 rating with CRS that the plans that I'm looking at today should really have flood proofing to two feet above the perimeter floor elevation not only 12 inches so that we can continue our ratings so that the insurance premiums can stay low. A lot of changes since the plans were approved and the whole point of an applicant coming in for an extension of time is for the Board to insure, but not for me to insure as an administrative or Borough official, to decide whether there has been significant changes in codes or rules that impact development or the community. In this particular case as someone who has been involved with the CRS program and all the work and the two years that it took for this community to get classified out of the gate which is almost unheard of, it is hard for me to recommend approval of the plans that were submitted to DCA showing that flood proofing. That is my recommendation to the Borough, even if you give an extension I can't administratively in good conscience sign off on plans because of the substantial changes that were already made; explosion proof rooms, ventilation going where I don't know where it goes, and flood development rules that have changed since the approval.

Mr. Schepis stated what we can certainly do is we can submit the plans that were approved by DCA to Mr. Agnoli who is the Borough Engineer who oversees this.

Mr. Boorady stated well not Borough Engineer.

Mr. Schepis stated well not the Borough forgive me, the engineer who oversees the FEMA rating for the Borough and see what kind of response he has relative to what we've received approval from. He was kind enough to comment on the flood hazard elevation as it relates to the FEMA maps and he supported Mr. Mianecki's determination that the elevation didn't change for this project.

Mr. Boorady mentioned that's not what he said and I don't know that the Board has that letter.

Mr. Schepis stated all right well I can give it to them.

Mr. Boorady stated and it is hearsay for you to speak for him.

Mr. Schepis stated well I can give them his letter. So what we can do we can certainly run it by Mr. Agnoli

and see whether there is any impact and see what needs to be done.

Mr. Neiss stated it sounds to me, and I wasn't here when you initial presented the application, but it sounds to me what I'm hearing is that this application is calling out for some sort of an amended site plan because of the changes in regulations and changes in the way the applicant is dealing with the property with the development.

Mr. Schepis stated well you know I appreciate Tom's comments but there has been no change "regulations" as it relates to what the Borough has and likewise as far as I know there hasn't been any changes in FEMA as it relates to their regulations. Now we are certainly happy to have Mr. Agnoli who opines on this type of topic for the Borough and render a determination as to whether there is any negative impact on the FEMA rating for the Borough. I mean we are certainly happy to do that. I mean look the best we can do is tell you that we will satisfy these procedure requirements that Mr. Boorady has voiced, whether it is through him or whether it is through somebody else in the Borough administration that has authority to make a decision on this topic and that certainly if we come to a loggerhead and are unable to satisfy their concerns and document their concerns, and may be it will even require Council's input that we would have to return to the Board and put on our proofs for you in detail and then let you make a decision and if the decision is that things have changed or it is not the same plan that you approved, then I think an amended approval would be in order.

Mayor Runfeldt stated I'll just say to my fellow Board members, the more we go on I'm not in favor of granting an extension. I think there is considerable differences from what was originally proposed, obviously the CRS is something that I am not willing to gamble 25% discount on flood insurance premiums for every resident in town on one project like this. The talk of explosion proof rooms is considerably different than what we originally discuss when this plan first came in front of us, and I don't think in my position I feel comfortable with something like that going to the public without that being reheard by the Board so I'm not in favor of granting the extension. That is just my two cents.

Vice Chairman Koldyk asked if anyone else had a comment.

Mr. Blewett stated I guess the question is if we are going to talk about the extension that's fine, but wouldn't through the normal course of the official review because we don't have anything to review, raise these issues to the Board? Whether he has an extension or not if there are serious changes or significant changes, it has to come back here anyway right? I don't know I look to the lawyer on this one.

Mr. Neiss stated that would be correct. If there are substantial changes to the plan more than de minimis as we say, then that would require the applicant to come back for Planning Board approval for those changes.

Mr. Blewett asked whether he has an extension or not.

Mr. Neiss stated well my sense is that you are arguing for an extension because the Permit Extension Act is coming to a close and I guess that is at the end of this month.

Mr. Schepis stated correct.

Mr. Neiss stated that's why the applicant has come back here now is for an extension to allow them to continue moving forward in light of the expiration of the Permit Extension Act. Now I would say if there are substantial changes, and I'm not an engineer or an architect but what I'm hearing from Mr. Boorady is that as a result of the DCA review and it is not even completed yet there may well be substantial changes which would necessitate the applicant coming back coming before the Board for approval of those changes, or commencing the construction at the appropriate time at the applicant's own risk and being shut down later on.

Mr. Schepis stated no we are not going anywhere without having -- ultimately we need a construction permit from the Borough.

Mayor Runfeldt stated I just think there has been a lot of difference between what was originally heard by this Board and what is going on now. I mean I've worked with Mr. DeRosa on project in the past and we've certainly helped where we were able to help and we've been very business and project friendly over there but this I think is starting to get a little bit different then what we first heard and I think the primary goal should be protection of the public, so with regard to the CRS and whatever is coming up with

explosion proof rooms and things like that I thing we really need to take a step back.

Mr. Kaufman mentioned and that CRS if it doesn't adhere to it puts the rest of the town and the rest of the people with flood policies at risk of losing that 25%.

Ms. Moeller stated exactly.

Mayor Runfeldt stated yes.

Mr. Morreale asked if we don't grant the extension now what happens where does that fall.

Mr. Neiss mentioned if we don't grant the extension the approvals that the applicant has received from this Board expire.

Mr. Morreale stated he'll have to start all over again.

Mr. Neiss mentioned he'll have to start all over again with a brand new application if they were of a mind to come back, or frankly if the Board denied the extension, they would be relegated to a lawsuit in Superior Court.

Mr. Schepis stated I would just ask you to bear in mind that the one year extension will only take us to October of this year even though it was a request for a year. I appreciate his honor's concern but I would also say that the concern is met because we are not going anywhere until we satisfy Tom on this issue.

Mayor Runfeldt stated I think what Tom is saying it is not just Tom you have to satisfy on this issue.

Mr. Schepis stated I realize that we are going to have to get involved with your rating coordinator to let him look at the plans and make a determination if it will have any negative impact. I'm hopeful based on his determination previously about the flood elevation that he is going to find that it won't have any negative impact and I understand and I appreciate that and I think that that's a valid concern. But what we would like to do is at least stay in the game so that we can continue to try and satisfy your concerns knowing that we are not going anywhere. I mean it is not a matter of you giving us an extension and we walk away and we can go pull a permit, until we can get through Tom and get the developer's agreement and satisfy your concerns, clearly we are not going to start on this project we just want to keep it alive so that we can at least endeavor to satisfy these concerns.

Mr. Terrero asked are there any concerns that the original permit that was granted or whatever rules were granted were for a class F building and since then the classification of the building and the use has changed, does that affect the permits or the approvals that have been granted. They don't qualify as the same building use as before.

Mr. Cutillo testified before any approvals were granted they required us to change the use classification of the building so anything that has been approved by the DCA has been approved on the revised drawings that show it as an H moderate hazardous use group.

Mr. Terrero asked but in terms of the town when it was originally applied in 2013 was this applied for a class F building.

Mr. Cutillo testified yeah.

Mr. Schepis stated I don't believe the Planning Board gets into that building permit kind of issue.

Mr. Terrero stated I thought building usage is part of it.

Mr. Cutillo testified and really all of the things that have been required along the way by the DCA have only impacted things on the inside of the building. So you know there were partitions in there and now they are just made out of different materials, it is really not any different and again the public doesn't perceive any of these changes. If anything the DCA has said we are upping the ante here and we are requiring you to design the building to a higher standard, so if anything they've done everybody a favor it has made it harder in the application but I don't think it is a bad thing.

Vice Chairman Koldyk asked are there any comments from the rest of the Board. Sal do you have anything for us that we should know? If along the procedures we find out that the methane is being vented improperly, we can change that down the road through you.

Mr. Boorady stated I don't know how it is being vented now.

Vice Chairman Koldyk stated I know.

Mr. Boorady stated I thought there was a proposal originally for it to be vented.

Mr. Cutillo testified I don't know that it is vented. I'm just saying whatever the standard of the DCA requires for that use characteristic that's what is going to be on there and it is going to be reviewed by Mr. Marino as well, and if you need the Health Department to review it it will go through all the processes that would normally take place anyway.

Mr. Boorady stated methane has to be vented it is an asphyxiant and it displaces oxygen so you are creating a room to store methane in.

Vice Chairman Koldyk stated I'm familiar with the characteristics of --

Mr. Cutillo testified methanol.

Mr. Boorady stated it has to be vented somehow and I don't have an answer for you.

Mr. Cutillo testified it is not methane it is methanol.

Mr. Blewett stated there are two courses of action right; you either don't approve of the extension and they are going to make a decision whether or not they come back with a new application, or we grant the extension and if they don't satisfy the officials they are still back here in October because they don't have a building permits right?

Mr. Wild stated that's the way it works.

Mr. Blewett stated I'm looking at the attorney.

Mr. Wild asked that's the way it works.

Mr. Neiss stated that's the way it works or the third alternative is they are always relegated to the Superior Court on a derogative writ action.

Mr. Schepis stated we want to try to work out these differences with the administration nobody likes to go to court. There is a lot of time spent and a lot of money unnecessarily and nothing productive usually comes about but sometimes that's the way it goes. So you know us, you know Pete, you know Joe, you know Jim, you know me so for whatever that's worth and I can assure you that we will endeavor to satisfy Tom. He set a high bar but I am hopeful that we are going to be able to satisfy him. If we can't satisfy him, then we are going to have to come back before you because I can guarantee you one thing that unless we satisfy him he is not going to sign off on anything is that fair to say Tom?

Mr. Boorady stated well I can go on the record right now to say based on what I've seen there is an amended site plan approval. I can't administratively approve an explosion proof room I can't do it.

Mr. Schepis stated I appreciate that concern but we are going to be able to work with Sal and Jim and show him what it is. I mean look I can't blame the DCA they wanted this building to be extra protected in the event of any kind of issue so how can you second guess a safety concern, so they imposed these additional requirements. So what we would like to do is take the extension and go ahead and collate all of the plans and submit them to Sal for his review. He can coordinate with Tom, we'll give Tom a set and if he wants to review them to see exactly what has changed, if he wants this report that was submitted in conjunction with it potentially that would satisfy his concern. Look the whole purpose of these modifications was to provide for a safer building then what was originally envisioned so we satisfied the DCA by providing more than was originally envisioned. I guess in a way it is a good thing.

Mr. Neiss mentioned I'm sorry I'm looking at actually the MLUL Section 21 and it looks to me as if the applicant has been barred or prevented directly or indirectly from proceeding with the development otherwise permitted under such approval by a legal action commenced, and Cox speaks to that question as to cites to a case M. Alfieri vs. State DEP 269 N.J. Super 545 it is an Appellate Division out of 1994 and was affirmed by the Supreme Court in 1995. The court held that a DEP sewer moratorium did not trigger the tolling provision of 40:55D- 21 because the moratorium did not prevent the developer from proceeding within the meaning of the statute. Mr. Schepis are you asking the Board for an extension pursuant to Section 21?

Mr. Schepis stated no we are not. We are asking for an extension under Section 52-D as in Delta.

Mr. Neiss stated okay.

Mr. Schepis stated 52 subparagraph D.

Mr. Neiss asked so it is your client's testimony because I know you are not testifying that the developer has been barred or prevented directly or indirectly from proceeding with the development because of delays in obtaining legally required approvals from other government entities and that the developer applied promptly for and diligently pursued these approvals.

Mr. Schepis stated correct.

Mr. Neiss asked that's the testimony that you are offering.

Mr. Boorady asked where is the client. Is the client here?

Unidentified person stated I don't know.

Mr. Boorady asked I'm just asking who the officer is of the Biofuel, LLC Company.

Mr. Schepis stated look if you want more testimony I'm happy to put more testimony on.

Mr. Neiss stated well in order to determine the (inaudible) of an application extension I think what the Board wants is some sort of comfort that there has been diligent pursuit.

Mr. Schepis stated understood.

Mr. Neiss mentioned I'm not questioning Mr. Cutillo.

Mr. Schepis stated I'm going to ask Mr. DeRosa to come and Mr. DeRosa is now a member of the applicant entity and he is authorized to speak on their behalf. Perhaps he can be sworn.

Mr. Neiss swore in Mr. DeRosa. Mr. Neiss had Mr. DeRosa put his name and business affiliation on the record.

Mr. DeRosa testified Peter DeRosa and I'm here for Lincoln Park Airport and I'm a member of Genuine Biofuel of New Jersey, LLC.

Mr. Schepis asked are you authorized on behalf of the limited liability company to come here this evening and give testimony on their behalf.

Mr. DeRosa testified yes.

Mr. Schepis asked Mr. DeRosa to explain what transpired in the way of securing this building permit through the Department of Community Affairs following the Board's adoption of a resolution of approval in October of 2013.

Mr. DeRosa testified well we immediately got on it and DCA had never done anything like this before and they wanted to make sure it was as right as right can be. We submitted and they wanted more so we gave them more. Every request they came up with we complied. This stuff doesn't happen overnight.

We went with different professionals and whatever we needed we endeavored to get it. It took a lot of time. We spent in total over a hundred and fifty thousand dollars in professional fees to get this done. I mean we have been diligently working on it.

Mr. Schepis asked Mr. DeRosa to tell the members of the Board when the application was originally submitted to DCA in 2013 how often did you have to go down to Trenton in order to meet with these officials in DCA from then to where we are now.

Mr. DeRosa testified we were down there a couple of times with the professionals, I mean countless phone calls going back and forth and they wanted more and more and we gave it to them.

Mr. Schepis stated eventually there was a request to have this methanol stored in an internal room that was cloistered or like a block room, can you tell the members of the Board about that and what precipitated that and what that change was?

Mr. DeRosa testified it is not an explosion proof room it is just a fire rated room and the methanol is still in the same double wall tote that was originally testified too, but it is just a fire rated room and just another layer of fire safety.

Mr. Schepis stated so when Mr. Cutillo mentioned that it was "explosion proof room" that in essence the concern wasn't explosion it was fire.

Mr. DeRosa testified it is strictly fire it is sprinkled inside.

Vice Chairman Koldyk stated we are wondering off the path here we are here to hear your diligent effort in applying for these --

Mayor Runfeldt stated may I, I think this is sort of where Chuck is going to, you know what I'll rescind what I said earlier out of my respect for the professionals involved here who have always been very good to Lincoln Park and I do appreciate it that Joe, Mr. Cutillo, and Mr. Schepis. Being a very good member of this community I would say let's give them the extension until October knowing full well you've heard the testimony from the town professionals there is a much higher bar here now than there was when you got the original approvals and be prepared to make that jump. If you can't make the jump, then we are going to be here again my guess is in October asking for another year extension and then eventually it is going to wear out.

Mr. Schepis stated we know what we've got to do.

Mayor Runfeldt stated I will now say here is your extension but let's do something with it and let's not be here this time in October doing this all over again.

Mr. DeRosa testified we are going to be marching strong.

Mayor Runfeldt mentioned keep in mind the town, the administration of the town, and I would like to think of the Planning Board here as well, is the public safety of the community and if there is considerably more testimony coming forward that things are a little more -- I mean we are talking about going from factory classification to a moderately hazardous building you know that's not what we originally spoke about so you are going to clear that hurdle. Regarding the new CRS and potential flood maps, you are going to have to clear that hurdle too. But if you guys think you can do it by October, then once again out of respect for the professionals involved here and Mr. DeRosa, as a member of this community, a motion is given to October.

Vice Chairman Koldyk asked is that a motion.

Mr. Neiss asked can I ask a question.

Mayor Runfeldt stated sure.

Mr. Neiss stated following up on the mayor's comment, if it is determined that the plan that needs to be changed, the site plan that needs to be changed because of changes that either DCA has insisted upon or that the applicant has made, does the applicant agree that it will come back on an application for an

amended site plan approval?

Mr. Schepis stated you know it depends on what the issue is and if we come into a loggerhead I'll say and we disagree, then we'll bring it back before the Board for your determination. Before we would come in under an amended approval I would come before the Board and show you what the issues are and let the Board make an informed decision as to whether an amended approval is required.

Mr. Neiss stated I don't think the MLUL permits that in the sense that either the applicant comes back on an amended site plan approval because you are no longer in a concept plan area, you've got to come back one way or the other.

Mr. Schepis stated well I would say this, we would handle it under the context presumably of asking for another extension. If we run into a point where we can't agree, then we would probably have to make a request for another extension and then try to convince you that we don't need an amended approval.

Mr. Neiss stated that's what I'm asking. How would you do that?

Mr. Schepis stated I would do that in context of a request for another extension and then we would have this exchange.

Mr. Neiss mentioned and I don't mean this disrespectfully, we are not kicking the can down the road here.

Mr. Schepis stated no we are hopeful that we are going to satisfy all of the requirements. Look I understand what the issues are. I think the fire issue with regard with the methanol has to be reviewed by the Building Department to see if there is any issues.

There was a request relative to the Fire Department and we'll certainly give the plans to the fire chief and let him analyze it and see what kind of a response we get.

As it relates to the CRS rating, we are going to submit the plans to the CRS Coordinator for the Borough and see if there is any negative impact upon the rating, I mean who better to know he analyzes all of the construction plans for the Borough to make that determination.

So we are hopeful to work with all of the administrative agencies of the Borough and be able to satisfy those requirements. If we run into a real problem, I would even ask that we have an opportunity to meet with counsel. Now during the application process prior to being deemed complete, we did have meetings between the former Board Attorney, Mr. Burns.

Mr. Neiss stated I understand all of that. My question Tom at this point, if they were to come back because they've made changes to the site plan and they've come back before the Board on an amended site plan application, if they made significant enough changes or had to make those changes, would they have to then go back to DCA and have those all reviewed yet again?

Mr. Boorady stated meaning if this Planning Board asks for changes to the architectural plans?

Mr. Neiss stated yes because what is going to happen is it will just keep going down and going down and going down.

Mr. Boorady stated I can't answer you know without a final set of approved plans.

Mr. Wild stated we have to see the DCA plans.

Mr. Boorady stated as far as the CRS is concerned Sal is the coordinator not Nick Agnoli and it is highly inappropriate for the applicant and his professionals to direct correspondence to a consultant that the Borough hired to obtain CRS classification. I mean he had a one time shot as an engineer consultant for the Borough so it is really Sal's call and my call as Planning Board's Engineer to determine what CRS rules apply. So I'm not sure what Nick Agnoli has to do with anything honestly he was a consultant for the Borough at one point and time. But I think if they are going to address the Borough's consultant, there should at least be copies to the Planning Board secretary, Sal Marino's office and my office.

Mr. Schepis stated we can do that.

Mr. Boorady stated again I'm not sure what Nick Agnoli's function is at this point and time.

Mr. Blewett mentioned let's think about what we are trying to do. You know personally I think we've heard a lot of emotional testimony tonight and I hope we deal with the facts. At least my opinion is without the officials going through the submission identifying those things that are a concern; changes of rating of the building, the RCS Program, you know without those facts you tend to get emotional about it. I honestly think it is a good idea to give them the extension and let the officials comb through the plans. I hope Sal by the time October rolls around he gets his permit from the DCA or his approval because without that I don't think we'll act on it, but that's kind of where I sit you know you want to make a decision based on the facts. If the officials determine that what DCA has required of them is substantially different than what we approved, then I think we need to discuss whether or not it is an amended site plan.

Mr. Schepis stated fair enough.

Mr. Blewett stated and that's kind of my opinion.

Mr. Marino mentioned what Tom had read you regarding the CRS and the base flood elevation height which is now another foot, are you willing to make that change or are you not going to do that and come back in October and go through this whole process again?

Mr. Schepis stated we'd like to look at it, I mean this is the first we've heard of it. So before I say we are going to do that we'd like to look at it and discuss it with you and see if we are all on the same page.

Mr. Marino stated I believe it was 1993.

Mr. Boorady stated yeah I thought so. Yeah FEMA initially issued this in 1993 residential flood proofing requirements/certifications.

Mr. Schepis stated I'm not sure how it applies here in an existing building or whether or not there is any room for interpretation when you are retrofitting an existing building I just don't know. I mean we are certainly going to take it under consideration and see if we can work with that and see if it is even feasible to make that happen. I mean if it isn't I just don't have the answer as I sit here tonight.

Mr. Blewett stated I'd like you guys to figure that out between now and October.

Mr. Schepis mentioned I would ask one thing though, there has been a set of plans that were submitted by Mr. Mianecki together with an engineering cost estimate, and it would help us to better understand what issues there are if we can get Tom to do a thorough review of those plans and the cost estimate so we can get his feedback and see where we are as far as technical issues.

Mr. Wild stated it is the DCA thing first right?

Mr. Boorady mentioned well not only that, but as I stated in my April letters there is site plan revisions that haven't been made such as the flood proof sanitary force main. Where are the details for that and how can I determine the cost for something when there is not a detail?

Mr. Schepis stated so why don't we just get an initial review memo back from you highlighting or raising what issues you feel are not compliant and at least we'll have that to work off of. I mean we need direction from you as it relates to the site plan in relationship to the resolution of approval so we know how to address it, so that is what we are looking for.

Mr. Neiss stated the cost estimate is only for purposes of the bond.

Mr. Schepis stated so forget about it just give me the -- well the engineering cost estimate is for the bonding. You are right but if we can get a review on the plans, we really need a technical review on the plans.

Mayor Runfeldt stated why don't you have Joe call Tom and let the two of them work this out.

Mr. Schepis stated good.

Mr. Boorady mentioned someone on your team should read the resolution, the 3 or 4 pages of outstanding items that may or may not be here so that we can have a productive meeting.

Mr. Mianecki stated my plans were revised in accordance with the resolution.

Mr. Boorady stated there is no flood proofing for the sanitary force main.

Mr. Mianecki stated it is going to be a package plan.

Mr. Boorady stated how can I determine the cost of something.

Mr. Neiss stated can we get you on the record please.

Mr. Schepis ask Joe to take the chair.

Mr. Neiss swore in Joseph Mianecki, Jr. Would you state your full name for the record and business affiliation for the record.

Mr. Mianecki testified Joseph S. Mianecki, Jr., Mianecki Consulting Engineers, I was the project engineer on the very beginning of this project. I did prepare revised plans back in 2013 right after Mr. Cutillo made his original submission to DCA and they got comments back and that's when everything changed. So I revised all my plans to show where all the electrical connections were supposed to be; the water main, the interconnection between the two buildings with the pipes underground so everything has been generally --

Mayor Runfeldt stated if I may Joe, I don't think anybody is disputing that this is all based on Mr. Schepis' request that we come up with a cost estimate, so why don't you get together with Tom.

Mr. Mianecki testified sure. All I really want to --

Mayor Runfeldt stated then we don't have to sit here and listen to you what is that.

Mr. Mianecki testified all I really want is an engineering review of my plan so that I have a target and I can address any of his concerns. If he can just do an engineering review on Darmofalski letterhead and send it to me, then I'll address point by point everyone of those items so we can keep this going.

Mayor Runfeldt asked so you are not going to get together with him.

Mr. Mianecki testified I don't think we need to.

Mayor Runfeldt stated you want him to do something for --

Mr. Mianecki testified as much as I --

Mayor Runfeldt stated let me ask you this this always seems to go on that nobody wants to get together and have a conversation.

Mr. Schepis stated Joe, Joe look let me say this --

Mayor Runfeldt stated and every time we are here you know we've had an open door policy and come in and talk, we'll talk about it and get through it but this happens every time we are here with you guys.

Mr. Mianecki testified okay.

Mr. Schepis stated you know what I think, maybe Joe it would be helpful if Tom gave you a memo, then you meet with him and go over it and figure it out.

Mr. Mianecki testified fine.

Mr. Schepis stated at least this way you've got a framework on how to --

Mayor Runfeldt stated and the next time you are here Steve we'll here you complain about Tom's memo

because you do that all the time too. You say you got this memo from Tom here and you know --

Mr. Schepis stated I never complain about a memo I was able to buy a new car with those memos.

Mr. Blewett stated the reverse would be --

Mayor Runfeldt stated okay so why do you want him to do another memo? Why don't the two of you guys get together and figure it out?

Mr. Schepis asked Joe can you do that without having a memo.

Mr. Mianecki testified sure.

Mr. Blewett stated you can also do the reverse, you can take the resolution and --

Mayor Runfeldt stated which is what Tom is asking for.

Mr. Blewett stated by point go through it and say how you complied with it.

Mr. Mianecki stated sure I can do that.

Mr. Boorady mentioned some of them are engineering and some of them are not that is why someone on the team should really review and put together all that stuff. It has been three years and we haven't see it.

Mr. Blewett stated you still need to get together with Tom at the end of the day.

Mr. Schepis stated I've never complained about your memos Tom.

Mayor Runfeldt stated you always complain.

Mr. Schepis mentioned why would I bite the hand that feeds me.

Mr. Mianecki testified we are making money off of that.

Mr. Schepis stated look I appreciate Tom's memo he's always very thorough and look it is the nature of the beast, people use to complain about Joe Maiella's memos, the memos are the memos and they've got to be detailed. It is what it is look it is a very detailed list. Look I think everybody has an idea of what needs to be done. Joe if you could meet with Tom?

Mr. Mianecki testified sure.

Mr. Schepis stated you know Tom something in writing always helps because this way at least Joe can focus on it so I'll throw that out there for you, so that's all what else is there to say.

Mayor Runfeldt stated I've said it all.

Vice Chairman Koldyk asked any other discussion on this.

Mayor Runfeldt asked what's that.

Vice Chairman Koldyk asked any other discussion on this.

Mayor Runfeldt stated no.

Vice Chairman Koldyk asked does someone want to make a motion on it.

Mr. Blewett made the motion that we grant the extension through October and that all that was discussed today certainly needs to be resolved through our officials within the town. If they have any concerns about it, it is coming back to the Board and we'll have to deal with it at that point and time.

Mr. Boorady asked is it October 17th, 2013.

Mr. Blewett stated whatever the date is. Mr. Schepis do you know when it expires?

Mr. Schepis stated I'll tell you in a second I have the resolution here. The resolution was adopted by the Board on October 17th, 2013.

Vice Chairman Koldyk asked is there a second on that.

Mr. Wild seconds.

Vice Chairman Koldyk asked any discussion. Call the roll.

Roll call:

Yes: Blewett, Wild, Kaufman, Koldyk, Marino, Moeller, Runfeldt, Terrero (Alt. #1) and Morreale (Alt. #2).

No: None

Abstain: None

Mr. Schepis thanked the Board for its consideration and we appreciate it, we are going to address these concerns and hopefully we won't have to come back on this issue.

Ms. Ward mentioned the resolution will be on the July 21st meeting.

Vice Chairman Koldyk stated next on the agenda is Ordinances.

Mr. Marino mentioned the ordinance regarding gas stations in our town, we met with Arthur and the last time he put together this memo that you have in front of you. Speaking with Arthur before as a zoning officer, we both agree there is not much I can do to enforce anything with this particular gas station. However Arthur did advise me as to possibly having the police look into the matter when they do block the driveway entrance and exists on Chapel Hill Road to possibly enforce some summonses at that point. Anything else on that Arthur?

Mr. Neiss stated I think that's your alterative at this point. If the Board undertook to rezone that property or that area, it would be spot zoning and they'd have us dead to rights and in Morristown in a heartbeat. So I think what the Borough may want to consider is that if this situation is becoming untenable and it already is, that by enforcing its ordinances through the Police Department that will have an effect on the property owner to try to comply and that may well bring the property owner to the table to talk about how they will comply with the Borough's ordinances. So that would be my recommendation to enforce the Borough ordinances as they exist right now against the property.

Mr. Marino asked the mayor if he heard that.

Mayor Runfeldt stated I heard some of it, I'm sorry I apologize.

Mr. Marino stated that's all right. What Arthur had suggested was get in touch with the police and have them possibly enforce any action they need to get summonses when they do block the driveways on Chapel Hill Road. As zoning there is not much I can do to enforce that and as he also mentioned we can't start spot zoning any particular --

Mayor Runfeldt stated I'm assuming there is another gas station in town that has similar issues with this too.

Mr. Marino mentioned on a lesser amount but true yes, so with that I can speak to Mark and let him know what is going on.

Mayor Runfeldt stated absolutely okay.

Vice Chairman Koldyk asked is that all you have.

Mr. Marino stated yes.

Vice Chairman Koldyk thanked Sal.

Other business I'd like to open the floor for discussion on a time change for the meetings. There has been some discussion to moving the meeting from 7 to 10.

Mayor Runfeldt stated I have been bringing it up for years and you guy say I want to go later.

Vice Chairman Koldyk stated all right 9:30 to 1.

(Laugher)

Mr. Marino mentioned I'd like to say 7 P.M.

Vice Chairman Koldyk stated yeah 7 to 10, 10 being the limit.

Ms. Ward asked is 7 good for everyone.

Ms. Moeller stated 7 isn't good for me.

Ms. Ward mentioned the Board of Adjustment does 7 to 10 and Council does 7:30.

Mayor Runfeldt ask Donna if she could do 7:30.

Ms. Moeller mentioned I probably can be here by quarter to 8 if I leave at 7:30.

Mayor Runfeldt stated all right make it 7:30.

Ms. Ward mentioned I'll have a resolution for next month.

Mr. Blewett asked do we have an hour we top out at.

Ms. Ward mentioned it would be 10:30. The Board of Adjustment meetings begin 7 P.M. and end at 10 P.M.

Mayor Runfeldt stated 7:45.

Ms. Ward mentioned so 7:30 then.

Mr. Neiss mentioned along these lines I would just like to advise you, I asked Joan to send me a copy of the Board's Bylaws and I see that they have not been changed since May of 1996. In other towns that I represent as the Planning Board Attorney, the Boards have appointed subcommittees to take a look at the Board's rules in order to update them. Even things like the times of your meetings is in your Bylaws and if you are going to change the time of your meetings, the Bylaws need to be changed. I would respectfully just suggest it might be an appropriate time to give the Bylaws just another look to make them more in line with how the Board does business today in 2016 rather than in 1996.

Vice Chairman Koldyk stated it sounds good we'll have to form a committee for that. We'll take that under advisement.

Also I'd like to bring up the position of chairman that's open.

Ms. Ward mentioned everyone knows that Kevin resigned.

Mayor Runfeldt mentioned just so everyone knows Kevin is not doing that well. He just through his wife put in his resignation after 20 years of serving this Board and many more years of serving the community; Board of Education, Boy Scotts, and just being a great guy all around town from anybody that knows Kevin. He is not doing very well and I'd ask that you all keep him in your prayers over the next couple of days and unfortunately that's all that may be needed. But keep them in your prayers, it is going to be big shoes to fill as a member of this Board and certainly as a chairman which is what Dave is asking about

now. I just want to ask everyone to keep Kevin and his family in your prayers.

Vice Chairman Koldyk stated will do.

Mayor Runfeldt stated but we do need a chairman.

Vice Chairman Koldyk nominated Chuck Blewett.

Ms. Moeller seconds.

Mr. Blewett stated I'll gladly accept.

Vice Chairman Koldyk asked all in favor.

Board voted aye.

Vice Chairman Koldyk congratulated Chuck.

Mayor Runfeldt stated those are good shoe to fill big shoes with.

Chairman Blewett stated it is not like I haven't done it before.

Ms. Ward stated you've been Chairman and Vice Chairman numerous times.

Vice Chairman Koldyk stated exactly.

Mayor Runfeldt stated big shoes need filling those are good shoes.

Chairman Blewett stated those are big shoes too.

Mayor Runfeldt stated myself and Joan will certainly keep everybody updated with regards to Kevin's progress.

Vice Chairman Koldyk asked does anyone have any other business.

Mr. Morreale asked do you think Kevin is up for visitors at all.

Ms. Ward mentioned Chuck was there yesterday or today?

Chairman Blewett stated I was there yesterday. I think you need to talk to Daryl if you contemplating visiting. I was there last Friday and some of the other Boy Scott fathers were there yesterday.

Ms. Moeller stated I believe Tim Griffin was there last night.

Mayor Runfeldt thanked Chuck.

Ms. Ward mentioned in our telephone directory Daryl's home number is listed so if you want to call and speak with Daryl.

Mayor Runfeldt stated that's all I have.

Ms. Ward mentioned I don't have anything else.

Vice Chairman Koldyk asked for a motion to adjourn.

Mr. Kaufman made the motion to adjourn.

Mr. Terrero seconds.

Meeting adjourned 9:35 P.M.

Respectfully submitted:

Joan Ward, Secretary	David Koldyk, Vice Chairman