

Borough of Pine Hill
Meeting
Planning and Zoning Board of Adjustments
March 9, 2017

Call to order: **Call to Order by Mr. Felix James 7:34pm**

Pledge of the Flag: **Led by Mr. James**

Sunshine Law: This is a regularly scheduled meeting of the Pine Hill Planning and Zoning Board. This meeting has been duly advertised and is in full compliance with the Sunshine Law.

**Swearing in of New/
Reappointed Members:** **Alternate # 1: Joanne Jones expires 12/31/18**
New member sworn in by Solicitor; Mr. Sitzler

Roll Call: **Present:** Mr. James, Mr. Waddington, Mr. Castor, Mr. Ford, Mr. Hagy
Mayor Green, Councilman Robb, Mrs. Ciotto, Mr. Green, Mrs. Jones
Professionals: Solicitor: Mr. Sitzler, Engineer: Mr. Dougherty,
Planner: Mr. Luste

Correspondence: **None**

Approval of Minutes: **Mr. James:** Did everyone have a chance to review the minutes from January 12th, Can I get a motion on that

Mr. Castor made the motion seconded by Mr. Hagy;

Mr. James: Roll call please: All "aye" except for Mrs. Jones she abstained.

Application 2016-8: **Mr. James:** Next we have application 2016-8; CHE Group LLC 127 Berlin-Cross Keys Road Block 131 Lot 5 Interpretation / Minor Site Plan

Mayor Green: Mr. Chairman myself and Councilman Robb need to recuse our self's from this and the next application.

Mr. Brennan: will that leave us with 7 Mr. Sitzler?

Mr. Gallagher: I counted; we have 7 and 1 alternate

Mr. Baron: Mr. Chairman; Jeffrey Baron representing CHE LLC just a correction in the review that was done by your Engineer as well we did not apply for a site plan. We applied for an Interpretation or a Use Variance incase the board deems a use variance is required. We did not prepare a site plan for tonight's meeting there was a prior site plan and in a couple of minutes we will go over that when we show the resolution and nothing has changed. I just want to be clear we are asking for interpretation or use variance. I have four (4) witnesses and if the chair would permit I would like to have Mr. Sitzler swear them in now so I can move forward. I have Louis (Lucas) Bonagura Jr., Adison Bradley, Chip Eisenberg and Joseph Mancini.

Mr. Sitzler: Swore in Mr. Bonagura Jr.; Mr. Bradley, Mr. Eisenberg and Mr. Mancini.

Mr. Baron: Thank you Mr. Sitzler; this matter was before the board approximately a year ago; well more than a year ago and John Wade was here as the attorney of the applicant at that time. I've taken over and I don't know if that is enough information. That evening there was a significant dialog between the board and the applicant and it was listed as an informal. Mr. Wade said there was a significant amount of information that he would have to go back and research and I agree with that and that is why we are here tonight. CHE Group LLC owns the property it's block 131 Lot 35 127 Cross Keys Road here in Pine Hill. Your current ZONE is GBD which is general business but when this site first came before this board as the Zoning Board back in those days it was located in the business A District. Now I want to make clear under no circumstances was the use that was approved by the board permitted in either zone. A use variance was approved and the one thing was the setback the current set back required is 100ft it was approved for a site plan of 35ft.

Mr. Baron went over the information he acquired from his OPRA request and the information from the informal hearing his client attended prior. He also included that a zoning permit was issued then was invalidated to put an office trailer on the site and building permits that were never acted upon bringing them to where they are today.

Mr. Baron: I don't have any more preliminary comments; I think I would rather have you hear the testimony of the witnesses and of course we are happy to have them answer any of the questions of the board.

Mr. Sitzler: Mr. Baron if I may first to clear up any issues from my point of view. You are not here for interpretation alleging this was a non-conforming use where under prior ordinances this was an approved use and later became outlawed?

Mr. Baron: That's right; Mr. Sitzler I read the transcript from the prior hearing and you asked that question. I had the privilege to be the Zoning Solicitor and Municipal Solicitor here in Pine Hill at one time and when this was zoned Business A-1 there was a zoning ordinance and no one can find it from 1969 but it did exist. So there was zoning in place in 1969 and in the BA district it did not permit for the storage of busses or tractor-trailers or repair tractor-trailers however what is significant it is also not a prohibited use. What makes this significant is that since it is not prohibited it could have been granted a variance.

Mr. Sitzler: My point is your asking for by the way you framed it an interpretation

Mr. Baron: The question I think is what; if the resolution set policy and I say if because I can't find it and I don't think the Borough has it but if did; what was the interpretation of that work? What was it that the applicant wanted; what is it that he applied for; what is it that the board was granting? Because the only thing that we have is the site plan ordinance; site plan resolution which you sited to which does use the words busses. But I don't know where it came from. Repairing maintenance and sale I think I have it with me.

Mr. Sitzler: I have it in front of me. Is there not an assumption that would have been taken from the prior resolution to that?

Mr. Baron: No! You made comment at the last hearing that "I don't want to criticize certainly other council but it's not very carefully drawn up". For example it is drawn for an approval that was never asked for.

Mr. Sitzler: I'm not sure I follow you on that statement. If was drawn for an approval that was never asked for. What is your point on that? Are you saying that servicing and the language of the busses was not asked for?

Mr. Baron: He says that the property was rezoned. The property was not rezoned; he subsequently says a use variance, but initially says rezoned so obviously we know that does not happen. It can't happen but that is what it says, so when you look at the document and who prepared it I'm not prepared to say I would assume I can't, I don't know what he looked at.

Mr. Sitzler: I have a question for the board secretary. Mr. Gallagher for some reason I don't know why it sticks in my mind and I know Mr. Baron was not here but when we did have that original meeting quite some time ago with Mr. Wade and the representatives I thought there was something in front of us that indicated that not only did refer to the busses but also said that if there were any other uses contemplated that they would have to make another application before the board. I remember that wording Mr. Baron specifically I do not have that in my file all I have is this 87-10

Mr. Baron: You are right, but you are wrong. You are right that there is a document; it is not the variance approval. It is a letter from the prior Zoning Officer that confirms to my client that they can continue to do what they are doing on the sight. Without records as to what that is specifically that they continue to do what they are doing but if they change it they have to come back before the board to get approval.

Mr. Sitzler: I hear you but does that reference busses specifically or another use?

Mr. Baron: It does not

Mr. Sitzler: Do we have anything Mr. Gallagher?

Mr. Gallagher: That letter you are referring to I do not have with me.

Mr. Sitzler: Does anyone else on the board recollect seeing that?

Mr. Castor: I remember talking about it.

Mr. Baron: you did talk about it but it is not in the record. There is no document referenced in the record

Mr. Sitzler: I just wanted to bring that to your attention and everyone's attention that there was a written document that I know I looked at

Mr. Baron: It may have been us but by the way I wasn't here but I have a transcript of the proceedings and I read your transcripts I know exactly what happened. I understand that the board's position is that with what you have given us we can't assume that tractor-trailers were permitted. But it is our position and through testimony that is exactly what you are going to hear has been happening over the last 30 years.

Mr. Sitzler: If I may Mr. Baron before your present let me just advise the board. As the Zoning Board you are required to do interpretations' under the Statutes and in doing that you are acting as judges for lack of a better term you are all judges. So you have to interpret and you have to make findings just as a judge would for the evidence that is presented that could include existing ordinances, documents, resolutions and it could include testimony as presented by the moving party which in this case is the owner thru council, so keep that in mind this is not a policy decision this is not comparing this as a policy perspective as if considering as a use variance which would be something different. An interpretation is more than that it is interpreting our ordinance, interpreting the evidence and making a decision as to if they met that goal, so you are acting as judges. Not sure if the board has any questions on that.

Mr. Castor: Does that interpretation include all the businesses that are there?

Mr. Sitzler: This is an appeal by them for an interpretation as to why the township or borough I should say at this point has indicated to them that they are not inclined to go along with the interpretation of what they are doing now is a permitted use. So they are asking for an interpretation of our ordinances and could be of our resolutions that are in the past or previous approvals. So we are acting as judges only we are not conforming to any policy we are not following or making a policy decision, we are not referring to the master plan or anything of that nature.

Mr. Baron: respectively we are going to be submitting a use variance proofs along with the interpretation

Mr. Sitzler: So do you understand everything that Mr. Baron just related you are going to hear everything now, but you do have to in your mind separate the interpretation and the request and treat the application for a use variance simultaneously at the same time. So you will be making the first decision on the interpretation as judges the second decision is to whether they have meet their burden of proof with the positive and negative criteria required for a use variance if the interpretation of their request is not favorable to their position.

Mr. Baron: If you told me that I was allowed do what we are doing through the interpretation of the zoning variance there will be no reason for me to ask for a use variance. But if you tell me I can't do it then I would need a use variance.

Mr. Dougherty: Mr. Chairman before we proceed just on completeness so if we are moving on the interpretation there is really no completeness because they are coming in for an interpretation so that portion of the application is technically complete but for the use portion of it since we will just roll right into that; they were incomplete for the use variance. And by the way just to address the point about the minor site plan when I received the application from the Borough the application they were applying for was for Interpretation/Minor Site Plan so that's what I looked at from a site plan stand point; however that portion of the letter would require a site plan. On completeness a boundary survey was required 6 months from the date of submission and they submitted a boundary survey of September 2007 so that exceeds the 6 months; so what I was seeking there in order to move on with complete for the variance is

there was testimony that since 2007 there had not been any substantial changes to the lot that would require another survey. If that were the case under oath testimony that survey from 2007 would basically represent what is out there today. So at that point the application would be considered complete.

Mr. Baron: Right it is dated September 17th 2007; I can give you a copy if you like.

Mr. Dougherty: The checklist requires that the survey it be dated 6 months prior to the submission date so in 2007 that is 10 years ago.

Mr. Baron: We don't have one 6 months prior to the submission date

Mr. Dougherty: Right so there has to be testimony that there have been no substantial changes in 10 years to that property and the board can rely on that survey for this property.

Mr. Baron: I understand. Let me bring up Mr. Eisenberg. Mr. Eisenberg you are the current owner of the property?

Mr. Eisenberg: That is correct

Mr. Baron: We are going to qualify you before the board latter, but when did you buy the property?

Mr. Eisenberg: September 2007

Mr. Baron: From September 2007 to present have you changed anything that is on the property? Are there any new structures are there any new development that has been on the property? Is it the same as when you bought it?

Mr. Eisenberg: It is exactly the same as when I bought it

Mr. Baron: Thank you.

Mr. Dougherty: With that; that would basically be a waiver that the board can waive the need for a current survey based on that testimony and then the application could be deemed complete. So it would be basically be a motion to accept the application.

Mr. James: Is there a motion to accept it?

Mr. Waddington: Do we need that now or do we need that once?

Mr. Sitzler: We should do that; we need that deemed complete before we proceed on merits. So we do need a motion. If you accept what Mr. Eisenberg; our engineer said it is acceptable for a waiver if you

accept the testimony as Mr. Eisenberg said that there was no structural or changes that would affect the survey from 2007

Mr. Castor: Would that be out buildings and things like that

Mr. Sitzler: He just testified that no structures no changes at all

Mr. Castor: I guess we will have to make a motion to waive that part

Mr. Sitzler: If someone wants to make a motion the motion should be; to waive the requirement that the survey should be provided 6 months before the application based on the testimony under oath of the owner.

Mr. Castor: I make a motion

Mr. James: Is there a second?

Mr. Waddington: I'll second

Mr. James: Roll call; all "aye" motion passed

Mr. Baron: Thank you; I call Mr. Bonagura to give testimony.

Mr. Bonagura: gave testimony as to when he purchased the property, the resolution that was memorialized (87-10A) in 1987 and that he had busses and tractor trailers parked on the property. This covered Exhibits A-1 and A-2. When he sold the property to Mr. Eisenberg, what the condition was of the property when he purchased it and what he intended to use the property for.

Mr. Baron: Then submitted exhibit A-3 the OPRA request he submitted to the Pine Hill OPRA clerk and the response he received back which did not include the resolution exhibit A-2

Mr. Baron: What did you do to the property once you received the approval?

Mr. Bonagura: Continued with his testimony that they broke ground in 1988 and received his CO in 1989. And that tractor trailers were parked on the property from the get go; and that same year cleared the rest of the lot and put a fence up. The Mayor at the time and the Zoning Office were well aware at the time that tractor trailers were parked there he had a meeting with the Mayor and the Zoning Office Parked his personal (Eagles Bus) there.

Mr. Baron: In 2002 did you come before the Board to request that an 8x32 trailer to be used as living quarters for a security guard be placed on the property.

Mr. Bonagura: Yes

Mr. Baron: What was the purpose of the trailer?

Mr. Bonagura: It was prudent to have someone on the property 24-7

Mr. Baron: So it was for a security guard

Mr. Bonagura: Absolutely

Mr. Baron: submitted exhibit A-4 resolution denying the use of the 8X32 trailer on the property but it did not prohibit the use of tractor trailers on the property

Mr. Baron: So there were trailers on the property during the time that you owned the property?

Mr. Bonagura: Yes

Mr. Baron: What was the largest number of trailers you had on the site at any one time?

Mr. Bonagura: About 12

Mr. James: You said you requested a variance for busses for repair and to build a building. Is that correct?

Mr. Bonagura: In 1987

Mr. James: and to operate

Mr. Bonagura: yes and to operate

Mr. James: in no point in time did you request for trailers

Mr. Bonagura: Specifically no

Mr. James: but you did have trailers on that site without that request. So basically you had no variance to do that

Mr. Bonagura: Park a trailer; no

Mr. James: Just busses and the companies you dealt with were basically bus companies

Mr. Bonagura: right! Two of them had their own trailers

Mr. Sitzler: Mr. Bonagura; were you represented by council when you applied for these approvals of both the variance and the site plan approval?

Mr. Bonagura: I would have to go through all the paperwork and see

Mr. Sitzler: You still have the paperwork?

Mr. Bonagura: Yes

Mr. Sitzler: the application and everything?

Mr. Bonagura: I would have to check and see

Mr. Sitzler: Would you have a problem bringing that before the board?

Mr. Bonagura: No

Mr. Sitzler: it would be very important to know what you applied for since there is a question of what was granted to you. If you have the paperwork it is going to tell us what you applied for. Were you aware he had them Mr. Baron?

Mr. Baron: No I was not aware. But I'm not sure I could agree that they couldn't have granted for more than what he applied for. I certainly agree it appropriate to seeing when he applied for. Regardless for what he applied for the board is not going to interpret it being permitted. So I don't want to come back on another night to give a piece of paper that isn't going to make a difference. If the board believes it is critical for its analyses that's fine I have no objection; he's not my client but I have no objection in trying to provide information.

Mr. Sitzler: You never made another application besides this one 8x32 trailer. That is the only trailer you formally applied for before this board or any other board?

Mr. Bonagura: Yes

Mr. Sitzler: Did you have a lawyer for that application do you remember?

Mr. Bonagura: Probably not but I'm only guessing

Mr. Baron: Usually your resolutions mention they were represented by council and that one does not.

Mr. Sitzler: That is all I have

Mr. Baron: Mr. Eisenberg can you give your name and address. And what is your Position CHE Group LLC.

Mr. Eisenberg gave his address and qualifications as the owner of CHE Group LLC. He then gave his testimony about ownership of the property, when he purchased the property and his use of the property. He mentioned when he purchased the property there were busses, tractor trailers and a duck boat parked on the property. He met with the Zoning Officer, Mayor and other officials and they gave him permission to continue the same use of the property as the previous owner. He also mentioned he was using the income of the rental parking spaces to cover his mortgage and had no prior problems with the Borough on the parking since he owned the property.

Mr. Baron: As we come before the board tonight are there any other businesses being run on that site other than the warehousing or beauty supply products or vehicle storage that you described is there anything else going on?

Mr. Eisenberg: Not out of my building

Mr. Baron: Okay but is there anything else going on; on the property?

Mr. Eisenberg: I don't know about any other business. I mean we have independent truckers that rent areas from me and there is a few landscapers. I don't see people coming in and exchanging money or anything.

Mr. Baron: How many landscapers are on the property?

Mr. Eisenberg: About 4

Mr. Baron: Okay; and how long have they been with the property?

Mr. Eisenberg: Various times about 7 or 8 years

Mr. Baron: Now I'm showing you a copy of a letter dated May 24, 2007 have you ever seen that letter before?

Mr. Eisenberg: Yes

Mr. Baron: Who is that letter addressed to?

Mr. Eisenberg: To Addison Bradley

Mr. Baron: Now I'm going to ask Mr. Bradley about this letter in a minute, but what is your understanding of this letter?

Mr. Eisenberg: First I need to explain without this letter I couldn't have received the financing for the property. I had to show P&C Bank that the use I was going to have for the property was a permitted use. As the letter states I would be able to continue to use the property in exactly the same manner as the previous use currently and also the Zoning Office parked a vehicle in the lot he had his own bus decorated in Eagles Green. He was a constant visitor to the lot and he parked next to tractor trailers so he was very aware of what was there.

Mr. Baron: Who was this letter copied to?

Mr. Eisenberg: Mayor Constantino

Mr. Baron: Now I think you already answered this but let's make it clear, would you have purchased the property if you knew it couldn't be used for the tractor trailer parking and storage as you intended?

Mr. Eisenberg: No I wouldn't have been able to purchase the property because of that

Mr. Baron: Would you have purchased the property if you knew that 10 years later that Mr. Clark's letter would be interpreted in a different way than you understood

Mr. Eisenberg: Absolutely not

Mr. Baron: Approximately how many trailers on the property

Mr. Eisenberg: About 58 or 59

Mr. Baron: Has this number changed over time?

Mr. Eisenberg: It has when I First Student was a tenant had 280 busses as well as another 30 vehicles from other people

Mr. Baron: Who owns the trailers that are in your yard?

Mr. Eisenberg: There are some independent truckers, landscapers; it is not one company like when we had 1st student.

Mr. Baron: So this is a lease relationship that is they release space from you for those vehicles

Mr. Eisenberg: Yes on a month to month lease

Mr. Baron: What would happen if that trailer storage would not be deemed by the board to be an acceptable use?

Mr. Eisenberg: It would be a severe financial hardship for me, my family and my employees

Mr. Baron: Would you be able to keep it open?

Mr. Eisenberg: No

Mr. Baron: When did you find out there was an issue with the Borough?

Mr. Eisenberg then gave testimony of one of the renters that wanted to put an office trailer on site and what transpired after approval was sought.

Mr. Baron: I would like to introduce into evidence A-7 copy of Pine Hill Zoning Permit and A-6 letter from Mr. Clark

Mr. Eisenberg continued with testimony

Mr. Baron: I have no farther questions for Mr. Eisenberg

Mr. Castor: I have a question; when 1st student brought all those busses over there what was their initial reason for bringing them

Mr. Eisenberg: If I get this right at the time school buses were only allowed to be on the road for 7 years or 300,000 miles which ever came first so they stored them in my yard till they held an auction twice a year.

Mr. Castor: This board granted a permit for that sale am I correct?

Mr. Eisenberg: Yes

Mr. Castor: You long was that permit good for?

Mr. Eisenberg: I don't know

Mr. Castor: 90 days, I was on the board then

Mr. Baron: The Board member was correct that was 90 days to auction but it did not say 90 days was all you could keep them there for. It said 90 days was the time you could auction after 90 days the board member is correct if they would have continued to auction they would have had to come back before the board.

Mr. James: You said you asked for permission to store vehicles on the property

Mr. Eisenberg: Yes Sir

Mr. James: based on what was stated early on a vehicle was a bus, it didn't specifically say you could store trailers or a duck boat or any other type of vehicle

Mr. Eisenberg: it doesn't specify busses either

Mr. James: Yes but the original resolution was for busses

Mr. Eisenberg: I had no knowledge of that

Mr. James: This is how arguments start; if I can finish. The variance was given for busses those are the approved. Did you get a letter saying you could continue parking vehicles on the property?

Mr. Eisenberg: sure

Mr. James: Just because the letter said vehicles; to me it doesn't mean multiple types of vehicles it could have meant lots of busses. Am I correct? Is that a possibility?

Mr. Eisenberg: I have no idea

Mr. James: Well the answer is yes. The fact that you had multiple vehicles on the property and they were parked on the property and you said the zoning officer parked his vehicle on the property. Again he didn't park a truck he parked a bus because busses is what was stated. So by you clearly clarifying that he parked a bus not a trailer, it wasn't a car it was a bus. So clearly he was using it as a permissible use so he is not in violation of anything because the property was approved for busses. Am I correct?

Mr. Eisenberg: The question that was posed to me was what the township knew about the property and I gave that answer in response to that Neil Clark had a bus parked next to tractor trailers. Neil Clark was a constant visitor to the site because he had a bus there, he saw what we were parking there and it was never an issue with any of the vehicles that parked there. That is the frame of reference I was making with Neil being there.

Mr. Sitzler: Mr. Eisenberg did you lease the property back to Mr. Bonagura after you bought it?

Mr. Eisenberg: Yes

Mr. Sitzler: and what was the terms of that lease?

Mr. Eisenberg: I bought the property in September and he was out in February

Mr. Sitzler: So when our board member asked a question of Mr. Bonagura. Did he make the application for the trailer in 2008 or did you do that

Mr. Eisenberg: No I never did that, he meant 1998 not 2008

Mr. Waddington: So he leased the property for another 6 months

Mr. Eisenberg: About 5 months

Mr. Sitzler: Now when you closed and purchased the property Mr. Bonagura said he had about 10-12 trailers. How many were on there when you purchased the property?

Mr. Eisenberg: About 10-12 trailers

Mr. Sitzler: And you know have 58-59?

Mr. Eisenberg: correct

Mr. Sitzler: What limit do you believe you can go to; based on the idea this is something you should be able to do?

Mr. Eisenberg: I was able to get 280 busses I could probably fit maybe 150 tractor trailers

Mr. Baron: I think that is why in terms of an interpretation you probably can't grant it because we all know that if it is an expansion of a pre-existing use conforming non-conforming you still need a use variance.

Mr. Castor: You still haven't answered all my questions about all the businesses that are running out of there. Are they there legally? You are leasing property to a business you have landscapers, independent trucker, trucking outfit. I understand they dispatch trucks out of there is it a conforming business has it been granted a license by the Borough to operate there?

Mr. Eisenberg: I don't see money changing hands.

Mr. Baron: Nobody comes to the landscaper and says I want you to come cut my lawn, nobody comes in and says I want to buy supplies from you from the landscaper; nobody comes to the tractor trailers and says I want to load your tractor trailer with something so you can haul it. This is simply a yard where people park.

Mr. Eisenberg: That is correct

Mr. Waddington: So there is no business operating out of that trailer where they obtained an electrical permit

Mr. Eisenberg: Not that I'm aware of

Mr. Sitzler: wasn't that represented by the individual that came to the prior meeting

Mr. Eisenberg: I was here to talk about his approvals; he didn't talk about his business

Mr. Baron: What does he do? What is his business?

Mr. Eisenberg: He halls vegetables and he assigns his drivers the routs. He also has a portable toilet out there so they can use the toilet.

Mr. Baron: So he got permits for that, he didn't know he needed a use variance but he got permits to do what he is doing.

Mr. Eisenberg: Yes

Mr. Waddington: He got permits to run a business to dispatch produce trucks or he got permits for electric?

Mr. Baron: If you look at the exhibit's I turned in the zoning permit was to alter/construct a mobile office trailer including electric service and then down below it says list all structures on property warehouse/office that is all it says. He was issued a permit to do that. And if it is the decision of the board that that is not a permitted use we will advise our tenant he has to come before the board to get an approval to be there.

Mr. Baron: any other questions? Mr. Bradley, could you give your name and address before we begin with your testimony?

Mr. Bradley gave his name and address and gave a testimony of his qualifications. He then gave testimony of the meeting that he was in attendance with Mayor and Zoning Officer and Mr. Eisenberg back when the CHE Group purchased the property. Exhibit A-6 letter from then Zoning Officer Neil Clark to Mr. Addison Bradley was read into the record. Mr. Bradley then gave testimony on the letter.

Mr. James: Let's go back to the letter. Based on the first paragraph it says "As discussed there will be no changes to the existing parking or required site plan standards which were previously approved" It was previously approved for busses. They are not saying you have permission to put trailers it clearly does not say trailers it said existing approved.

Mr. Bradley: It didn't say busses either

Mr. James: But it said existing approved

Mr. Bradley: We interpreted that as existing

Mr. James: That is your fault for interpreting it that way

Mr. Baron: Mr. Chairman you are putting two words together; it says existing parking or required site plan standards previously approved

Mr. James: Previously approved would be on the resolution

Mr. Baron: I'm only saying I want to get the language right

Mr. Castor: They were parking 12 and now they have 58 is that not a change

Mr. Waddington: Like Mr. Castor said if they started parking more vehicles there than the original 12 would that require a change?

Mr. Sitzler: It would be a statute non-conforming use; any other questions? If not I have a few questions; Mr. Bradley when were you retained by Mr. Eisenberg was it before he bought the property?

Mr. Bradley: Over 10 years ago

Mr. Sitzler: Well was it before he bought the property

Mr. Bradley: Yes

Mr. Sitzler: Were you hired as a licensed Planner or in some other kind of consultant?

Mr. Bradley: I was hired to be able to make sure he could continue the uses that were permitted on the property.

Mr. Sitzler: You're a Licensed Planner correct?

Mr. Bradley: Yes

Mr. Sitzler: Did you look up what uses were allowed in the zone that this property was located?

Mr. Bradley: No not at that point because from my understanding the uses that were there were permitted.

Mr. Sitzler: You wouldn't as a Licensed Planner look up or get some advice as to

Mr. Bradley: well the discussion

Mr. Sitzler: I don't want to talk over you if you just wait till I'm finished

Mr. Sitzler: Mr. Eisenberg just said he consulted you to make sure before he bought the property that he would know what uses he would be allowed to act

Mr. Bradley: Right but

Mr. Sitzler: Let me finish. Why would you not have looked up A) what is permitted or B) Resolution 87-10A from the seller which tells him what is allowed. You didn't do either of those?

Mr. Bradley: No

Mr. Baron: I have a question. Were you satisfied with your meeting with the Mayor and the Zoning Officer you could do what you wanted to do on the property?

Mr. Bradley: Yes we were

Mr. Baron: So was there any reason to look at anything else

Mr. Bradley: No

Mr. Baron: Is the board now ready to act on the interpretation based on the testimony your heard tonight?

Mr. Sitzler: Okay the board you are wearing your judges' hats! You need to consider not only the documents and the testimony that you heard but the municipal documents and the Resolution 87-10A language that has been referred to. With all due respect to the testimony that we have heard the one application and we do have one that was denied and that was for an 8X32 trailer from 2002 but the other resolution that was the one 87-10A which as we pointed out is a site plan resolution that refers to the variance. It states in paragraph 4 "As per the variance granted by the Pine Hill Borough Zoning Board of Adjustment on October 13, 1987 the applicant intends to construct a building on the property in question for selling, leasing, repairing and servicing buses." Now during the testimony Mr. Bonagura stated it should also have read operating busses. Now this type of business though prohibited in a business "A" district is permitted on the property under the variance granted by the Pine Hill Board of adjustment. It is obvious a use variance that was granted.

Mr. Baron: If I may it is somewhat loose in the wording of that resolution. I would like to read to you what your ordinance for Business "A" said at that time. I'm referring to article 7 section 4, prohibited

uses, it defines what is prohibited in a business "A" district "Automobile repair and service, no wholesale merchandising or servicing shall be permitted unless it is incidental subordinate to a primary retail business, no manufacturing, fabricating, conversion, furnishing or assembly shall be permitted except incidental to retail use." So the resolution is clearly wrong this was not a prohibited use. The way the language is used I think it wasn't permitted.

Mr. Sitzler: So that is before the board that the interpretation of tractor trailers, landscaping vehicles and busses being stored are a permitted use.

Mr. Castor: The problem I have with it the original application was approved for busses. Am I correct?

Mr. Sitzler: Correct

Mr. Castor: Tractor Trailers were not specifically spelled out. Is that correct?

Mr. Sitzler: Correct

Mr. Castor: Okay so under those circumstances I make a motion to deny

Mr. James: Is there a second

Mr. Waddington: I'll second that

Mr. James: Roll call "all Aye" Motion carried

Mr. Baron: Now we move on to the use variance and try to tell you what it is we would like to do on the property. May I now call Mr. Mancini up who has already been sworn in? Mr. Mancini could you give your full name and address for the record?

Mr. Mancini gave his name and address and started his testimony on his qualifications as a licensed engineer and planner in the State of NJ.

Mr. Baron: Mr. Chairman we present Mr. Mancini as an expert planning and in engineering and ask the board to accept his qualifications as such.

Mr. James: We accept:

Mr. Baron: Joe what were you asked to prepare for this use variance?

Mr. Mancini proceeded to give testimony of what documents he prepared for the use variance and his observation of what type of vehicles are parked on the property and the amount of vehicles could be parked on the property. He also gave testimony that in his opinion the traffic from tractor trailers would

not disturb any of the neighbors because they are all commercial except for the quarry behind the property and that it should be a permitted use.

Mr. Baron: So the last thing we need to talk about is the zone plan and the zoning ordinance. That requires that under the Master Plan of Pine Hill and also under the zoning ordinance that there is a consistency with their ordinance. The variance that was granted would clearly be able to be used as a planning tool to determine if it was consistent with zoning correct?

Mr. Mancini: I agree

Mr. Baron: You know now how the ordinance was interpreted that tractor trailers were not a permitted but busses were. Given your testimony there isn't really is no significant difference between parking of busses and parking of tractor trailers. Then giving prior use variance would you be able to conclude that this specific with the type of use not the specific use but the type of use that the board was considering at the time; same size same height same manner of propulsion same manner of noise generated.

Mr. Mancini gave more testimony on his view of the ordinance, the past history of what took place on the property and his opinion that over the last 30 years there were Borough Officials who knew that parking had taken place for some time

Mr. Baron: Mr. Chairman that is all we have

Mr. Castor: I have a question for your Engineer. A 12X50 foot space do you think you can park a tractor trailer in there?

Mr. Mancini: I'm not a tractor trailer driver so I could not say

Mr. Castor: I can tell you the trailer is 50 feet with a 28 foot tractor in front of it.

Mr. Baron: Can I answer that? We are not here tonight and I appreciate Mr. Dougherty's letter. We are not here tonight to ask you to specifically say what we can do except that tractor trailer parking would be permitted along with along with the other. We would have to come back with a site plan we would have to lay out what these spaces would need to be. Mr. Dougherty makes a real good point in his letter you are not allowed to have isle access a parking space and it looks like that is there. The point is there may need to be changes from what is here. So I don't want you to think that I'm asking you to buy into this plan tonight; that is not what I'm saying. If we get a use variance then we can do a site plan that Mr. Dougherty has asked for and come back to the board. There are a lot of issues that Mr. Dougherty pointed out. If the use variance is granted we agree as a condition in the use variance to come back with a site plan it means you still have control of the application. Even if you say we can park those vehicles here we don't have permission to do it in a particular fashion until we come back and get a site plan review.

Mr. Baron: Joe how did you come up with the size of the spaces?

Mr. Mancini: They are consistent with other industrial sites, other clients that we have that do trailer storage. That is the size space that they proposed to me as appropriate for storing the trailers. Obviously there could be bigger vehicles but it was just a means to estimate a ruff number.

Mr. Castor: There is a big difference between a tractor trailer and a bus. A tractor trailer can hall a buss but a bus can't hall a tractor trailer. A tractor trailer is coming out of there at 80,000 pounds the bus does not come out at 80,000 pounds nowhere near that. And this to me looks like a truck terminal

Mr. Luste: Question for the planner in your testimony relative to the negative criteria which states that the variance will not substantially impair the intendent purpose of the zone plan in the zoning ordinance. Did you consider the permitted uses in the zone in its relation to this particular use? Is it compatible does it support the businesses that are permitted in the zone?

Mr. Mancini: Yes of the permitted uses there is retail type uses supermarkets and amongst retail uses I would anticipate that many of them have tractor trailer deliveries. They may not have storage of trailers necessarily but they would be moving tractor trailer traffic on site. Obviously we are not trying to prove it is a permitted use amongst those but I don't find it is inconsistent to have trailer storage in light of the criteria we discussed for this particular site.

Mr. Ford: I have a question we keep talking about storage like it is a storage facility. How does that equate to like an everyday operation; storage compared to everyday usage?

Mr. Baron: That is a good question let me tell you what he does in that warehouse; I think you heard about the tractor trailer stuff. Let me tell you what he does, also we would accept as a condition of approval that any use that isn't permitted by you. Other words if there is really a landscaping business that is running out of here and a produce business running out of here those are not permitted by code, so if the Zoning Officer goes out and says you are not entitled to do what you are doing this board didn't give you an approval for that. That is a different issue that is not our use and we are not asking you to approve something we have nothing to do with

Mr. James: Can I ask your Engineer something? He talks about the quarry behind the site, that site was approved for a 55 and over community does that change your opinion?

Mr. Baron: When was that approved?

Mr. Dougherty: That was actually the 300 units that was approved for that site and actually it was the 90 units that is associated with that property but it is closer to the railroad tracks that is 90 residential units.

Mr. Baron: Mr. Dougherty what approval did it receive?

Mr. Dougherty: It received site plan approval and subdivision approval; preliminary and final

Mr. Baron: Okay and it was approved with everything going on at this site

Mr. Mancini: To answer your question I think it would cause us to look at how this site plan was laid out. It wouldn't change my opinion on the planning as to the use variance it may cause us to look at buffering

Mr. Sitzler: I have a question for you Mr. Baron either for you or your Engineer. There has been a lot of talk about trailers and I'm using the most common vernacular

Mr. Baron: I think that was the board members question I think he wants to know what happens there

Mr. Sitzler: There can be multiple trailers; trailers can be open air trailers for boars or equipment. Trailers can be boxed or closed they can be tractor trailers. One of the dangers with tractor trailers some of them need to be licensed to be operable and some are not; when we get into unlicensed vehicles that are in need of repair what most yards learn particularly if they are only using it for parking purposes are that people often have repairs done and they can't afford the repairs they abandon it you don't want a junk yard. The other problem with a lot of tractor trailers parking is we don't know what individuals that drive are not a company we don't know what you are transporting, you could have volatile materials you could have dangerous; no one knows what is in those boxed tractor trailers.

Mr. Baron: I do not know Mr. Sitzler the terms of the lease with the individual users

Mr. Sitzler: We have had testimony about recreational vehicles they are neither busses nor trailers

Mr. Baron: If I can let me bring Mr. Eisenberg up to tell you what is there

Mr. Sitzler: It's more important asking what approval uses are you asking for

Mr. Baron: For the use variance?

Mr. Sitzler: Yes any of those vehicles

Mr. Baron: to be able to permit what is commonly called

Discussion took place about the length and height of different trailers, type of vehicle that will be stored, length of time they will be stored. It was also discussed if the trailers would be attached to trucks or with no truck. It continued with what kind of material that could be in the trailers parked in the yard and that inspections could take place to insure there was no harmful or dangerous material on or in the trailers. It was then discussed on if busses would be also allowed or just tractor trailers and if just trailers what the limit would be.

Mr. Baron: Now let's discuss what you do in your warehouse

Mr. Eisenberg gave testimony of what his business IMAGE Beauty was and what he did in the warehouse and then a discussion took place as to the truck drivers being able to leave their personal car in the truck parking spot when the driver came to pick up the truck for work. The discussion continued into how many trucks would be leaving the yard at the same time would this be storage or a truck terminal and how would the road handle all that traffic. Then it was discussed to eliminate busses all together and it would only be tractor trailers parked on the lot and the size needed for each parking spot which could limit the number of trucks that could be parked on the lot. It was agreed that the resolution should state no maintenance or servicing of vehicles in the yard and a limitation of the amount of time the vehicle can stay in the yard at any one continual time period.

Mr. Dougherty: I don't know if I heard during the testimony the hours of operation. Is this 24 hours

Mr. Baron: It is

Mr. Eisenberg: Not my business

Mr. Baron: What are your hours?

Mr. Eisenberg: 8 to 6 Monday thru Friday and during the Christmas Holidays we are open Saturdays and Sundays as well

Mr. Sitzler: Maybe I'm the only one that does not understand this but when we were talking about driving the vehicles and exchanging for the truck. Were we talking about parking the vehicle? I know we talked about additional parking by the warehouse, but was the original proposal to park the vehicle in the space where the trailer was?

Mr. Baron: Yes; the normal practice was for the driver if he is independent was to drive their vehicle some just have one truck is that true.

Mr. Eisenberg: There is only one person that has more but they all have an assigned spots. They drive up to their truck and they take out their truck and they get out and they pull their car into that spot.

Mr. Sitzler: That is what I was saying the same spot that the truck was

Mr. Waddington: I know that is the concern with at least some of the board members. Is there a way as part of your lease you can have them identified? Weather it is a tag in the windshield so when our zoning officer goes by he can tell if that is a personal vehicle for that spot or if they don't have it we can assume AUTO LENDERS from across the street is parking cars there.

Mr. Baron: I'm not saying they are going to do that

Mr. Waddington: Do you understand where I'm coming from?

Mr. Baron: Respectfully

Mr. Eisenberg: I'm sensitive too because I get paid on spots and people do try and cheat. I'm there every day and I count to make sure people are not taking advantage of me

Mr. Baron: Would you be willing to have some kind of little thing just to put on the dashboard like they do at hotels that say they are a truck driver and they are in space so and so and they have a right to be there

Mr. Eisenberg: Now the way you put it I think that is something that is appropriate

Mr. James: We are just trying not to make mistakes from the past

Mr. Baron: And believe it or not so are we

Mr. Eisenberg: I just want to be a good citizen as I have been over the last 10 years and make a living and pay my taxes

Mr. Baron: If I can just sum up. 250 busses plus as well as other stuff down to not more than 150 only tractor trailers. The tractor trailers cannot be out in the space for more than 5 days unless it was one of the situations we heard, "vacation, they are sick or something happens that is not an intentional violation but they just can't be there". The vehicles that are allowed to go into the space where the truck came from would have to have some means of identification that we would have to discuss with you at site plan and would have to be acceptable to you at site plan so you know it could be seen. These handicap placards come to mind that you just attach to your mirror and then you know that car is entitled to be there just that simple. The site plan would be done which was done before but that was for busses so a site plan needs to be done for tractor trailers. It would not be for more than 150 but that does not mean we can get 150 because we are not talking about 75 foot spaces, and obviously we would have to address the comments in Mr. Dougherty's letter when we come back for the site plan. I think Hugh's letter is 4 or 5 pages he was pretty thorough with his letter which doesn't surprise me.

Mr. Hagy: Did we also discuss the contents of the trailers?

Mr. Baron: Yes; we would modify the leases. The leases are month to month right now; which means every month we have the right to terminate a lease every month they have the right not to continue. In that lease we will put a provision that could be no combustibles, there could be no contaminants there could be no dangerous, there could be no guns no ammunition. I have a laundry list that we use for this

kind of thing and I will be happy to give it to your professionals and Mr. Dougherty to review so it protects the people in that area.

Mr. Hagy: And subject to inspection

Mr. Baron: Yes; subject to inspection. Inspection by us and frankly if the zoning office wants to inspect as long as we can get into the truck, we don't own the truck but we can agree to cooperate to allow access to the truck so that could be checked but these things get locked in the back for obvious reasons because they may have stuff in them of value.

Mr. Sitzler: would you mind putting into the lease that they would be subject to an occasional or random inspection by the Zoning Officer for the Borough.

Mr. Castor: Isn't that normally don on the road

Mr. Sitzler: Yes, but sitting in a yard for 5 days and you don't know what is in it

Mr. Eisenberg: If I can speak the vast majorities are car carriers and are open trailers. I also want you to understand if someone comes to me to rent a space I don't just rent it to them I do vent them. I want to know what is there I want to know what they are storing I want to make sure I'm going to get paid

Mr. Sitzler: We are talking about the box tractor trailers

Mr. Baron: Mr. Sitzler is saying what you can't see you don't know. Do you have a problem with putting in the leases that they would subject them selves' to a random inspection by the zoning office to review the contents of the truck to make sure no contaminates no flammables no explosives no ammunition etcetera

Mr. Eisenberg: I don't have a problem with that I just want to make assure you as it stands now those are questions that I ask before I have someone lease the property more so I'm concerned about someone contaminating the soil

Mr. James: Yes but having someone tell you they don't do it

Mr. Baron: We agree

Mr. Baron: Having been on both sides. What your solicitor drafts and you ultimately approve as a resolution is what the approval is. So if you don't include every single thing tonight that's not a problem and we understand that frequently people look at the actual transcript of record and figure that is everything in there so we understand that. So to let you know from the applicants stand point we are not going to say well you didn't put that in there so you can't put it in the resolution. The resolution controls whatever the board does that is appropriate. The only thing I would ask is the gentleman that

left this puts us in a quandary, the board member that left in theory can't participate in the vote because he is not here for part of the application.

Mr. Sitzler: Not unless he is able to hear this part of the tape when he gets back

Mr. Baron: exactly, unless one of the alternate members would have to vote and I think I know your membership is would be required to vote on the application. I just wanted to bring that out. I can waive any objection because we have had not testimony so there has been nothing he needs to be here for so I don't have a problem with that. But if we go into the public session is what I was trying to say that could be a problem if he wasn't here to hear the public session.

Mr. Sitzler: Why don't we take a short 2 minute break?

Mr. Castor: He is back

Mr. Sitzler: does anyone else need a break? Are you done?

Mr. Baron: We are done with our presentation Mr. Sitzler.

Mr. Sitzler: Can I have the Attorney from HYZ come up

Mr. Rinaldi: Hi Mr. Sitzler I'm Mark Rinaldi on behalf of HYZ

Mr. Sitzler: Nice to meet you. My question to you is we do have some rules as to when we can start an application. It is the same kind of application for a use variance

Mr. Rinaldi: Less the interpretation part

Mr. Sitzler: I wanted to bring you up to see what your pleasure is since you have been sitting here with us the whole meeting.

Mr. Rinaldi: I've been thinking about that and really candidly if I sprinted through I'm about 45 minutes and that is trimming it down. I do have my planner here and to be honest with you and I don't want to tell you anything other than that if I sprinted hard I could be done in 45

Mr. Castor: what is our curfew?

Mr. Sitzler: To be honest with you we are not supposed to start after 10 or 11

Mr. Gallagher: I believe it is we are not supposed to start after 11

Mr. Sitzler: Yes; I think that is it after 11 we are not supposed to start an application

Mr. Rinaldi: If I could ask Mr. Dougherty a question we are only here on use and I have no problem with your view that if the board was to grant use it would have to be under condition upon site plan. If you don't reach us tonight would I be able to get that on at the very next meeting and do use and site together? My thought was to use to night and if approved come back next month and do Site, but losing a month would be a little bit of a hardship for my client. But I may be willing if Mr. Dougherty thought that he would have the time if he had to come back I would prefer to come back and do both so my client it not losing any time if we do both.

Mr. Baron: We would give up any slot we would have for site plan to them to be able to do both

Mr. Dougherty: My letter in general does talk about site plan issues so the applicant does sort of have a heads up on the site plan issues in my letter so if they would want to proceed with their site plan and address those items than I think I would have ample time because it would be a month from now.

Mr. Rinaldi: Not only have we reviewed your comments I think I told you in the hallway and I will say it on the record every one of your comments are going to be incorporated in the site plan so we take exception to none of them.

Mr. Dougherty: So with that being said I think we would have ample time to review the application the site plan before next meeting

Mr. Rinaldi: Like I said if you have the time to do it and are reviewing both at the same time then I'm not losing even a moment with my client

Mr. Sitzler: Can you anticipate you can get the site plan to him to give him an opportunity to review

Mr. Rinaldi: I believe Bill Thompson can get it to him in 8-10 days

Mr. Dougherty: I think that would be enough it would be completeness the use and also the site plan at the same meeting

Mr. Gallagher: That would be April the 13th

Mr. Sitzler: Would the applicant be willing to waive the 45 day period

Mr. Gallagher: Excuse me I believe there was also turned in an application for April the 13th from Carl Purcell. So since that is a new application we would put HYZ on first then Carl Purcell following so will we have enough time

Mr. Dougherty: My site plan letter addresses site plan issues for the next application so they have enough information in there to develop a site plan. It would almost be like a second review for me at

that point it is not from scratch. The Attorney has alluded to he has addressed the items that I brought forth in the site plan review so therefore it should make it an easier site plan review where the application before us has to be done

Mr. Rinaldi: Your letter will make the site plan easier because we have no exceptions with any of your recommendations. So we are not losing any time and we may lose money if we don't have a use variance.

Mr. Sitzler: So you are agreeing to adjourn the matter so you can present both the use variance and the site plan application and re-notice? I assume you noticed for both.

Mr. Rinaldi: We noticed for use so we will re-notice for both use and site plan and re-notice the property owners as well

Mr. Sitzler: Anyone on the board have a problem with that? Can we have a voice vote on that?

Voice vote taken all "aye" motion passed

Mr. Rinaldi: Have a great night

Mr. Sitzler: Thank you for your penitence

Mr. Castor: I make a motion to open the floor on this matter before us.

Mr. James: Is there a second

Mr. Ford: Second

Mr. James: Okay the floor is now open to the public; seeing no one

Mr. Castor: Make a motion to close

Mr. James: is there a second

Mr. Waddington: Second

Mr. James: All in favor; all "aye"

Mr. Baron: I have something I think is important I would like to share with the board because of the concern with so many trucks in and out. I would like him to tell you what he observes in terms of trucks entering and leaving.

Mr. Eisenberg: From my office it overlooks the entrance to the lot so I observe the trucks coming and going all day. I don't want you to get the impression that there is a long line of trucks sitting and waiting to enter at the same time. It is so sporadic throughout the day; if you were to say to me how many come in and out I couldn't even imagine or guess because I think a lot come in after hours late in the evening or early in the morning. When the trucks go by I certainly see and hear them, my window faces the road and the other window faces the driveway it is not a parade of vehicles coming and going all day long. I'm there from about 9 to 5:30 and at the most 8-9 come and go per day

Mr. Baron: I'm sure who but someone had a concern about the road system; I'm sure most of you know know this is a County Road this is not a Municipal Road and so it is within the jurisdiction of the county. We would be required to go to the County just as we are required to go to you under a use variance with a new application so the County would have to take a look at it and the County would have determine if there are any site improvements that should be made, site triangles the widening of the road etcetera. So that will be looked at in addition to you looking at it the County that has jurisdiction on that road will look at it. The reason we have site plans is to work out the details of a lot of the things we talked to about tonight. I really believe we are not going to get to 150, I read Hugh's letter I know what he is looking for. When I see 75 ft long spaces I definitely don't see 150, we asked for 150 because the client said that would be his max I told him very candidly that if you are back here for 100 or 101 or 105 the site will only accommodate what it will accommodate. If we turn in a site plan and say 150 and you look at the site plan and say 82 that is it your use variance says you can't exceed that. It does not mean if we condition a site plan to in we are entitled to get it.

Mr. Sitzler: I don't know if the board wants to go over this. I tried to take notes no most of the conditions that were discussed. This is not exceed 150 tractor trailers that is the tractor and the trailer shall not exceed 75 feet, there will be no other vehicles no busses, no RV's, no boats, no any other type of motor vehicle. Are we allowing, is the application for box trucks as well as tractor trailers?

Mr. Castor: That is a tractor trailer

Mr. Baron: Yes we are asking for box trucks as well but they will all be parked in 75 foot lots

Mr. Sitzler: So that is what we are dealing with not to exceed 75 feet, no other vehicles. Not to stay without being moved for 5 days or 7 days.

Mr. James: 7 days is fine

Mr. Sitzler: They are all to have plates, no trailers without the tractor, no using the trailers for storage. Go ahead

Mr. James: They did advocate that if the tractor had to leave the site and the trailer would stay

Mr. Waddington: Yes but the trailer would be limited to the 7 days as well, but will still have to be registered

Mr. Baron: Right has to be plated

Mr. Castor: You have to take into consideration if the guy has to have a complete motor overhaul that is 48 hours labor that is a lot of money to him and not done in a week usually. You are going to find under extenuating circumstances where they are going to be there for a longer time

Mr. Sitzler: Would your client be opposed to filing with the month to month lease, when on vacation or in for a major overhaul

Mr. Baron: Can we do this something like hotels and motels do? Could we keep a registry in the office and when we know that someone isn't there? We will have it and we can show it to the zoning office of the town and we can say this one is on vacation this one is having an overhaul on the truck and this one is doing this.

Mr. Sitzler: So we will have a record of the vehicle. There will be no storage in the trailers, no selling no servicing of vehicles unless there is an emergency hard wire vehicle battery dead or something of that nature won't start or something that would be considered an emergency repair all other repairs or service for maintenance will be prohibited. We did talk about 20 cars but there was also the suggestion they would go one for one with a placard or decal.

Mr. Dougherty: Remember the warehouse will have some parking

Mr. Baron: we will show that on the site plan but that will be parking for the warehouse only not for any of the tractor trailers.

Mr. Sitzler: Okay so that will remain independent

Mr. Baron: That's right and that will be only for the warehouse use not for other people to park

Mr. Ford: Mr. Sitzler would that be one vehicle per

Mr. Sitzler: One vehicle per spot; yes there should be no reason for 2 vehicles in each spot

Mr. Baron: Yes there can't be 2 cars at one spot

Mr. Sitzler: The leases will be amended to include all the language which I'm hoping that Mr. Baron has a good report so if that he will forward over to us so we can incorporate that into the resolution

Mr. Baron: Anything that is approved by the board solicitor

Mr. Sitzler: So we will be able to know how no flammables or dangerous materials would be in these vehicles while sitting for those 7 days before they are moved. I don't know what else I'm missing

Mr. Baron: I have that on the placard you put some identification in the vehicle that it the person that owns the truck

Mr. Sitzler: Yes I did mention placard or decal; but I would say placard it would have more information and looking for a decal on a car they never get placed in the same spot. Also subject to random inspection of the vehicle; the lease will contain a provision that the contents of the vehicle could be subject to random inspection by the local zoning officer. Now that is not the entire list if any board member has any other conditions they certainly can do that. Everything is open for discussion

Mr. Baron: Of course the biggest one that this approval is condition upon site plan approval by the board. Correct?

Mr. Sitzler: That goes without being said

Mr. Waddington: So there will be no trailers on site that dispatch or anything

Mr. Sitzler: no there will be no business running, no servicing just parking. No leaving it for storage

Mr. Baron: No transfer; no taking it out of one truck putting into another truck

Mr. Waddington: The only other thing I remember was and I don't know if we need to address that is if someone drops a trailer and leaving and someone else comes and picks it up

Mr. Castor: That is done all the time, standard operating procedures

Mr. Sitzler: so we are open for discussion by the board as to any or all the conditions or any additional conditions that the board might be interested in. You are required to consider whether the applicant has met the burden of the positive or negative criteria as a use variance is the gold standard of variances and requires a super majority. In order them to succeed they need a minimum 5 affirmative votes.

Mr. Baron: Can I raise one other matter on what my client has asked me? The landscape vehicles do not have do not have equipment they do not go from site loaded they don't do work from the site they are simply flats that you can pull the equipment on to. Is there a problem as long as they are not running their business out of there is there a problem with that? It is not a fixed time period in winter there is no landscaping they may be plowing but they are there in summer they are out and hat is the best answer I can give you and I think all of you know that makes sense. I can't tell you they are all there so many days because it is all based on the season of the year

Mr. Sitzler: Do they have open bay trailers like

Mr. Eisenberg: They are flatbed trucks

Mr. Sitzler: Because landscapers use all different kinds of vehicles. Some have a trailer that hooks on the back of the truck

Mr. Baron: Are there lawnmowers on them while they are sitting in your yard?

Mr. Eisenberg: No

Mr. Baron: So they are just the equivalent of a flatbed trailer, but it is open you can see you know what is on it

Mr. Eisenberg: And it is taking up much less than 75 feet

Mr. Waddington: So you don't have any landscaping trailers that are boxed trailers

Mr. Eisenberg: There is a couple, I think 2

Mr. Castor: so now we are right back where we were with the busses. We went from the busses to the trucks to this to that

Mr. Baron: The board will approve what the board will approve

Mr. Dougherty: This is the question if the trailer is empty. Where are they getting the equipment to do the landscaping?

Mr. Baron: At their business location, they go to their business location and load and unload their equipment. This is just because they do not have the space at the business location to put these things, so they bring them from here to their site they load them at the end of the day they unload them and they bring it back the next time they need it they come and pick it up and they take it out.

Mr. Dougherty: Is the box truck also then empty for the landscaping company?

Mr. Baron: It we agree that could be a condition there is no equipment on them no supplies, nothing they are just flats

Mr. Waddington: I can tell you I'm still concerned with 150 trucks without knowing what that site looks like

Mr. Baron: But that is why

Mr. Waddington: I understand but I'm still concerned with 150 spaces. I personally think if you put 150 trucks in there with their tractors in there it becomes a fire hazard. What do we have there for fire protection? My guess there is no fire hydrant in that yard anywhere, there is probably going to be one down somewhere on Cross Keys Road and I'm concerned with a fire hazard with 150 tractor trailers stored in that lot

Mr. James: do we have to give it a number or can we wait to see the site plan and determine what that number should be

Mr. Sitzler: You can also make it subject to the fire code official/fire chief reviewing the plan determining whether there are any safety hazards that need to be addressed as far as terms of fire.

Mr. Baron: There is a main

Mr. Waddington: I'm with the fire department I know there is a main on Cross Keys Road I'm asking you is there a hydrant on that site

Mr. Baron: I bet when the site plan goes through you are going to ask for one. There may not be one on the site right now but there is going to be one

Mr. Castor: Is there city water on the site?

Mr. Eisenberg: Yes there is city water there

Mr. James: Subject to review by the

Mr. Sitzler: Subject to review by the Fire Official, the Chief

Mr. Waddington: It would be the Fire Marshal

Mr. Sitzler: Site Plan review by the Fire Marshal and it may be a condition that you have a fire hydrant as part of that. It is all a condition of all the requirements that our Planner and Engineer might have with respect to the site plan the Fire Marshal as far as safety and fire

Mr. Castor: So what we have to consider is for the variance, you can't create your own hardship so that is out

Mr. Sitzler: Requirement is do you meet the positive and negative criteria for the granting it; and will not endanger the zoning scheme or the master plan taking into consideration that there has been testimony about the neighboring properties you have to take them as they are now. There has been testimony that this use has been going at least to some degree with 59 for a substantial period of time

commencing with some trailers back 30 years ago. Again both the positive and negative criteria you have to see if the applicant has met that.

Mr. Castor: Well I think the biggest positive for them is that it is in a great spot

Mr. James: I'm in favor of the trucks; the box truck 75 foot and shorter or the straight box

Mr. Castor: I'm in favor of that; clean up all of that junk out there. I don't know if he has junk out there but it just sounds good

Mr. Ford: Could we not have that in there just in case one of the trailers or trucks have a bed they can't stay in there they have to go somewhere else

Mr. Dougherty: No overnight occupancy

Mr. Sitzler: No overnight occupants

Mr. Baron: You can't sleep in your cab

Mr. James: If that is all I will entertain a motion to

Mr. Castor: I will make a motion to approve under those conditions

Mr. Sitzler: Our Engineer just brought up a point that everyone should hear; during the testimony there are a substantial amount of car-carriers that are open air and obviously everything is pretty viewable. Are there cars on those car-carriers?

Mr. Eisenberg: Sometimes cars are on them. They bring them in at night and they are out in the morning.

Mr. Sitzler: So there are there for 1 night

Mr. Eisenberg: Sometimes they come in over the weekend but they are out on Monday

Mr. Sitzler: We will include car-carriers within the definition of tractor trailers

Mr. Castor: I make a motion to approve under those conditions

Mr. Hagy: I will second that

Mr. James: Roll call please

Roll Call: "aye" Mr. James, Mr. Waddington, Mr. Castor, Mr. Ford, Mr. Hagy, Mrs. Ciotto, Mr. Green, and Mrs. Jones Motion carried

Mr. Baron: Thank you for spending the time tonight to listen to us

Open Floor to the Public: Mr. Waddington: as a formality should we open the floor to the public?

Close Floor to the Public: Mr. James: We don't have any public

Old Business: **No old business**

New Business: **Mr. James:** New Business the next meeting will be April 13th at 7:30pm

Open Floor to the Public: Mr. James: Do I have a motion to open the floor to the public

Mr. Castor: so moved seconded by Mr. Waddington.
Roll Call all "aye" Motion carried

Close Floor to the Public: Mr. James: seeing no public

Mr. Waddington: motion to close second by Mr. Castor
Roll Call all "aye" Motion carried

Motion to Adjourn: motion made by Mr. Castor, second by Mr. Hagy, all others "aye" motion carried