

Borough of Pine Hill
Meeting
Planning and Zoning Board of Adjustments
July 11th, 2019

- Call to order:** **Call to Order by Mr. James 7:30 pm**
- 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.
- Roll Call:** **Present:** Mr. James, Mr. Ford, Mr. Hagy, Mayor Green, Mr. Hagarty, Mrs. Jones and Mrs. Gilson
Absent: Mr. Waddington, Mr. Castor, Councilman Robb and Mrs. Ciotto
Professionals: Solicitor: Mr. Sitzler, Engineer: Mr. Dougherty, Planner : Mr. Luste, Zoning Officer: Mrs. Keyek
- Approval of Minutes:** **Mr. James:** I will entertain a motion to accept the June 13th 2019 minutes if everyone has had a chance to read them
- Motion made by Mr. Ford; seconded by Mr. Hagy**
- Roll call: All present "aye": Motion Carried**
- Correspondence:** **Mr. James:** There is no Correspondence

Application: 2019-1

Mr. James: at this time we will hear application 2019-1
ALFA Services 119 E Clearview Ave Block 48 Lots 88, 90, 92 & 94
Use Variance/Change of Use

Mr. Sitzler: Mr. Chairman, board; before we call that application. Is there anyone here from the Lakes at Pine Hill? Okay if anyone is here to listen to or have questions on the application we have on our agenda for The Lakes at Pine Hill, there is a postponement request from the Attorney and it is likely that the board will grant that postponement request and I just wanted to make that known.

Mr. Sitzler: Is Mr. Threston here? Is anyone here from ALFA Services? I saw the applicant in the hallway.

Mr. Respes appeared in the doorway

Mr. Sitzler: Your Attorney is not here yet?

Mr. Respes: No; he is on the way

Mr. Sitzler: Application 2 is a postponement request. Can you ask him if objects if hear a postponement request before we hear yours?

Mr. Respes: He is in the parking lot

Mr. Sitzler: Can you ask him

Mr. Respes: Go ahead no problem

Mr. Sitzler: Thank you

Application 2019-2:

Mr. Sitzler: Again if anyone is here that wants to be heard or at least hear the application for The Lakes at Pine Hill. The Board received a request for a postponement. When they were last heard it was brought by the board to the applicant's attention that under our local ordinance their previous approvals for the use variance expired since construction had to commence under a two year period. The Attorney who was here representing The Lakes at Pine Hill was not their regular Attorney, he was an Attorney in the Firm and he indicated he thought that they address that issue and provide it to the board for today; I think he said he could do it in less than two weeks. We could have a comprehensive chronology of the events of why it took to get here well beyond the two years and why they should indeed not have to file a new application.

Mr. Sitzler: Mr. Washburn the normal Attorney contacted me this week and said that he doesn't agree with his associate and it was going to take a lot more time to get all the material together. He feels to make it so the board can comprehend why it has taken so long. Did he submit it in writing?

Mr. Gallagher: Yes

Mr. Sitzler: We should have made copies of his Email or letter for the board tonight. Anyway so the board knows Mr. Washburn he waives time limitations for the board to act and is asking for one additional month to the August meeting so that he can prepare the chronology of events that will let the board know why there was such a long delay going forward on the application. My personal feeling is I'm not surprised; I was surprised when the other Attorney said two weeks because there is a lot of water under that bridge it covers a lot of years. I have absolutely no problem with giving him until the August meeting, so I will leave that to the board. I did indicate I would support his postponement request and again he waives all time limitations for the board to act.

Mrs. Gilson: Motion to postpone hearing that application until next month; Seconded by Mr. Hagy

Mr. Sitzler: Again the applicant has waived all time limitations for the board to act

Roll Call: All present "aye" postponement passed until August 8th 2019

Mr. Sitzler: So ladies and gentlemen as I said if anyone is ere for The Lakes at Pine Hill Application postponement to be heard on August the 8th at 7:30 so there won't be another notice; this will be the only notice that you will receive to be here next month for that application

Mr. Sitzler: Mr. Threston you are number one on the list are you ready

Mr. Threston: Give me about one minute I literally just walked in

Mr. Sitzler: Do you want to differ to MUNA they are the applicant right behind you? Is the attorney for MUNA here?

Mr. Kasuba: Yes

Mr. Sitzler: About how much time do you anticipate you will need?

Mr. Kasuba: More than 1 minute, I have 2 witnesses

Mr. Sitzler: You can relax Mr. Threston to rush you

Mr. Threston: Whenever you are ready

Mayor Green: Mr. Chairman since this is a Use Variance; by State Statute I cannot sit so I will be in my office until the next application

Mayor Green exited the room at 7:46

Mr. Sitzler: Just so you know Mr. Threston Councilman Robb is also not present this evening

Mr. Threston: We do have a sufficient number here this evening?

Mr. Sitzler: We do have; am I correct

Mr. Gallagher: 6 members

Mr. Sitzler: So we have here 6 for Zoning and 7 for Planning

Mr. Threston: Good evening my name is Joe Threston I represent the applicant in this matter; ALFA Services. This application regards the property located at 119 E Clearview Avenue for a Use Variance; on the Tax Map it is Block 48 Lots 88, 90, 92 and 94. To briefly summarize what we are seeking as a Use Variance. Specifically the property which is in an R-5 zone has a residence there is also a garage that is appended to it. ALFA Services and its proprietor Ashier Respes wish to convert that garage into additional living space. The intention is to operate the property as a group home that is what the business of ALFA Services is. So we will present testimony as to what Mr. Respes intends to use the property for. We do have Pennoni's letter of January 30th in to regards to their analysis and we are prepared to answer those questions and address those issues tonight.

Mr. Sitzler: Mr. Threston just so we can clarify and make sure the board understands and knows so we are all on the same page. This is a residency with an attached garage or a detached garage.

Mr. Threston: There is a breezeway that is attached to it so technically it is an attached garage.

Mr. Sitzler: And you are only here for the Use Variance for the use of the apartment in the garage.

Mr. Threston: Correct

Mr. Sitzler: So the board should be aware that the group home aspect in the residence is not the subject for your decision tonight. They are going to have the group home there regardless of whether or not they have the use variance approved for the apartment. It is fair to say that expenses have already been for that.

Mr. Threston: Yes

Mr. Sitzler: So that is what we are here to decide; that is the Use Variance again about converting a garage into an Apartment.

Mr. Threston: Before it gets heard I would just like to submit to the board the drawings as part of our application package. I would like to submit that as A-1 and also the survey as part of the package as A-2.

Mr. Sitzler: So the proposed drawings as A-1 and the Survey as A-2. Okay give me one moment. Can you identify the witnesses?

Mr. Threston: The Witnesses are Ashier Respes and Cynthia Campbell. They are co-affiliated with ALFA Services

Mr. Sitzler swore in the witnesses

Mr. Threston then had Mr. Respes give testimony to his affiliation with ALFA Services and what services they provided. He then testified to his credentials for operating ALFA Services and what the benefits to the community would be in having the garage used as a dwelling for an individual that ALFA would provide services for. He also stated that the garage had a living space in it when he purchased the property and that was one of the selling points when he purchased it. He testified to the supervision and needs of the type of individual that would be living in the garage/apartment and the asset they would be to the community. He explained the difference in care and number of hours needed for that care of an individual that would live there as opposed to a group home setting. He then explained the difference between a high functioning individual that would live in the apartment as opposed to one whom was low functioning that would live in a group home setting. He covered the NJ State mandated rules and regulations for operation and that The State was observing the current process for approval of his application.

Mr. Respes stated that the benefits to the community would be these individuals would be out working in the community and people would be happy to see them in the local grocery stores and food establishments and these individuals would be happy to be part of the community and that would make it an overall plus for the community. He also stated he sees no detriment to the community with this application being approved. He ended his testimony stating that he wished everyone felt as he did and these individuals should not be living in an institution because it was a sad place.

Mr. Threston then questioned Mr. Respes on the layout of the garage and the functioning abilities of a high functioning individual that may be living there. Mr. Respes responded that the State supplies a plan on what household items these individuals could use independently without supervision otherwise they would have to live in a group home setting.

Mr. Hagy: Are there any certifications required for the people that are monitoring the folks that are living there?

Mr. Respes: Sure; they have to have a background check and drug screening. Cynthia could talk to you more about that, I own the company but I have people that run the company, she is the director that is why I brought her because she knows more about the day-to day operation that in regards to that.

Mrs. Campbell: To be hired all new employees have to go through a background check and drug screen check. Once hired they have to go through quality check to ensure no child abuse on record and a Century Registry check to make sure there is no adult abuse on file. Other training would be CPR.

Mr. Threston: Is there any additional training

Mrs. Campbell: Yes 12 hours per year additional training in generalized training

Mr. Hagy: So there is not one person that is certified that is going to be there 24 hours

Mrs. Campbell: There has to be in the group home setting

Mr. James: do you have any more of these homes in the State?

Mr. Respes: This is our first one that is why you don't see a standard listed there I have asked for to come up with one. This is my first so trying to handle everything is awesome. We have been in business since 2013 but we have worked for Bancroft I was a supervisor, coordinator and I have held several titles so this is like second nature to me.

Mr. James: So what you are looking for is converting this into a living space

Mr. Threston: Correct the Garage

Mr. James: Why would you not seek to purchase a two family building and use the one part for this type of setting and the other for a group home?

Mr. Respes: So when I purchased the property; the one side had the two bedrooms the other side had the 1 bedroom a bathroom facility so in my mind I thought I could go ahead and move one individual in there. Someone that was independent and then on the other side I could have a group home. That is the reason I purchased the property, I would not have purchased the property if the garage was not already in the condition that it was. It has a furnace in there; I know the furnace is older than me. I worked in heating and air the furnace is over 50 years old; the plumbing is there everything was already there so I just said I can use one side for independent living and the other side for a group home.

Mrs. Jones: Have you already started this procedure in the garage? Is the Garage already functional so to speak?

Mr. Respes: So it already has already has the plumbing and electric. I don't know are you following the schematics?

Mr. Threston: The drawings

Mr. Respes: On the drawings you can see it is already set up it is painted, the plumbing is there

Mrs. Jones: But did you get permits to do that work or did you do the work first?

Mr. Respes: No that was already there the plumbing was there the heating was there. Like I said the furnace is older than me it is fifty years old. I showed the inspectors when they came out that the plumbing was already there.

Mr. Respes: If I would have done the plumbing the cement would have been dug up, none of that stuff was disturbed I also had Joe come out to see that none of that stuff was disturbed all that stuff was already there.

Mr. Hagarty: Mr. Respes when did you acquire the property?

Mr. Respes: 2017, I don't know the exact date

Mr. Hagarty: So between that point in time when you acquired it and today have you done any work in that space?

Mr. Threston: Are you talking the house; the garage

Mr. Hagarty: Just the garage

Mr. Respes: So we did put up a ladder in the garage, we did some painting. We disconnected the furnace because it was old and we were doing to get rid of it, added some insulation and a kitchen cabinet. There was a small one there so we added a bigger cabinet. The garage doors were changed as well; they were pretty nasty and getting ready to fall off. So we took them off and put new siding on the side making it look a whole lot better and added a door to the front. It looks more appealing than those nasty garage doors.

Mr. Hagarty: Are you a general contractor? Or did you hire a general contractor?

Mr. Respes: I'm not a general contractor; and yes we do have a general contractor

Mr. Hagarty: You hired a general contractor to do this work?

Mr. Respes: We hired a general contractor for some of the work and some of the work we did not need to like painting you don't need a contractor to hang a cabinet you don't need a general contractor. So some of it yes and some of it now we also put a new roof on the building.

Mr. James: You said you purchased the building when you saw there was a living quarters in the garage area.

Mr. Respes: Yes

Mr. James: When did you realize that was in violation that was done illegally?

Mr. Respes: Someone came out; I'm not sure whom because I was not out there and told us we were in violation. Once we found out we were in violation I got Joe (Mr. Threston) involved and basically we are now here.

Mr. James: Do you remember when that happened?

Mr. Threston: It was November 2018

Mr. Respes: Nothing has been done since then

Mr. James: I was just going this was not legal to begin with

Mr. Respes: The thought it was legal like that just because the way it was and there is another property in Pine Hill similar to that. I a real estate agent as well, I'm not sure exactly where it is but if you give me an opportunity look at it I could but there is a similar property that has two living quarters on one side it is a one bedroom and the other side is a two bedroom.

Mr. Sitzler: Do you have any photos of what that garage looked like, so you can show the board what it looked like when you first bought it?

Mr. Respes: I don't have any photos even of what it looks like now this is a newer phone.

Mr. Sitzler: I accept that; that's fine I figured that if you had photos you would have presented them by now. Is it possible if you take a piece of paper if you don't have one I can give it to you? Just draw and show us where the existing things are. My question is was the garage partitioned like it is in your proposal was the wall there or was it a wide open space.

Mr. Respes: No it wasn't a wide open space

Mr. Sitzler: Okay that is why I want you to show what was there if you could

Mr. Threston: Specifically the floor plan

Mr. Sitzler: Yes the floor plan and submit as A-1

Mr. Respes: When I first purchased the property?

Mr. Sitzler: Yes

Mr. James: Don't draw it just take A-1 and put what wasn't there

Mr. Respes: The Toilet was there and a sink; the kitchen had a basin with a little side part for I guess doing dishes. Then making my way over it had the furnace

Mr. James: In a mechanics room

Mr. Respes: Yes and pretty much everything was there, the only thing that was added was I guess new fixtures. We did add a ceiling fan; we added a stair case because there was no insulation to give access

through the square hole up there in case anyone wanted do blown insulation. So we did add insulation and a door and this front part right here by the garage door was pretty nasty from termites. So that is all new wood new framing and basically that was it.

Mr. Sitzler: Was the shower there

Mr. Respes: So the shower was there but it wasn't the way it is now

Mr. Sitzler: So what was there that represented a shower

Mr. Respes: So there was a shower stall there and we had ripped it out but there was a shower there

Mr. James: All the doors and walls were there

Mr. Respes: Not this outside door

Mr. James: So all the interior walls were there the closets the bedroom

Mr. Respes: What we did to the bedroom was; there was a hole so we did fix that hole and restructured that wall. I was told a band use to practice out there and there was a bathroom and a kitchen.

Mr. Hagarty: Who was the general contractor that did the work for you?

Mr. Respes: Decker

Mr. Hagarty: Do you know where they are from?

Mr. Respes: They are right next door to my office so that is 13 Lakeside Avenue in Cherry Hill

Mr. Hagarty: Do you remember the amount they charged for the work

Mr. Respes: The amount? They didn't do all the work

Mr. Hagarty: The work they did

Mr. Respes: I don't because I had different guys come in and do the work

Mr. Hagarty: So you had different contractors?

Mr. Respes: Not all the work needed contractors, again there was painting that needed to be done. There was stuff I did my self, the roof we hired someone from Pine Hill

Mr. Hagarty: With all the contractors you had can give me a ball park number what you paid those contractor for all that work

Mr. Respes: No I don't

Mr. Hagarty: Through your testimony this is the first house you have done and you don't even have a ball park of what you paid these people

Mr. Respes: This is old I don't remember

Mr. Hagarty: Was it under \$10,000?

Mr. Respes: I would say under \$10,000

Mr. Hagarty: Was it under \$5,000?

Mr. Respes: No because the roof, but the roof was the whole house

Mr. Hagarty: So between \$5,000 and \$10,000

Mr. Respes: So if you want a ball park I'm going to say \$10,000 or less

Mr. James: Was the garage doors where the new door is on the front

Mr. Respes: The garage doors where there where it says 8-7 and the 7-9 the garage doors where right there in front of that

Mr. James: So you removed them and moved the door over to the right

Mr. Respes: to my right yes sir

Mr. James: Okay: I assume a contractor did that

Mr. Respes: Yes; I could have done the door myself; I have done work at home and my office and consider myself a handyman. I'm certified HVAC which gives you a little gambit of everything.

Mr. James: Was there a wall on the other side of the garage door or was it open because the garage door is right in front of the bedroom or am I missing something

Mr. Respes: Did they open at all I'm not sure they were pretty ratty; excuse me it has been quite some time. No there wasn't a wall there it was the garage doors themselves but they were pretty beat up they were wood

Mr. James: I was just trying to ascertain myself was the garage doors acting as a wall themselves for were there a wall there behind the garage doors there and if the garage doors opened there would still be a wall there.

Mr. Respes: So if you took off the one garage door; yes there was a hole but if you took out the other side no there was wood behind it. So on the left side where the bedroom is there would have been a hole.

Mr. Hagarty: Do you remember when you hired Croft

Mr. Threston: That was probable November or December 2018

Mr. Sitzler: It would have been before because the drawing is dated October

Mr. Threston: Then October; I knew it was some time in the Fall because I was personally responsible for hiring him

Mr. Dougherty: There is a review letter signed by Joe Luste and myself. Joe is the planner and I'm the Professional Engineer. I did review the application as a use variance and did declare the application as complete and therefore Joe did an analysis on the zoning that is found on page two (2)

Mr. Luste: Mr. Threston you had mentioned that you have reference of letters

Mr. Threston: Yes

Mr. Luste: Now on page two (2) we set the reason for a use variance specifically this is a single family zone R-Medium Density allowing 1 single dwelling per lot accentually; so in theory you would have two single buildings and not occupied by the owner of the property this requires a use variance. That was the premise of the application. If you read further in the application under the land use law there are certain criteria on the next page called Positive and Negative Criteria that we had to listen to your testimony to test any applicant found on page three (3). For the board to make a decision there has to be testimony on these two issues Positive and Negative Criteria on behalf of an applicant of record. Are you going to address that?

Mr. Threston: We actually asked some of that earlier, I can re-ask that to make it clear for you. With regards to the application we are asking are there special reasons that exist for the board to grant this variance specifically with regards of the garage as a residential facility.

Mr. Respes: I answer that?

Mr. Threston: Yes

Mr. Respes: If you guys never met any of these individuals I understand your question. We talk to them every day, we meet with their families and if you are so lucky that you don't have an individual in your family that has a disability God Bless You; but there is a lot of people that do and they are looking for homes. Not everyone can take care of their child, they need help and that is what we are here to do, so that is what we are here to do we are here to help them. So again this is not someone that has a mental illness; they have a developmental disability they learn at a slower level than you and I. It is not someone who is on opioids that needs drug counseling; again it is someone that has Autism and the best way I can describe it is Rain Man.

Mr. Threston: Would you say that this property that you are proposing this variance for, would you say this property meets one of the goals of the Pine Hill Borough Master Plan? I'm going to read it to you specifically; The Master Plan Reexamination Review Report, Pine Hill Borough Dated July, 16th 2014

provides the following policy goals and it list several of them. Let me read you the last one; to review and incorporate legislative changes relative to zoning and land use changes including group homes and community residences for the developmentally disabled.

Mr. Respes: Yes

Mr. Threston: So I know I asked this question and maybe it was not clear before. Is there anything substantially detrimental to the public good there with the group home?

Mr. Respes: So we are discussing the group home and to be perfectly honest with you in a group home as the CEO we have less authority we can't really tell the State who you can put in here but in the apartment the State will only put someone who is able to live independently in this apartment. They are not going to set them up for failure; it has to be someone that is independent enough to utilize the facility and the microwave. So it has to be someone who is high functioning in this apartment because the State does not want to get sued.

Mr. Threston: I believe your testimony was if a person moves into the garage which is more in-depended by nature it makes it more likely that the folks that go into the group home would be of a more highly functioning as well.

Mr. Respes: They would like to put all like people with alike people; so they don't want to put somebody in a group home where they are blind or lower functioning when you have a higher functioning person there that wants to go out and be in the community so the likelihood of them putting someone higher functioning or mid functioning in the group home is more likely.

Mr. Threston: Does that address your concern or is there anything else you would like me to cover with my client

Mr. Luste: I would like you to address the Negative Criteria. "That the variance can be granted without substantial detriment to the public good." And we are talking about the garage two dwelling units on one which is not permitted by the zoning plan. And that the variance will not substantially impair the intent and purpose of the zone plan which is single family homes one per lot that is what we are really asking for in that.

Mr. Sitzler: For example if I'm on the same page as our Planner. I think what your testimony needs; what you are doing is you are taking and I think we all agree this is an improved garage living area. This would have not been approved by the Assessor what is currently being used for. So there is not a grandfather thing here that can be relied upon. The issue you have to address is the garage especially those that are detached and I guess this is semi attached because it has a breeze-way are defined almost every zoning code as accessory buildings. They are not principal structures they don't hold any principal; so you need to address that and also the use variance runs with the land. That means that any successor entitled to you will be able to use this garage similarly even though it may not be a group home as a separate independent apartment unit. So in essence what is happening here is you are taking the accessory use and you are converting in a residential zone in regard to a principal use as an apartment. Whereas apartments in it as of themselves aren't permitted so by admitting the negative criteria that's what he is trying to do

Mr. Threston: I think that is clear. Is there going to be anything detriment first to the public good in having that conversion become that garage that is currently an accessory use into a residence?

Mr. Respes: I don't believe so. I bought the property in ALFA Services name if you look my other properties I bought in my name. I bought this property in ALFA Services name so even when I die this property will be used as a group home; that's my take. I should have notified the residents but I bought it as a group home in ALFA Services name.

Mr. Respes: The State knows I want to use it as a nonprofit from here on forward.

Mr. James: That does not negate the fact that you said if you die that someone will not try to sell it to someone else now it becomes a problem and that is what we have to weigh. You may use it as a group home but the next person after you who buys that property now is using it as rental units and then we will have two rental units on a single family lot; because once we grant the variance we can't take it back because the new owner wants to turn it into a rental property so there for we are going to revert back to the old code. We don't have the ability to do that.

Mr. Respes: I can give you a situation that just occurred recently. I don't know if you guys ever heard of a company BELLWEATHER they just lost their license DEP all of their houses went to DEP and now they are owned by Allied, Bancroft. Once you build a group home I've never seen it go to outside a group home; I mean it is like once a group home it is always a group home.

Mr. Threston: What you are basically saying once it becomes a group home it is only sold to another group home provider because they won't have to go through all the same things again. Is that basically what you are saying?

Mr. Respes: Yes, so the State has already put money into the home, with a fire alarm system a sprinkler alarm system; they don't want to lose their money. Those systems are not cheap

Mr. James: It is not going to matter; if you decide to sell it those fixtures go with the property and to go back to your earlier point you are saying on those other properties you don't know if they are improperly zoned you can't say a variance was not approved. You don't have that information that is basically what I'm saying. In this situation it is different so we have to distinguish what may be and what may not be. All group homes are to be zoned where group homes are permissible. You have here in this zone where a single home is permissible and you are asking for two (2) residential homes on a single lot that is a completely different situation

Mr. Threston: How many people are going to live there?

Mr. Respes: Currently Two

Mr. Threston: So if the garage is approved there is going to be three; correct

Mr. Respes: Yes

Mr. Threston: Is that and unusually high amount for a residential area?

Mr. Respes: It is not

Mr. Threston: It is not going to add to the traffic?

Mr. Respes: No most of those homes have 6 to 8 people

Mr. Threston: So this is like a small housing facility

Mr. Hagy: Will there ever be more than three people?

Mr. Respes: No; they are going to be living alone

Mr. Sitzler: Is the purpose of the garage for the higher functioning individual in any way like a caretaker for the other two?

Mr. Respes: No

Mr. Sitzler: So did I misunderstand your testimony? I thought there were three and two were possibly lower functioning and the third was a higher functioning

Mr. Threston: That is the layout and I guess you did a little bit what Mr. Respes testimony earlier was that if they place a higher functioning individual in the apartment that the two people that may be in the residence that is currently there may also be higher functioning

Mr. Sitzler: So the fact that they are separated necessarily by the configuration of the building has nothing to do with their level of

Mr. Threston: Not for the purposes of his application there may be for the purposes of what DEP does for the placement. If there is just the two as Mr. Respes had said it will probably be two lower functioning individuals where the apartment by necessity really has to be a higher functioning individual and if that happens they would more than likely put higher functioning individuals in the existing dwelling.

Mr. Sitzler: So if the two individuals were lower functioning in the house there is no correlation to the third person in the garage as far as overseeing them in any way. So they can function totally separately even if no third person was in the garage.

Mr. Threston: Yes

Mr. Sitzler: What about the caretaker?

Mr. Respes: Only on the two person side will there be a caretaker and that will be 24 hour and only on the two person side

Mr. Hagy: So it is going to be more than two persons

Mr. Sitzler: Is it going to be a live in care taker

Mr. Respes: No; it is round the clock care but with shift people

Mr. Sitzler: So only two people live there and different shift workers come; does that include care for the individual in garage

Mr. Respes: They will need less care; depending on the person that is there they may need 5 hours a week or that person may need 10 to 15 hours per week but never the less they will not need 24 hour care that is the difference between the high functioning and lower functioning. The lower functioning needs the 24 hour care 10 to 15 per week

Mr. Threston: Going back to the scenario if there are higher functioning individuals in the group home would they need less care

Mr. Respes: Yes they could be able to be left in their room for may be 5 hours or be able to go out into the community but they will still need 24 hour care

Mr. Threston: So that part will not change. Do you think if this will arranged that this would impair the single type homes in that area of their town

Mr. Respes: I don't think so, I think it would be awesome to give those individuals an opportunity; I remember when I first came here someone said do you have one of these in your neighborhood? We do; they are every ware. Why would be prejudice to someone that need a little more help?

Mr. James: I don't think it is an issue against prejudices

Mr. Respes: It was a conversation we had out there; it's just because these individuals have some disabilities one gentleman said to me what about our kids

Mr. James: It is about zoning if it was in the right zone; anybody can do what is right in the right zone. When you are asking us to change a zone you are asking to change a zone that is affecting our community. We don't have a guarantee that ALFA is going to be there forever

Mr. Respes: Can I ask you a question? ALFA is here and I brought my stuff tonight to show we are an approved group home; so even if we don't grant a person living in the garage ALFA is still going to be here and we are still going to have 2 individuals living in that home.

Mr. Sitzler: That is why I began this hearing with that statement

Mr. Respes: So what is the difference with that third person we are helping?

Mr. Sitzler: It is not the person it is the building. Point Mr. Respes in addition to the fact that we do have a section; do you know where living areas may be used or not? This is ordinance 237.8.7 garages; all living units are prohibited over attached garages; that is not your situation. Except if a garage is attached directly to a dwelling other than by a breezeway; that specifically says that in the ordinance; I don't know if you picked that up

Mr. Threston: No; I did not. I don't think that is in the summery report

Mr. Sitzler: No but it is in the ordinance where it does not allow anywhere that a garage is attached by a breezeway; so that is just another hurdle. The problem you have unfortunately why you have to address

the negative criteria to satisfy the board. I don't think you have a problem with the positive criteria that is why the two individuals are allowed in the house it is the conversion from an accessory building the garage with a breezeway where you are building on as a side addition to the house; but with the breezeway being there. I totally understand why you thought it was probably okay because you saw what was there already but unfortunately you have to do your due diligence to see if that was ever approved and it was never approved. So you have to address that because if you get a use variance there is considerations that people can have breezeways to garages that they can convert to apartments as well. That becomes a huge concern that the board has to deal with; you are not an island unto yourself. I realize that you probably had no problem meeting any of the benefits you would be addressing.

Mr. Threston: Let me ask this question.

Mr. Threston then asked Mr. Respes questions on how this was a different circumstance and not like a normal residential situation with a mother-in-law sweat or apartment. Mr. Respes answered and gave testimony to how it was different.

Mr. Hagarty: Do you get compensated per person?

Mr. Respes: Gave testimony on how he was paid by the Division and how the rates worked out but that he was a non-profit

Mr. Sitzler Questioned Mr. Respes on whether the garage looking like it had a living facility in it already helped him make a decision to purchase the property.

Mr. Respes responded that at first site he did not like the property but that Mrs. Campbell was the one who likes the property and persuaded him to buy.

Mr. Dougherty explained what would have to be addressed on the plans if the application was approved since we were just here on the use and not the site plan

Mr. Threston said they were aware and would comply and address any issues and have those conversations at a latter point once they got past the current stage of the application

Mr. James: Do I have a motion to open the floor to the public?

Mrs. Gilson: Motion to open the floor to the public; seconded by Mr. Hagy

Mrs. Green from 107 E Clearview Ave spoke on her disagreement with the garage becoming a residence and gave her reasoning she also provided pictures of the outside of the garage in its prior condition before the applicant started the remodel and a brief description of what the prior owners used the garage as a garage and the Master Plan approved by the board did not allow apartments in the residential area

Mr. Threston questioned if she was the Mayor's wife

Mr. Sitzler and Mr. Threston agreed to mark them O-1 and O-2

Mrs. Magitz from the Drinkwater Law Firm representing Mr. Pluck from 116 E Clearview Ave was there to speak on his behalf on disagreement

Mr. Threston objected that Mr. Pluck should be able to testify on his own behalf because he would not be able to cross examine

Mr. Sitzler questioned Mrs. Magitz on how and what she would be testifying on and allowed her to speak

Mrs. Magitz continued her testimony that only the positive criteria that is required by NJ Land Use Law was met during the applicants testimony and not the negative criteria. She also covered that there are other zoned areas in Pine Hill that were more suited for this application.

Mrs. Murray from 96 E Clearview gave testimony on that she appreciated what they were doing but was not in favor of the garage becoming a residential property.

Mr. James: Is there anyone else from the public wishing to speak? Seeing none motion to close

Mr. Hagarty: Motion to close the floor; Seconded by Mr. Hagy

Mr. Sitzler: Mr. Threston is there anything you want to add

Mr. Threston: First I want to thank the Board for their time this is a very difficult matter in front of you in a lot of ways. Not just because of the analysis that is involved but because of the emotional impact dealing with the developmental challenges and that is a tough thing to determine. I'm really glad that for the most part the questions focused on the variance but I think tonight the right thing to do is say yes. We talked earlier and we did two things we are serving the community as Mr. Respes pointed out this facility would allow for an individual that might otherwise have to live in an intuition. So that is a plus and it also promotes your Master Plan of July 16th 2016

Mr. Threston then read from the Master Plan reexamination report for July 16th 2016 policy goals about how group homes were encouraged

Mr. Threston: Mr. Chairman you brought up the question on how do we deal with a situation when you have a residence on one side and an attached garage on the other side? This is a little bit different animal than your typical rental situation which is part of the reason I was asking my client those questions. **He then gave reasons why it is not typical and how it was different from the normal situation and how this situation was unique to all other situations and why the Board should approve**

Mr. Sitzler then went over the review letter from the Planner and how this does not fit because it is not a permitted use in this zone he also pointed out that the applicant has the burden to provide both the Positive and Negative Criteria and that he was pointing this out to the Board. He stated he could not determine if they met the requirement of the beneficial but they did lean favorably in that direction simply because the use being developmentally disabled because the land use laws courts and our Municipal Ordinances point out that they should do that. He pointed out that it was the negative criteria that you have to consider before the board took a vote. He also pointed out the garage was an accessory use and not a principle use because it is not residential construction.

Mr. Sitzler he talked about the different garages and what was permitted to be used as a residential unit and what was not. He covered how the board could not predict the future of ownership and they would have to consider all things when voting.

Mr. Sitzler: I did some research with this and I found a case called (“Seica vs the Board of Adjustment” in the Township of Wall which is a NJ Supreme Court Case 117.NJ.152, 1992) where they were dealing with a child care center which was considered to be an inherently beneficial use; and they issued a Rosenact case because they are apparently beneficial they most certainly met the Positive Criteria issues in that case. As a result of that criteria the Statute was amended that is NJ Statute 42.587 was amended after the Seica case and added the following no variance or other relief may be granted in terms of this section including “a variance or other relief involving and inherently beneficial use without a showing that such variance or other relief should be granted without substantial detriment to the public good and will not substantially impair intent and the purpose of the zone plan in the zoning ordinance.” So that was added after that Seica case and that is the standard to which the board has to judge in a way this application. I will point out to the Board that I did find a case that apparently involved developmentally disabled people in 2011 the case is called “Salt & Light Company vs Willingboro Township Zoning Board of Adjustment F423082 2011 case” In that case Salt & Light; is I believe is a non-profit also advocating on behalf of developmentally disabled; that was denied by the Zoning Board and the appeal was also denied by the courts. The court found that in that case that it was not a significant benefit to develop a mentally disabled area for mentally disabled people and they listed in a Residential Zone where requirements were not permitted where there were only two units and two people and it also said the residential area is totally built on relatively small lots so that in this proposal if the Board finds that this proposal would have a detrimental effect on the neighborhood the Board could consider that in denying it. So those are the cases that I have that I have been able to find and if Mr. Threston has any other case he knows about he can sight and make part of the record.

Mr. Threston: Not at this time

Mr. Sitzler: The Board does need to weigh those Positive and Negative Criteria explained in this case. Does anyone have any questions based on what I just interpreted? Any comments Mr. Threston you would like to go over?

Mr. Threston: The only thing I would just like to reemphasize again going back to the Negative Criteria that seems to be the crux of our discussion. I don’t think that the facts on the record of this case hinges on; again I point to unique circumstances of this case I don’t think is going to be in any way shape or form adversely affects the neighborhood; I don’t think it undercuts the Zoning Plan or the Zoning Ordinances especially considering the positive effects it has with the master plan and goals this Municipality has set for itself. That is my reply to some of the case law that Mr. Sitzler has brought forth; and I think the case with Salt & Light in Burlington County which I’m a little familiar with Mr. Pike and his group I think that is somewhat of a different circumstance than what we are looking at here. I don’t think the negative outweighs the positive I really don’t. That is all I have

Mr. Sitzler: Thank You

Mr. James: I will accept a motion to accept or deny

Mr. Ford: I make a motion to deny: seconded by Mr. Hagarty

Mr. James: Roll call please

Mr. Gallagher: This is a vote for denying the use variance

Mr. Sitzler: If I may the Board members can state why they are voting the way they are voting if they would like to. Again remember you have to stick with the positive and negative criteria when you are evaluating this.

Mr. James: "Aye" based on the questions I raised about if other areas or properties were checked that this may be better suited for and once the variance is given what happens down the road and this is a single dwelling residential area.

Mr. Ford: Yes

Mr. Hagy: "Aye"

Mr. Hagarty: Yes; I just want to comment I fully support what you are trying to do; it has nothing to do with providing living quarters for developmentally disabled; In my opinion this particular application you have not met the scale

Mrs. Jones: Deny

Mrs. Gilson: Yes

Mr. Gallagher: The Use Variance has been denied

Mr. Threston: Will we receive a formal denial?

Mr. Sitzler: What will happen is; I'm required to do a resolution of the denial that has to be published

Mr. Threston: Do I have to publish

Mr. Sitzler: No we will do that

Mr. Sitzler: We are going to take a five minute recess anyone who wishes to remain may do so

Mayor Green returned at 9:50 PM

Mr. James: At this time we are going to hear Application2019-4; The MUNA Center of South Jersey; INC 400 Erial Road; Block 74 Lots 1, 13, 26, 57 Minor Site Plan

Mr. Kasuba: Mr. Chairman; members of the Board my name for the record is Robert Kasuba; I'm an Attorney at the Law Firm Bisgaier Hoff. I'm here tonight representing the Applicant the MUNA Center of South Jersey INC. with the application for a minor site plan approval; change of use there ae also some minor design waivers that are also requested as part of the application. As disguising from the application

that was just hear this is not a use variance; this location is in the institutional zone which permits houses of worship and that is the proposed use for this application; specifically a Mosque.

Mr. Kasuba: For the use aspect of it for the site plan application we are proposing for some improvements to the property adding some additional impervious coverage to provide some additional parking spaces; but we will get into those testimonies latter. The Board members may be familiar with the site it is only a few blocks away from here on Erial Road. The proposal I should clarify this the former use of the building was a religious school that is the existing two story building up front on Erial Road; that is the part of the building that is proposed to be used as a Mosque going forward. There is what I will call the rear portion of the building that was the former Convent that is not proposed to be used at this point in tie there are no plans to it. It will actually be sectioned off so there is no access there and that will be determined at some future date that would require a future application before the Board when anything is proposed to be done there I just wanted to make that clear for the record. For the application we provided public notice of the hearing tonight and I understand there is a threshold issue of completeness we have received a review letter from the Boards Engineer asking for some supplemental information to be provided; I believe our consultants our Engineer and Architect provided that information and I would just like to confirm that was satisfactory to the Board and Staff and if you would deem that complete then we would proceed with the merits of the application.

Mr. Dougherty: Mr. Kasuba we have the letter dated May 14th 2019 and everybody should have copy of that for completeness cited on page two (2); there was a recycling report that had not submitted also the signature blocks on the plan. Since my letter on June 27th a revised letter for a plan issue and then yesterday I received a recycle report basically a one page document that outlines what the applicant's impression was with regard to waste removal, tree removal and recycling. So with the acceptance of those materials the application can be deemed complete so we can declare it complete this evening and then move ahead. The only issue that I would have as we go into the site plan is that we asked before and then I had a conversation with before is I had a five (5) page letter with regards to site improvements. So this is an existing site with a preexisting use so once we change the use then our site plan issues come into play. So there are some design wavers and possibly some variances and things like that; but there are some substantial deviations from our current site plan ordinances needs to be addressed. I think you may provide some testimony this evening but you really need a revised plan submittal before we can render a decision; so I do need that stuff. I think this evening we can move ahead with some testimony but I think as far as the Planning Board of Submissions making a determination tonight based on all the things that are outstanding in my letter I think that is premature at this point.

Mr. Kasuba: I will state for the record that we are not going to be in the position to ask for a vote this evening we don't even have our Architect here to make a presentation; so I will stipulate to that on the record and I understand that the next Board meeting is August 8th I believe so hopefully in the next 4 weeks we can reach an address some of the issues in your letter will be our engineer talking with you I don't know whether you will need a revised plan submitted 10 days in advance or if there are any stipulations that can be agreed to if we are fortunate enough to receive and approval.

Mr. Dougherty: I think that is something the Board will require for public viewing at least 10 days in advance

Mr. Kasuba: If the Board can determine completeness first then we can talk about the details of the site plan and the additional information that you are requesting.

Mr. Sitzler: So you received a recommendation this evening from our Board Engineer in finding this application complete however as he has indicated in the opening discussion if the Board wants to go with completeness as to what may be required during a time frame in which that will be accomplished. So if you want to have a motion following the Boards Engineers recommendation so moved.

Mr. James: I will entertain a motion

Mr. Hagy: I make a motion to follow the Board Engineer's recommendation; seconded my Mr. Hagarty

Roll Call all present "aye" motion passed

Mr. Kasuba: I have two witnesses here this evening the first one is Mohammad Kabir he is the trustee he would explain the proposed use and we also have our site Engineer Jack Gravlin that will cover proposed additions and modifications to the site.

Mayor Green: Mr. Attorney some of the Board Members are not here this evening and some may not be here next meeting if we hear a partial testimony here this evening how does that all workout?

Mr. Sitzler: The Board Members that are not present this evening could not participate. Unless they certify that they listened to the tape of this preceding so they would know what the testimony was and what questions were asked. Do you disagree with that?

Mr. Kasuba: No that is absolutely correct

Mr. Sitzler: If they don't do that they can't participate, if they do listen and certify before the meeting then they can participate

Mayor Green: So the possibility does exist that members that are here tonight may not be here at the next meeting I have no idea and the members who come to the meeting that were not at this meeting might not be able to participate

Mr. Sitzler: That is two different things

Mayor Green: Then in which case we won't have a quorum

Mr. Sitzler: That is two different things

Mr. Sitzler: Are there any Board Members here tonight that know for certainly they may not be here on August the 8th where you are on vacation or some other commitment?

Could not here the first individual but Mr. Sitzler replied anyone else and Mr. Ford stated he was on vacation that week but would be around town but who knows what may happen.

Mr. Kasuba: I will just say for whatever reason if there is not a quorum obvious there can't be a board meeting; just so there is some level of communication I know being August is typically a difficult month

Mr. Sitzler: We have some members missing tonight that could be here in August but then again to participate would have to listen to the tape

Mr. Kasuba: Understood, we would like to proceed with the application I just ask that if someone whether it's you or the Board Secretary would just give us a call and tell what the expected attendance would be.

Mr. Sitzler: We would absolutely try to do that

Mr. Kasuba: Also calling our first witness Mr. Kabir

Mr. Sitzler: Mr. Kabir can you spell your first name for us so we can make sure we have it accurate

Mr. Kabir: Good afternoon my last name is spelled K A B I R

Mr. Sitzler then swore in Mr. Kabir

Mr. Kasuba then asked testimony of Mr. Kabir of his position with the MUNA Center, ownership of the property and why and when it was purchased. He also testified as to the use of the property with dates and times of use depending on times of the year depending on the solar and lunar movement. He gave testimony that the time of the main prayer and attendance and duration of that prayer time. He testified of the two high Holidays and how they would hold it at an offsite location because of the number of people that would attend. He testified that they would not generate a lot of trash so they would take all trash they generate home with one of the members but if the amount of trash would increase they would then contract with a company to remove the trash.

Mr. Dougherty: A number of things to consider but one is you said no deliveries how about supplies how will you get supplies and things like that into the building. The things you need for prayer and, do you have refreshments or anything where you will use paper cups, paper plates. Is there an office do you have office supplies at all?

Mr. Kabir: I understand but it is not that big amount; like paper plate we just carry

Mr. Dougherty: So you would not have like a box truck; so each individual or a group leader is bringing stuff in your own personal vehicles.

Mr. Kabir: Right

Mr. Dougherty: Now as far as the trash when you have your family night how do you handle the trash there should be considerable trash; I assume you will be bring food

Mr. Kabir: It would be the same like we do in Clementon it will be like 2 or 3 trash bags

Mr. Dougherty: They might be something we look at the site plan I know you mentioned that if it becomes a larger amount you might contract so we might look on the site plan for a trash dumpster.

Mr. Kasuba: I think if it got to that point we would propose just hold it in the building and take it out on trash day; but we can talk about that going thru the site plan

Mr. Dougherty: And then one other thing there is a requirement in Camden County to recycle so you do have to do some separation of trash and the recycling of course is all put together so you have some sort of commendation so I would like to see that plan updated to show there is separation. You would have to show cans, bottles and paper separated

Mr. Kasuba: That is fine we can update that, probably everybody is used to doing it in their homes. If there are no other questions I have our Engineer here Jack Gravlin; I would like you to qualify him and then he would just provide an overview; I don't think he needs to get into the nitty gritty details because I think there is going to be some back and forth with the Board Engineer with that because I don't want to tell you one thing now and another thing a month from now.

Mr. Sitzler swore in Mr. Gravlin then MR. Gravlin went over his qualifications and the Board agreed he was qualified to give his testimony with a motion from Mayor Green and seconded by Mr. Ford all members were in agreement to move onto the testimony

Mr. Kasuba then asked Mr. Gravlin to give testimony of the size of the property and what area they would be utilizing, he then gave testimony as to their proposal on how they would up-grade the existing site focusing on safety. He covered the proposed parking area and that it would provide more than ample parking for the proposed use. He gave testimony on the increased impervious coverage but that was still below standards and that he did not believe the storm water management report was required. He then covered the outside lighting, and landscape buffer between the adjoining residential properties. He testified that he would work out with the Board Engineer as much of the issues to reduce the amount of issues brought before the Board.

Mr. Sitzler: Anything further

Mr. Kasuba: Not at this time as I said we don't have our Architect here at this time this evening; if anyone has any questions we are happy to answer them it is after 9:00

Mr. Hagy: You had indicated that there was going to be 40 parking spots in that location; 40 spots available

Mr. Gravlin: I have determined on my plan there is actually 47 parking spaces

Mr. Hagy: Will there ever be a situation where there will be more than 47 cars? Will the congregation be that big?

Mr. Kasuba: One of the things that we can discuss if the congregation were to need additional land we would come back before the Board with an application for use; but the parking ratio per the ordinance is 1 parking space for 4 seats

Mr. Dougherty: It is open box and I know there was testimony earlier of large events; I know larger events are not taking place here but those family nights and things like that. We would want testimony to demonstrate how many cars to expect one of those because they are happening monthly

Mr. Kasuba: Yes

Mr. Dougherty: I know you stated the ordinance but that function might be slightly out of the ordinary

Mr. Kasuba: To your knowledge what do you anticipate in terms of attendance at one of these family events in the evening?

Mr. Kabir: About 75 people

Mr. Dougherty: 75 people not 75 vehicles

Mr. Kasuba: Correct

Mr. Dougherty: So its families coming together? Okay

Mr. Kasuba: If I can say were just trying to maximize the amount of parking that would be going on the site while still being sensitive to the surrounding neighborhood to avoid the situation that was brought up that there was too many cars coming onto the site. We have nothing else to present this evening I know the Engineers are going to be discussing I just ask the Board to carry the application to the August 8th Meeting to cover public notice.

Mr. Sitzler: We can do that. Just as an overabundance of precaution is there anyone who knows they will not be at the next meeting August 8th?

Mr. Kasuba: We are absolutely fine if we would waive the time for the Board to act until the following meeting in September even though we are not up against a dead line anyway

Open Floor to Public:

Mr. James: At this time I will entertain a motion to open the floor to the public.

Mr. Ford: Make a motion to open the floor to the public; seconded by Mrs. Gilson
All "aye" Meeting opened to the public

Mayor Green: Are we taking testimony on this applicant now

Mr. Sitzler: The Public has a wright to comment unless they are going repeat what has already been said. It doesn't mean the public can't testify again next month either

Mayor Green: So there will be another opportunity

Mr. Sitzler: Yes the public will have an opportunity to

A member of the public started asking questions about the fence without coming to the podium and giving name and address asking about the fence and if everything was going to be hashed out at the next meeting

Mr. Sitzler: Informed him if he wanted to speak he had to come forward and that the public had the right to comment now on what they heard today or they can reserve and come back the next meeting. So is there anyone that would like to be heard tonight?

Mr. Sitzler: Your name?

Mr. Wakeley: Jim Wakeley, 22 W 2nd Ave Pine Hill

Mr. Sitzler: Okay go right ahead

Mr. Wakeley: My question is for the applicants would be for trash removal; when you started cleaning up the property along the 5th Ave side there was a good amount of debris, toilets, a lot of insulation and other things from the building are you planning on using a dumpster next time to house that and remove that debris?

Mr. Kasuba: Yes we would get a dumpster and get that removed

Mr. Wakeley: Okay because the last couple of times the Borough had to pick that up so I was just curious

Mr. Kasuba: That was a mistake and we apologize

Mr. Wakeley: That is all thank you

Mr. Sitzler: Anyone else?

Mr. Seifert: Art Seifert, 9 W 4th Avenue; my question is the change of use that is not going to be determined tonight either

Mr. Sitzler: Well the use is permitted the change is not like the previous application

Mr. Seifert: I was not here for that I sorry

Mr. Sitzler: The use that they are asking is a permitted use as a Church; the reason they are submitting a site plan is because they are changing it from what it used to be a school and they are changing to a church

Mr. Seifert: Okay I thought there had to be something official because it use to be a school and they are changing to a worship center

Mr. Dougherty: Yes since they are changing from a school to a church they need to just submit a site plan it would be just like one business changing to another business they have to submit a sit plan but the use is already permitted because this is an Institutional Zone.

Mr. Seifert: Okay

Mr. James: Is there any one else?

Close Floor to Public: **Mr. James:** Seeing none motion to close the floor to the public

Mr. Hagy: So moved; seconded by Mr. Ford

All "aye" floor closed

Mr. Sitzler: If anyone is here this evening that is here for this application you will not be receiving another notice, your notice it is being adjourned until august the 8th at 7:30 so if you want to be here you can certainly be here and if you want to be heard you can certainly be heard. If you already testified previously you can also testify based on whatever new information you hear.

Mr. James: Any old business?

Mr. James: New business the next meeting is August 8th at 7:30pm

Mr. James: Motion to open the floor to the general public

Mrs. Gilson: Motion to open the floor; Second by Mr. Ford

All members present "aye"

Mr. James: Motion to close the floor to the public

Mr. Ford: Motion: seconded by Mr. Hagy

All members present "aye"

Motion to Adjourn: **Mr. James:** Do I have a motion to adjourn this meeting

Mr. Hagy: Motion to adjourn: seconded by Mrs. Gilson

All present in favor of adjournment