

Borough of Pine Hill
Meeting
Planning and Zoning Board of Adjustments
August 8th, 2019

- Call to order:** **Call to Order by Mr. Waddington 7:40 pm**
- Pledge of the Flag:** **Led by Mr. Waddington**
- 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. Waddington, Mr. Ford, Mr. Hagy, Mayor Green, Councilman Robb, Mr. Hagarty, and Mrs. Gilson
Absent: Mr. James, Mr. Castor, Mrs. Ciotto and Mrs. Jones
Professionals: Solicitor: Mr. Sitzler, Engineer/Planner Mr. Banff
Zoning Officer: Mrs. Keyek
- Approval of Minutes:** **Mr. Waddington:** I will entertain a motion to accept the July 11th 2019 minutes if everyone has had a chance to read them

Motion made by Mr. Hagarty; seconded by Mr. Hagy

Roll call: Councilman Robb and Mr. Waddington abstained; all others “aye”: Motion Carried
- Correspondence:** **Mr. Waddington:** Correspondence; we have the New Jersey Planner Vol. 80, No. 30

Application: 2019-2

Mr. Waddington: The first thing on the Agenda tonight is Application 2019-2 The Lakes at Pine Hill: Berlin Cross Keys Road Block 131.01 Lots 37.04, 37.02-37 & 51 Block 131.02 Lots 1-6 Amended Final Major Subdivision

Mr. Washburn: Good evening my name is Bob Washburn; council from the Law Firm of Flaster Greenberg in Cherry Hill NJ. The Application is the Lakes at Pine Hill it is a 90 unit townhouse community on Berlin Cross Keys Road the Applicant is AB Woodcrest Fields LLC. We appeared here at the June meeting and the application was to amend the final subdivision approval. An issue came up with regard to section 23-6.13 of the Pine Hill Ordinance which requires that if a use variance the Applicant has to start construction on the buildings with-in two years. We are here to request that the Board recognize that our Variance approval was tolled and based on that tolling to grant an extension to allow the applicant to complete the site remediation. Last week I sent Mr. Gallagher and I hope he shared with the Board Members documentation to establish that our variance approval and actually the subdivision approval has been tolled under Section 21 of the Municipal Land Use Law (MLUL). Just a little back ground we got the use variance on November 10th 2011 at that point the Permit Extension Act was in effect so when we got the use variance the two year period of your ordinance actually was under the act, that was the law under the permit extension act so the two years never started to run once we got the use variance in 2011. The Permit Extension Act expired December 31, 2017 and so therefore our use variance was extended / tolled until December 31 of 2017. So the actual termination of the use variance is January 1 of 2018. I think the Board is aware that there has been a massive and expensive and lengthy and complex site remediation that has been taking place on the site. That remediation began in October of 2008 and is ongoing. There are a number of separate items of pollution on the site; the major one was 629 buried drums. That is why this site remediation has taken a very long time; it is still ongoing; and it was actually pretty complex because we had to engage not only the site remediation but we also had approvals from the DEP under the flood hazard area act; the storm water management program and the wetlands program. So we got involved with extended processing with NJDEP to get these other approvals. For the Applicant one of the things I submitted was a letter from John Grellis who is an environmental services consultant and he reports that the applicant has already spent several million dollars on the clean-up and from here to the end of the clean-up it is estimated it is going to cost another \$735,000 it has been a very long and expensive undertaking. The remediation is under the administration of a firm named RT Environmental; they are the licensed site remediation professional or as it's known in the world LSRP. As the LSRP RT Environmental is acting on behalf of and in place of the NJDEP. The NJDEP use to remediate these sites and when the LSRP Statute was passed it was transferred to private firms that are regulated by the DEP but they are in charge and take DEP's place in terms of monitoring and administering site remediation. I submitted last week three items; first was a letter from GRELLIS ENVIRONMENTAL SERVICES, LLC that is the Applicants Environmental Consultant and it is an overview of Environmental investigation and remediation activities and what he is projecting is that the ultimate end date the furthest that we know to complete the remediation is May of 2022. We also submitted from Consulting Engineer Services a Project Regulatory Chronology with an attached time line and backup documentation which indicates all the permitting that we had to go thru over the last 10-11 years and finally there is a letter from the LSRP; RT Environmental Services. The letter establishes that construction could not commence on the site pending completion of the site remediation. These items we believe support the facts that the remediation has been going on since 2008 and is going on now with a potential outside completion date of May 2022.

Mr. Washburn: Also the CES timeline establishes that we still have some other regulatory items that remain to be accomplished and they are ongoing but the main timeline is the site remediation. The LSRP letter clearly states that we could not and cannot commence construction until the remediation is complete. We are asking that the Board recognize that the variance approval has been tolled under section 21 of the Municipal Land Use Law. Section 21 states that if you have an order and directive issued by a State Agency to protect the public health and safety and as result of that you can't commence construction that the approval is tolled. That is exactly the situation we face which I think we have established with the material I have submitted. If you take a look at the New Jersey Land Use Law Bible it discusses various expiration provisions and it says in section 28-2.1 and 2.3 that the Zoning Board has discretions to extend variance termination decisions and section 28-2.5 says that MLUL section 21 applies to variance expiration ordinances. So Based on the Board's authority under New Jersey Law and the facts that we have presented in terms of extent of the remediation; we think we have established a case that a variance has been tolled. So we are basically we are requesting two things tonight; one that the Board recognize that the use variance approval has been tolled under section 21 of the MLUL and second in-order to allow completion of the remediation and accomplishment of the other regulatory steps that we have to go through; we would request that the Board extend the variance to that outside remediation completion date of May 2022. So in essence we are requesting basically to partner with AB my client in cleaning up a severely contaminated site that could create a potential hazard for health and safety. I know May 2022 seems like a long time away to ask that the Board recognize the variance and also the site plan for the approval to stay in effect; but I assure you and I think the Board knows this that AB has every incentive to complete the remediation find the builder and start construction of the project; but we do need to complete the remediation and obtain the other approvals as a precondition to that and we need the Boards corporation in order to do that. That is really the first item we are here to request tonight.

Mr. Sitzler: I had a conversation with Mr. Washburn about this and have also reviewed Section 21 as well and some of the sections that were cited by Mr. Washburn as it relates to this issue and I do believe he is correct in that it would appear factually from what has been provided that RT Environmental Services being the LSRP stands in the shoes of the DEP for this purpose. You are still being monitored?

Mr. Washburn: Yes we are, and we are paying for it

Mr. Sitzler: So there are still in a tolling situation if you look at it from the perspective of the Permit Extension Act which was been put on record which did protect them irrespective of any other tolling as was indicated rom December 31st 2017 and since this has been ongoing since 2008 and is projected to have an end date of 2022. Even though we have an ordinance which is recognizable that building must commence upon approval within two years and it is more than just the building our goal is to as it says substantially completed within the two year period. Looking at that the State Law under the Municipal Land Use is going to take precedence over our ordinance in my opinion it supersedes it. So I do believe and I want to indicate to the Board that through my research I do agree with what Mr. Washburn has said to the Board would indicate that essentially they would be entitled to the extension and I'm sure his cost in the remediation have been astronomical and it continues. I don't know if the Board has any questions based on what I have said or the Board has read independently if you had a chance to read through Mr. Washburn's packet.

Mr. Washburn: My client is here in case you had any questions for him; but this was more of a legal deposition.

Mayor Green: Based on what was said; I'm well aware of the problem but at what point can they build

Mr. Sitzler: My suspicion would be that they will not be allowed to construct anything until

Mr. Washburn: I don't know if we can construct actual buildings; as part of the clean-up was to remove some of the material. Part of the clean-up is to cap it; so I think at the appropriate time begin capping but as far as the 90 town homes we can build those until that part is finished.

Mayor Green: Right so I understand and agree the extension but are you exempt until 2022 or are you finished up in 2020/21 or in your world do you feel you are exempt

Mr. Washburn: No, no, no I'm asking the board to recognize the tolling and asking to grant us an extension to what the Grelis report indicates is ending May of 2022. Believe me we don't want to spend money till 2022 we have every incentive to get this done and start to build houses; it has just been a very long time to get through all these regulatory steps. I hope we don't go until 2022.

Mr. Sitzler: Is there any chance Mr. Washburn has it been extensive enough that all the environmental issues are known?

Mr. Washburn: I believe so

Mr. Sitzler: There is not a situation of a surprise that could happen

Mr. Washburn: We have spent a lot of time and a lot money on testing and my understanding is that everything out there is known and it is just a question of getting the outside approvals and getting the physical remediation done I don't expect any products

Mr. Sitzler: The letter from RT was that when you contacted them as they being the LSRP monitoring you to have them put on the record that they are controlling you.

Mr. Washburn: Yes to what I have submitted were done last month because when this issue came up I just didn't want to just stand here and explain it to you; I wanted the people who were directly involved to render reports to let you know what authoritatively where things stand

Mr. Sitzler: Yes because of the way the tolling it would have had to be out of your control pretty much to not be able to do it and the guideline clearly represents that

Mr. Washburn: they were operating for the DEP under that LSRP Law

Mr. Sitzler: Yes

Mr. Sitzler: Are you making the application two fold? One is that the Board recognizes that you have been tolled under Statute and two that you be granted an extension until May of 2022

Mr. Washburn: Yes; I would like to do both at once this issue recurring

Mr. Sitzler: Yes we don't want to have you keep coming back, yearly or every six months or something like that.

Mr. Sitzler: Does the Board have any questions or comments?

Mr. Hagarty: In reviewing the chronology; it appears in my opinion there were reasonable and timely efforts made throughout the process as Mr. Washburn has said it is a complicated process and a complicated project. I think in the time table of doing things although there were certain brakes looking from a general standpoint that there was reasonable effort to keep moving the ball down the field sort of speak. The only question I really have with respect to the dead line that you have asked and obviously this schedule is the base of it. Is the dead line being extended to that date or just the completion of that phase?

Mr. Washburn: Essentially once we get the action report final by the LSRP I think that is the last step in the process; once that occurs I assume we will be ready to start construction. I was asking for May 2022 because that is our outside date, like I said I don't want to go to the outside date and my client doesn't want to go to the outside date but I can't tell you know when we are going to finish the physical work which is the next step on the agenda to get the bad soil out, replace it do all the physical work. I can't tell you how long it is going to take I just know the outside date, but I can assure you and I think everybody knows the Applicant here is AB Woodcrest Fields, LLC that is an affiliate of Amboy Bank and I think the reports say this. Amboy Bank took this site back when the original developer found 629 drums and gave the property back to the Bank. We are a Bank we don't want this property and I don't know if it is the Controller or FDIC; but some Federal agency is constantly on the backs of all these banks to get rid of this property they took back. WE want to get it done and regulatory we sort of need to get it done.

Mr. Sitzler: Mr. Washburn in lieu of a motion; you may be here acknowledging your tolled, your right to tolling and perhaps even an extension to May 2022; would you be willing to have your client since you are hoping the remediation is finished sooner than later. Once you get noticed from RT Environmental which is the LSRP approval to go that you could forward a letter to the Board as a general correspondence

Mr. Washburn: Yes I can submit the REO or whatever that final document is

Mr. Sitzler: Yes send a copy so that the Board will know

Mr. Washburn: Certainly

Mr. Sitzler: Any other questions?

Mr. Banff: One of the items that I saw on the site plan is the NJDEP permits are set to expire April 10th 2023 so that means all your work has to be done; so that is also something for the Board to consider that although they are asking for May 2022 maybe tie that into the actual expiration of the DEP permits

Mr. Washburn: Like I said we most certainly don't want it to go that long, as a matter of our comfort prefer longer rather than shorter; but whatever the Board is comfortable with.

Mr. Sitzler: A motion should be called; the Board recognizing that their Use Variance has been tolled by Section 21 of the Municipal Land Use Law and that they would be allowed an extension until May of 2022. Is there a specific day in May?

Mr. Washburn: May 6th

Mr. Sitzler: So May 6th 2022; but that the applicant will submit the final approval letter when they are no longer under the jurisdiction of the LSRP; RT Environmental. When told they have completed it which will be a time line that they may be able to be on the clock sort of to speak to get started. So that would be recognizing the Tolling of May 6th 2022 extension and the letter advising us that they are ready to begin construction sooner than that date and forward to the Board timed receipt so when they receive it they will be forwarded a copy of that.

Mayor Green: I'll make a motion; seconded by Mr. Hagy

Mr. Waddington: I have a motion and a second. Any questions on the motion? Roll call please

ROLL CALL ALL PRESENT "AYE" MOTION CARRIED

Mr. Washburn: Thank you very much; I would like to now roll into why we were here in June.

Mr. Washburn went in to a brief introduction of why they had to change the design of the project due to where the contamination was located and because of the change in the State's DEP change in the Storm Water Drainage Basin Regulations they had to reduce the number of housing units by 5 which is one whole building to increase the size of the Basin.

Mr. Sitzler swore in Stephen Patron from Ab Woodcrest Fields, LLC the applicant and Jay Sims, PE from Consulting Engineering Services

Mr. Sims then presented A-1 a color rendition of the amended site plan and explained the changes of the basin causing the removal of one building from the original plan. He also presented changes on Cross Keys Road due to the County's plan to widen Cross Keys Road.

Mayor Green asked where was the building removed from.

Mr. Sims showed on A-1 where the retention basin was and which building closes to that basin was to be removed

Mr. Waddington asked about the trees that were to be moved and the spacing between the driveways

Mr. Hagarty questioned how many shade trees were removed from the original plan.

Mr. Sims addressed those questions also and that the number of trees did not change just their location

Mr. Banff questioned the trees to be shown on the plan on what was required

Mr. Washburn stated that they would provide a tree replacement plan

Mr. Banff also brought up the sidewalks on Cross Keys Road were not on the plans and that the Board would like to see them there

Mr. Sims made a statement that since the County widening the road the County would put in the sidewalks

Mayor Green stated it was required by Ordinance and that other business projects on Cross Keys Road were constructing sidewalks on Cross Keys Road and the County would not put them in.

Mr. Sitzler: There is no objection to complying with the sidewalk Mr. Washburn understanding you may not be able to locate now because of the county widening

Mr. Washburn: We have no objection;

Mr. Sitzler: I understand the County has to sign off

Mr. Washburn: Yes we have to deal with the County on road widening and the side walk; but we have no objection

Mayor Green: Yes there are similar developments going on there and they are in the same dilemma however they have worked with the County and the County told them where they can put now or when the county does the road. I'm not sure exactly how they did it

Mr. Washburn: We have been in discussions with the County but have not had that much direction yet

Mayor Green: I don't know what to tell you but Carl Pursell has been here several times and he has put his driveway in and is probably putting the sidewalks in now because it is a requirement for it. The same as the garage that is going in next door they are required to put in the sidewalks

Mr. Washburn: We will bring that up with the County when we know what they are doing out there

Mr. Banff: I mentioned earlier about the storm water management. You have your DEP approvals in place and reviewing the storm water management regulations compliance is going to be stringent but the permit does expire in 2023 so to just be aware if that permit does expire you may have to seek another approval even if the site is under construction.

Mr. Hagarty: Just to confirm on the landscaping we already talked about; whatever the plan was on planting the trees and all that was the same on the previous application so there is no change from what that planting was

Mr. Sims: Correct

Mr. Waddington: Any more questions?

Mr. Banff: Do you have any issues in responding to point by point to our April, 8th 2019 letter? Is there any issues in there you want to talk about?

Mr. Washburn: Looking; yes I think all the comments are acceptable

Mr. Hagy: Where traffic will be exiting onto Cross Keys Road can traffic go left and right? Or will it be restricted to one way?

Mr. Sims: Both ways

Mr. Washburn: It will be signalized

Mr. Waddington: Anything else to present?

Mr. Washburn: No that was it

Mr. Waddington: At this time I will entertain a motion to open the floor to the public for anyone that has questions for the Lakes at Pine Hill:

Mr. Ford made a motion to open the floor seconded by Mr. Hagy all were in favor

No movement Mayor Green motioned to close the floor to the public seconded by Mr. Ford all were in favor

Mr. Sitzler: Alright this is an Amended Final Major Subdivision Approval. Two for one amended plan that was submitted in 2016 reducing the number of homes from 90 that is because they had to lose a building because the application by DEP due to new drainage regulations they had to expand the drainage which is reflected in that A-1 where the little circle of trees are. They lost a building because of the enlargement they are losing 5 townhomes and agreed to put in sidewalks in agreement with what the County requires with the widening. And the tree replacement plan will be one for one which means they will be relocating trees and you are not seeing any waivers.

Mr. Washburn: The only waiver would be to relocate the trees not the number

Mr. Sitzler: To relocate and you will review the tree replacement plan with our professionals for their review

Mr. Washburn: If I might just to make everything run the same; would the board be willing to grant us extended vesting of the final May 6th 2022 just so everything runs together?

Mr. Sitzler: So clarifying that this is a Final Subdivision Approval

Mr. Washburn: Yes; amended; we had the preliminary in 11 and the preliminary and final in 16

Mr. Sitzler: Just what I thought you had a preliminary in 11 and a preliminary and amended final in 16

Mr. Washburn: Well this is the first time we are amending the final

Mr. Sitzler: And you want the extension of this approval to run

Mr. Washburn: It just makes sense to have everything run until the same date

Mr. Sitzler: Actually under law you have two years from your remediation do you not

Mr. Washburn: Technically yes but I think we are tolled so

Mr. Sitzler: So you are making that application tonight

Mr. Washburn: Yes I should have made that application tonight but it just dawned on me

Mr. Sitzler: Mr. Washburn what would be the consequences in not meeting that date? So that the Board members understands

Mr. Washburn: We would have to come back; whether a variance period or final subdivision period. We would have to come back or lose them

Mr. Sitzler: So you would know that would be your target date to be back; if you had some problem you are not seeing now by that May 6th 2022 date you would have to come here again to explain A the problem and B why you may need a further extension if something were to happen

Mr. Washburn: Yes

Mr. Sitzler: And if you would fail to do that this would expire on that date

Mr. Washburn: Yes I think that is what we are asking for

Mr. Sitzler: Just so the Board understands; I think that is everything

Mr. Washburn: Sidewalk

Mr. Sitzler: Yes I included the sidewalk according to what the County recommends or proposes but you do agree to put in sidewalk

Mr. Washburn: Yes

Motion made by Mayor Green for approval seconded by Mr. Hagy all present "AYE" motion carried

Mr. Waddington: Application 2019-4; MUNA Center of South Jersey, INC. 400 Erial Road; Block 74 Lots 1,13,26 & 57; Minor Site Plan

Mr. Kasuba: Good evening for the record my name again is Robert Kasuba I'm the attorney at the Law Firm of Bisgaier Hoff. I'm here tonight representing the Applicant which is the MUNA Center; this is the continuation of the hearing at last month's meeting where we presented some testimony from Mohammad Kabir from the Center and their Engineer Jack Gravlin.

Mr. Kasuba continued with a brief on what was covered at the last meeting; that the Application was for the Minor Site Plan and what the Applicant was going to do to the property with the proposed improvements to change the use to a House of Worship. He also introduced their Architect Keith Heberern who would be answering the Board's Engineer review letter. He also stated that a revised plan was submitted to the Board in advance of the meeting and were prepared to answer any questions from the Board's Engineer amended review letter and they agreed with the technical comments in that amended review letter.

Mr. Sitzler swore in the Architect Keith Heberern; then Mr. Heberern gave testimony of his qualifications to the Board that qualified him to give testimony on the application. The Board had no questions on Mr. Heberern's qualifications so the testimony started on the application.

Mr. Kasuba started with Mr. Gravlín giving updated testimony on the application and reviewing the site plan revision. He covered that he had met with the Planning Board Engineer after the last meeting and hashed out the issues from the review letter and had agreed to all but a few items and the amended plan reflected those issues that were agreed upon. He then went through the revision showing those changes. He presented waivers they would be requesting from the Pennoni review letter and they would be eliminating 3 parking spaces due to review letter but were still above the required spaces.

Mr. Gravlín: In the Engineers letter of August the 6th we have gone through it in great detail and with very few exceptions we are in agreement with everything. We will send our plans off to the Fire Marshal for him to review and we will agree to change the plans if he request. If we are not able agree with that of course we will be back before the Board. One thing in the Engineers letter he asked me to expand on the parking caperitations on the ancillary uses on the site. The principal parking demand will be for Friday Prayer Services which is 100 congregates which would be 25 spaces that was indicated on the initial submission and has not changed. There are additional ancillary activities weekend children education of about 30 children; adult education of about 25 people and family nights for about 75 people. All these ancillary uses do not occur simultaneous with the peak parking demand for Friday Prayer. Parking demands for these uses will be substantially below what is available which is the 43 parking spaces; many of the parents will simply drop their children off with limited parking on site. I would certainly quantify what the exact parking ratios are on the final plan; but I can certainly indicate to the Board that the ancillary uses of the parking is substantially less than the parking demand than the principal Friday Prayer. I don't know if I mentioned this last month but I was also the Engineer for the Voorhees Mosque out on 561; and Friday Afternoons are their peak times for their Prayer Services so if there is a parking issue that is when it will occur. Although at this point I don't think there will be any parking issues. Some additional testimony was also requested in the Engineer's letter and would be best addressed by the Project Architect. In summary we are requesting a minor site plan approval and 4 waivers; we are conforming with all the Zoning there are no variances requested with this application. The 4 waivers are to permit the 9X18 parking where it is required 10X20; this is not a retail situation where people will be bringing packages in; 9X18 is a very standard number for now days all the vehicles with the exception of the big SUV's have gotten smaller and I believe your Engineer also concurs with that waiver. The 2nd one is where isle widths of 24 feet only in the limited parking area where 25 feet are required again I believe your Engineer also concurs during the review. We are asking for a waiver for the 5 foot island along 4th Avenue this was the only point that we are not in agreement with Mr. Dougherty's letter specifically (he pointed out the area on the site plan). What we proposing in addition to the curb along 4th Ave to Erial to determine the existing parking area including a depressed curb along the extent of the parking area. We will be putting in a sidewalk from Erial Road to the beginning of the parking area. This area that currently exists out there is all blacktop and we are no longer backing perpendicular on to 4th Avenue. I proposed striping between when entering into the parking and the curb just as a traffic island instead of installing an actual 5 foot planter in that area and that will require a waiver. Finally the last waiver is to allow us to repair and also sealcoat the playground area rather than a full reconstruction and I believe the letter indicates a waiver is required and that concurs with our proposal. That concludes my presentation but I'm certainly available for any questions; the only other thing I would like to add is that Mr. Dougherty was very cooperative with meeting with me immediately and I would certainly like to thank him on that and also getting out the subsequent review letter.

Mr. Banff: Speaking for Mr. Dougherty we agree with your analyses on the 9X18 parking stalls that is the perfect size for more or less a residential type application or this application here. The isle with 24 feet from 25 feet that is insignificant so there is no objection on that. We also agree with the sealcoating for what you are calling the playground area; I just recommend that there is some detrition from use that the congregation has to maintain that parking lot. We still do not support the waiver request for the striped parking lot on 4th Ave; our recommendation is to put that island in and extend the sidewalk across the striping area. If you take a look at it at night there is a utility pole further up the street.

Mr. Gravlin pointed out its location on the site plan

Mr. Banff: I would not recommend going any further then that with the curb and sidewalk just to the second drive isle to allow for future construction in that area

Mayor Green: Okay so I understand possibly not putting the sidewalk up there past the second entrance; but I recommend putting the curb past there to protect the property on the side there. The curb can help channel the water down there that is coming off the parking lot to begin with.

Mr. Gravlin: We are installing a curb

Mayor Green: You are not installing a curb to the end of the paved West 4th Avenue am I correct you are installing a curb to the end of your second driveway

Mr. Gravlin: That is correct

Mayor Green: And my comment is technically you should be required to install a curb and sidewalk to the end of 4th Avenue and though I understand the Utility Pole is there and the need of the sidewalk is not there I don't understand why you would not put the curb in to maintain adequate run off of the storm water because that is where the storm water runs.

Mr. Gravlin: While I certainly agree with you this is a very steep area once you get beyond the end of the pavement surface it really drops off quickly

Mayor Green: Correct; I get it the pavement surface but I would expect to see at least a curb there

Mr. Gravlin: Okay beyond the point where I show it determinate at the end of the second drive

Mayor Green: To the end of the actual paved street it is probable another 75 feet

Mr. Gravlin: Certainly you can require that and if and when we do get the approval we will have to install it

Mayor Green: People have historically pulled in thru that driveway to that Northern lot; so if it is all paved and there is no exit to say without a curb and sidewalks how do you prevent people from driving in there

Mr. Gravlin: I agree with what you are saying people could drive all through there as they possibly use to do; I indicate the gourd islands as parking direction feature. There are only 6 parking stalls there but again if the Board feels it is necessary we will certainly put it in. One other possible suggestion I might make is that in the event of expansion it will in no doubt be in the portion of the building where are not proposing to use at this point I would also anticipate another parking lot out behind this building. Perhaps we could agree to install the for matter improvements at that time if and when we peak our back to that. That would be my only other suggestion; but again if the Board feels it's necessary we have no choice.

Mayor Green: Again it comes down to you adding additional parking you may have to possibly extend the street I have no idea what would be required. My other question is if there is no permission to drive behind the building.

Mr. Gravlin: We are not proposing to drive behind the building

Mayor Green: How are you going to keep people from doing that?

Mr. Gravlin: There is no provision on the plan that physically block them we could certainly

Mayor Green: I'll make a suggestion; It appears to be an existing lawn area to remain that is a stretch to call it a lawn area today on the North side. Actually to make it a lawn area by putting down sod or something then it might work. Right now I can go around that area

Mr. Gravlin: We would certainly agree to restore that area

Mayor Green: That would solve that problem

Mr. Banff: The plan should note with the installation of the sidewalk to the end of the street that there are tree roots there that would have to be removed in the street. During construction it can be determined if the tree had to come down or the tree could remain if roots sawed off.

Mr. Gravlin: We would be terminating the sidewalk at the end of the existing second driveway

Mayor Green: Yes but the curb would be going to the end of the street but I did not know there were trees in the street

Mr. Gravlin: Yes there are I have pictures of them if you would like to see that; there are trees right beyond the second driveway where that utility pole is indicated on the drawing there are trees in that location but if you allow us or require us to install that sidewalk only to that point we will not even touch those trees at this time.

Mr. Banff: I'm saying when you put the curb in you are going to cut thru the roots of the trees right there at the second entrance those tree roots are starting to buckle the paving. You are going to have to take those tree roots out of the paving there and fix that

Mr. Gravlin: We would agree to do that also

Mr. Banff: In your testimony you discussed the parking requirements of the different uses on the property; I agree with the engineer on how he has calculated that. If that was shown on the plan that shows the maximum uses and shows no conflict with not exceeding what is recorded as 43 total.

Mr. Gravlin: I can certainly do it I just did not have enough opportunity to research what they were going to be but I'm confident that they are well below the parking demand for the Friday afternoon service and I will indicate that somewhere

Mr. Banff: The environmental hazards inside the building and also phase one investigation of the of the site are you going to testify to that or is the Architect

Mr. Gravlin: He will do the building however as I interpreted the letter so it would be on page; second to the last page number 7. I believe it refers to if we ever propose to use these lands back here then a phase one will be required not at the present time and I believe that would be appropriate at that time. I did discuss that with Hugh and I will tell the Board I did walk back here and it is just a big open field basically and a few big scattered trees I saw no evidence of erosion or any issues. When we come back and hopefully the congregation will grow and it will be necessary to come back we would have to submit a phase one at that time

Mr. Kasuba: Are there any more questions for the Engineer if not we will shift the focus to the Architect

Mr. Heberern gave testimony on the review letter from Pennoni of the condition of the interior of the building the mold that was previously present and the cleanup that was done and leaks repaired that were in the portion of the building that they were sealing up and would be maintaining with an adequate temperature and dehumidifiers to maintain the space. He also gave testimony on the study to answer question 6 from the review letter on page 3.

Mr. Kasuba: And you would have to coordinate and submit applications to the municipal building officials for the interior work that is proposed is that correct?

Mr. Heberern: That is correct

Mr. Kasuba: Okay and that is governed by the uniform construction code as it has been codified in New Jersey

Mr. Heberern: That is correct

Mr. Kasuba: Can you talk generally about the plan you have submitted and proposed

Mr. Heberern gave testimony on the site plan and what was to be done to get the building ready for occupation both the inside renovations and outside changes and improvements. He also gave testimony as to the old Convent and how that would be sealed off and not be open for use at this time.

Mr. Waddington: Are you blocking that off with a wall

Mr. Heberern: Correct

Mr. Banff: The issue with the demolition occurring and all the restoration; our recommendation is to do an environmental hazard study to confirm that the asbestos in the building has been removed. If you do encounter anything that you give us a heads up to let us know that it is there, lead paints and anything else.

Mr. Heberern: Okay; yes the normal construction process

Mayor Green: You are aware that any trash you have to dispose of it off site.

Mr. Kasuba: Yes; that was brought up at the first meeting and we discussed that in the future if that would be inadequate we would have to find a location

Mr. Hagarty: For the Environmental do you have someone retained?

Mr. Kasuba: Yes; assuming you are talking about the interior for the lead paint and such

Mr. Kasuba: Any other questions from the Board

Mr. Waddington: Do you have anything?

Mr. Kasuba: No that really concludes our presentation; I did have a quick question I wanted to make sure you had enough members for a vote. I did not have my list of those in attendance at the first meeting and I'm not sure people have listened to the tape today.

Mr. Gallagher: I do have two signed affidavits for two of the individuals that are here tonight that did sit down and listen to the recording. Would you like copies of those?

Mr. Kasuba: I will take your representation for it: I just wasn't sure I seen a couple of new faces

Mr. Waddington: I was not here and I did listen to it

Mr. Kasuba: I was just trying to count heads; thank you for clarifying that. With that to conclude we are very excited about having this location and joining the community. As was mentioned at the first hearing and earlier here today we are proposing a House of Worship; a Mosque at this location. It is located within the institutional zone with a permitted use and in addition to that there is no other variance that we are requesting there would be several design waivers that Mr. Gravlin went through with the Board Engineer and I think the Board Engineer was in agreement with all of them except one that was noted. It is a very minimal proposed change that the exterior regarding additional impervious coverage it is a minor site plan application we were really just trying to configure the lots in a way that would work towards a new proposed use. There has been discussion about the number of proposed parking spaces which are more than adequate for the anticipated number of congregants. I would just like to reiterate that it is very limited use it is just Friday Afternoon's once a week, with one time a month where there will be a family night; there will be activity during the weekend for just education but it is really not an intensive use of the site at all. We discussed that there would not be a High Holidays would not be recognized at the site it would continue to be held at an offsite location; that is where the people who don't go to the weekly prayer service show up to the High Holidays I'm sure many people can relate to. With that the consultants have worked thru a number of the issues and we thank the Board Engineer for being available for us with the gravity of that for the turnaround time to work thru the issues so we could revise the plans and with that we ask for the Board both to approve the application as has been submitted with the conditions that

Mr. Waddington: Any more questions from the Board members?

Mr. Sitzler: What we have before us this evening is a Minor Site Plan Approval. They do not need any variances; they are seeking four (4) waivers. Three (3) of which our Engineer Pennoni has reviewed and has no objection to the Board granting those waivers. The three (3) with no objection being the 9X18 parking stalls instead of 10X20, 24 feet in the island area where 25 feet is required which would be a minimum change and they are going to repair and seal coat the playground area and plus an agreement to maintain that to prevent deterioration. The one that is in question that has been discussed the most that our Engineer could not support entirely was the island on 4th Street; they indicated they would rather stripe it but since the original discussion here there has been a lot of; the Mayor brought up some things that and there has been some bantering back and forth as to what might be something of a middle ground. Now I heard something about curbing going to a designated area so I don't know if the Mayor wants to

Mayor Green: The Curbing would extend to the end of the paved West 4th Avenue, and I do believe that some sort of Island or sidewalk needs to be out there in the middle of that parking lot so that maybe some kids walking along are not going to get hit by a car. The other area was that was discussed was that area on the North past that parking lot that is mostly gravel that the necessary steps be taken to be maintained as a lawn and that way prevents driving around the building which is safety for all concerned.

Mr. Sitzler: So that would be more of a condition that they would agree to restore that grass which would deter people in cars from driving over the grass rather than the gravel. Would they agree to that?

Mr. Kasuba: Confirming with the Engineer we would agree to reseed it

Mr. Gravlin: We will actually restore it and put concrete car stops along the edge of that paved area too; but we should restore it also. We will do the grass

Mr. Sitzler: How wide is it Mr. Gravlin?

Mr. Gravlin: Roughly about 50X60 feet for the grass area

Mr. Waddington: So the curbing would go to the end of 4th and the sidewalk would end at the telephone pole

Mr. Kasuba: With the curbing issue there was a reference on whether a tree would have to come down; so would the Board prefer us to keep the tree as opposed to additional curbing

Mayor Green: No we want the curbing no matter what

Mr. Kasuba: Okay

Mayor Green: I was not aware there was a tree that close

Mr. Sitzler: So the curbing will be extended to what point

Mr. Kasuba: I think it was described to the end of the macadam of West 4th Ave

Mayor Green: Which our ordinance requires

Mr. Waddington: Just so I understand there will be two depressions in that parking lot

Mr. Gravin: That is correct; this will be a vertical curb between the two driveways, there will be two driveway depressions and the 5 foot safety island as well.

Mayor Green: If nothing else I make a motion to approve the application with those changes and the three requested waivers; seconded by Mr. Hagy

Mr. Ford: I have one more thing; they were saying they were going to add the portable curbing to keep people from driving over the grass; is that after the light pole on the other side of the tree I'm not real familiar with that area

Mayor Green: Yes on that end of the parking lot

Mr. Sitzler: Any questions on the motion?

Mr. Sitzler: So we have the waiver of the parking spots, the 24ft isle instead of 25 and they will repair and sealcoat the playground for parking plus agree to maintain the area. Those are the three waivers correct

Mr. Kasuba: Correct

Mr. Waddington: Roll call Please

Roll call all "aye" motion passed

Mr. Waddington: The last thing we have on the agenda this evening is Resolution 2019-12

Mr. Sitzler: This was a Resolution for a use variance and was zoning (too much noise could not hear what was being said on the recording about the resolution; too many people were talking including individuals from the last application) the applicant on his own converted a two car garage into an apartment that is attached by a breezeway to a single family home.

Mr. Sitzler: One was a drawing which actually showed as built rather than proposed because the work had already done. The denial however requires and I believe this Board has and authority the Zoning Board is the board that determines the Zoning in the town and can enforce those laws. So one of the conditions is that the garage must be restored to its previous condition as a garage at minimum and this is what I have gleaned from everything, the front door must be removed and the garage door reinstalled any interior walls other improvements that interfere with parking two motor vehicles would need to be removed as well. I don't know if any of the new kitchen that was installed or shower in the bathroom. In essence they would have to put it back as a two car garage and that is to insure that we don't have to a Zoning Officer constantly actively visiting the property to make sure no one is living in that area. All work is to be completed within 90 days; that's three months. The reason for the 90 days is once we publish our decision they have 45 days to decide whether they wish to appeal it and whether they are going to court or what action they are going to take; so it is more than enough time if they decide to not appeal it. If they don't appeal then they will be given a reasonable extension of time if they can't complete it in 90 days as long as they contact the Board in writing and give what the Board feels is a good cause if they ask for an extra 15 or

20 days because maybe a contractor was delayed in doing something. Something along the normal hazards of rebuilding something that the Board would consider; they could give us a letter I'm not contemplating that they would not have to come in formally to say they need to get another 20 days to get their garage back. The other thing is that the only way that they wouldn't have to restore is if a Judge; now I don't think the Council stays anything to decide if they could or not. But they go to the Judge and what the Judge can do is issue an order if they ask for it and the Judge decides to and stays them from having to redo this back until the Judge decides the whole issue on it; to determine whether it is to be reversed or not; that is the only way I'm saying in the resolution that they will not have to start restoring the garage within the 90 days if the Judge signs an order. I find that in having done some of these appeals in this case that it would be unlikely that the Judge would stay this but I can't say it wouldn't happen but it is unlikely if that happens it would be the only reason that they wouldn't have to start with completing this work. Then two of course it goes without saying the garage is not to be used as a living unit that is in accordance with the decision and also as was brought up in the hearing that our ordinances don't allow living units in garages especially attached by breezeways. And all outstanding Escrows must be posted; this goes to myself and the Engineering and Planning Firm. We allowed them to go forward last time when they were short on their Escrow; there is a lot of discussions I had with their attorney about that. They came in and made a partial payment is that correct?

Mr. Gallagher: Yes

Mr. Sitzler: Because of the partial payment they were not complete and are still going to be substantially short and we are asking that all Escrows be posted and all bills paid in the event and unless they file a timely appeal to the Camden County Construction Board of Appeals. That is where they go when disputing a bill as being unreasonable at that point our finance officer would just hold the money and not disburse it to either myself or Pennoni for the bills; it would just be held until the Construction Board of Appeals made a decision. However they still have to post it; they have to come in with the Escrow it just means that our Finance Officer can't disperse it. It does not mean they don't have to pay the Escrow during the appeal. More importantly however on the last page are the three reasons the Board would be denying this use variance. I'm just asking the Board to either adopt them in their entirety; if you would remove one of them you need to comment now. This was put in this perspective for the Board because when filing an appeal the Judge wants to see not just if you denied it but what was the reason; why did you deny it and these are the reasons as to the record that was available to me. The Board determined the applicant did not satisfy the negative criteria required by the Statute and that is the conversion of a two car garage attached by a breezeway and converted into a one bedroom apartment in the Medium Density Zone would impair the Zoning Plan in the Zoning Ordinance. That is what indicated to the Board to decide turn it down. The property while there was an argument made by Mr. Threston the Attorney that the property was unique; to me that was onto the record was a comment there was no facts in the staging it looks like a single family residence which is all over in that area there is nothing unique about the house or garage or breezeway. One of the things you look for when you use the word unique is what you are trying to tell the Board is that this home is different than all the others in the Zone that is why we should allow this different use for it; so the Board did fine there were circumstances not to grant the variance and there were no hardships by the property. The hardship was self-created by the applicant; the applicant testified that he was a licensed Real- Estate Agent and that puts him at a higher level than the average person buying a property and said simply by seeing evidence of some living use of the garage then he thought it was okay to use it as a living area and that is why he bought the property and then he didn't get permits and did all the work so any hardships which include where any monetary was outlaid by him unfortunately to reconvert the garage was self-created by himself. They are all the reasons that I was able to come up with; I just wanted to put that out there because this is only the second time that I can recall I had a denial so we do have to be

specific as to the denial if it gets reviewed by a court or the Town Council at a later time. Any comments before we memorialize the resolution?

Mr. Hagarty: I think you provided a good summery

Mr. Ford: I agree with the summery totally. Some of the reasons I personally thought it was denied when he said oh yah there was a toilet and sink out there; I'm like my father-in-law years ago had a garage and that was his thing because he was an auto mechanic and wanted to clean himself up before he went back into his house; so when you are all greasy and you got to go

Mr. Sitzler: I left of credibility issues; the Board can always make rulings on creditability. You can accept or not accept testimony from witnesses. I was not 100% sure but there was some concern that I had when I looked at (L-1) which was Mrs. Green's photo of the before because he described the doors as you can see in my factual as ratty; and I quoted him actually. Ratty and falling apart and then you look at the doors they almost look brand new to me at least from the outside; but later he said something about termites maybe they were on the inside of the doors I don't know so I didn't want to bring up necessarily

Mr. Ford: And he said all the water that was running down

Mr. Sitzler: We don't know; and there where things you would have thought he would have brought before and after photos that would have been helpful but he is not required to do that; but it would have helped if the Board had seen what was there and what wasn't there. He also was not clear on who the contractor was and the cost of the work and how much did the contractor do he sort of admitted he did some of the work; he was a handyman. I think he said he was an HVAC Licensed person as well as being a Real-Estate Agent if that is all true. That is the Resolution I just wanted to highlight before the Board votes.

Mr. Gallagher: Question before the Board takes a vote; if you vote on this tonight and say it is approved the Resolution has Felix as the Chairman to sign off. Can we do a pen and ink change and have one of the Vice Chairman sign off on it

Mr. Sitzler: Yes: just cross out and change and initial where you hand write in Vice and have Vice Chairman sign instead. And Cross out Felix's name and print your name as the Vice Chairman. Four members are sufficient that is considered that is considered a quorum for the Zoning Board portion of the Ordinance Board

Mr. Waddington: If there are no questions I will entertain a motion to approve Resolution 2019-12; ALFA Services the Denial of the Use Variance

Mr. Hagarty: Motion to approve; seconded by Mr. Ford

Roll call: Mr. Waddington (Abstain); Mr. Ford (Yes); Mr. Hagarty (Aye); Mr. Hagarty (Yes); Mrs. Gilson (Yes)
Motion Passed

Mr. Waddington: Any old business?

Mr. Waddington: New business the next meeting is September 12th at 7:30pm

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

Mayor Green: So moved; Second by Mr. Ford

All members present “aye”

No Public

Mayor Green: Motion to close: Seconded by Mr. Hagarty

All members present “aye”

Motion to Adjourn:

Mr. Waddington: I will entertain the last motion

Mayor Green: Motion to adjourn: seconded by Mr. Ford

All present in favor of adjournment