

Borough of Pine Hill
Meeting
Planning and Zoning Board of Adjustments
March 11, 2021

- Call to order:** **Call to Order by Mr. Waddington 7:30pm**
- 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, Mr. James, Mayor Green, Councilman. Robb, Mrs. Jones, Mrs. Gilson, Mrs. Wakeley,
Absent: Mr. Hagarty
Professionals: Solicitor: Mr. Sitzler, Engineer: Mr. Dougherty, Planner: Mr. Luste
There was a quorum
- Correspondence:** **None**
- Approval of Minutes:** **Mr. Waddington:** If everyone had a chance to review the meeting minutes from February 11, 2021, I will entertain a motion to approve
Mr. Ford: Make a motion to approve; seconded by Mr. Hagy
Mr. James & Mrs. Gilson abstained all others present "aye" minutes approved

Resolution 2021-8:

Mr. Waddington: We have Resolution 2021-8 which is the MUNA of South Jersey, INC, 400 Erial Road, Pine Hill NJ 08021, Block 73 Lots 1, 13, 26 & 57 for the Amended Site Plan

Mr. Waddington: I will entertain a motion to approve that resolution.

Mr. Sitzler: Mr. Chairman I did get a call from the Attorney for MUNA and she pointed out to me that the first paragraph of the conditions were worded could cause some to wonder what the 45 day time limit was for someone to appeal it. So, she suggested a slight rewording to page 4.

Mr. Gallagher read the changes of page 4 Paragraph 1 and 2 for the record.

Mayor Green: I will make that motion seconded by Mr. Ford Mr. James and Mrs. Gilson abstained all others present “aye” Resolution passed.

Application 2021-2:

Mr. Waddington: Application 2021-2 A.T.A. Lawn and Landscape LLC 113 Cross Keys Road, Berlin NJ 08009, Block 131 Lot 30.01, Major Site Plan and Use variance

Mayor Green: Mr. Chairman since this is a USE Variance myself and Councilman Robb will be leaving the meeting until the Application is heard. **THEY DEPARTED AT 7:30**

Mr. Norman: Good evening Mr. Chairman, Board Members my name is Christopher Norman. I’m an Attorney at the Law Firm of Platt & Riso, I’m here on behalf of the Applicant A.T.A. Lawn and Landscaping LLC, the application before you tonight seeks Use Variance Approval, Site Plan Approval, Design Waivers and I believe one or two submission waivers to permit a commercial landscaping business with office, repair garage with also a material storage area, truck and equipment parking area with outside display area and the subject property location is at 113 Cross Keys Road at Block 131 Lot 30.01 this is a 1.788 acre parcel so it is a very large parcel for the proposed operation the property needs a use variance because it is located in the GBD General Development District that permits shopping center type uses which this is not.

The design waivers we are requesting will relate to the stone parking lot area and waiver of sidewalk and shade trees our Engineer will give testimony with regards to that. I will tell you what the use is not; it will not involve any retail or wholesale business all the landscaping jobs will be off site. There is a total of 22 employees including 17 employees who will come and go in the morning just before 8:00 and leave at 5:00 for safety purposes they will come to the office. There will be 40 parking spaces for the said 17 employees, there are eight (8) trucks and they will go out to various sites, there are five (5) other employees that will go directly to the landscape jobs. The Hours of operation are from 8 AM to 5 PM there is one ingress/egress access drive on Cross Keys Road 24-foot width which the road is going to be improved by the County, Mr. Fusco our Engineer will provide testimony as far as the traffic assessment report the conclusion of which will not effect levels of service on Cross Keys Road. At this point I would like to have my witnesses sworn in. If the Board wishes to address the submission waivers, we can do that before we swear in the witnesses so we can be deemed complete.

Mr. Dougherty: Mr. Chairman I have review letters dated January 13th and March 8th and the March 8th covers issues that were still outstanding, however the applicant has provided a new written traffic statement so that meets that criteria so that was the only other thing outstanding. The other two items were and I'm amenable to a waiver to this the survey was performed January 2020 and we are usually looking for something that is more current but the site has not changed in any great detail since 2020 and the bench marks that could just be a condition of approval. With having submitted the application complete and the two (2) waivers I would deem the application complete and we can move forward.

Mr. Norman: We will make it even easier for you with Mr. Smith submitting a survey that was updated in January this year.

Mr. Smith: With response to your first letter we submitted a survey dated January 29th, 2021, it shows the removal of the trees, but the house is still there it has not been demoed yet.

Mr. Dougherty: Okay, so we won't even need a waive for that so, in essence they have met the criteria for submission so they can move ahead the application can be deemed complete. I guess we would do a completeness hearing first then we can move on with the rest.

Mr. Sitzler: So, there would be a motion from the Board based on the Engineers recommendation that the application would be deemed complete. We should vote on that and then proceed.

Mr. Waddington: I will entertain a motion at this time that the application is complete based on the Engineers recommendation.

Mr. James: I will make that motion seconded by Mrs. Wakeley
All board members were in approval, so the application was deemed complete

Mr. Sitzler swore in Mr. Tyler Arsenault “Business Owner”. Mr. Greg Fusco “Engineer from Key Engineers” and Mr. Scott Smith “Planner from Key Engineers”

Mr. Norman: We will start off with Mr. Arsenault, will you step up to the mike and Identify yourself.

Mr. Arsenault approached the mike and introduced himself and gave a brief background of himself and his business. He informed the Board where he is currently located and his desire to move to a property that he would own and not rent and that the location was perfect for that move. He described how he maintains the rental property and how he would maintain this property.

Mr. Norman: What equipment do you have at your current site?

Mr. Arsenault: We don't do tree work we don't do irrigation and we don't do heavy earth movement so; our equipment is a little bit smaller we only use medium sized pickups, very small dump trucks. We don't have triaxles or anything of that nature. Everything is gas engine we have little bucket machines like little tractors and a of course lawnmowers with exception of that we offer service to our customers.

Mr. Norman: Can you describe what kind of business you service?

Mr. Arsenault: We service 100% residential it seems that type of detailed work is something that not only fits my profile but what we do very well. Working with only residential clients we need to make sure our setup and operation is conducive to that type of client so starting at the hours we start at are peculiar to the business that comes in at 5:30 or 6:00 AM working on a commercial site, I can't do that I think I would be fired if I was starting to cut a lawn and Mrs. Jones wasn't even up for coffee at that hour so we really go towards that type of client and I think we have done a good job in that niche.

Mr. Norman: So, will you agree to the condition on to the strictness of hours of operation and it would fit your needs?

Mr. Arsenault: Yes, 100% because it also complies with our clientele and I care about our neighbors at this proposed site and it just coincides with our busines.

Mr. Norman: And what would be your open and closing time?

Mr. Arsenault: I come in about 7:30 in the morning my guys shortly follow at 7:45 and our truck don't deploy out to the Job sites until about 8:15.

Mr. Norman: Do you have a certain number of employees that go straight out to the job and don't even come into the shop?

Mr. Arsenault: Yes, about 25% go right to the job site because they are not responsible for gathering at the facility to prepare the truck to go to the site so the 25% ruffly ends up being 5 to 6 employees that report right to the site 17 report to the office for meetings and throw shovels, wheelbarrows or what ever is necessary onto the trucks and go to the site.

Mr. Norman: Okay, lets switch gears and talk about the new site. 40 parking spaces is that adequate for you to do business?

Mr. Arsenault: 100%

Mr. Norman: Is there going to be storage of Landscaping materials?

Mr. Arsenault: We sent about 60 to 75% of the materials right to the work site it is more efficient for us, but we do require to keep a certain amount of materials at our site so things such as mulch, several sizes of river rock and those types of items but, everything such as pavers and fence sections they are sent right directly to the work site per order.

Mr. Norman: Okay, to your right is a colored site plan the proposed site is that the intent of the operation of your business.

Mr. Arsenault: It is from the start we are just looking for residential clients and the way I want to run my business and be an addition to the community (he then proceeded to show how the property would be laid out with display sections of the property for customers to look at and how it would flow and have good curb appeal through the property and where the mulch and river rock would be stored).

Mr. Norman: Storage of the mulch. Is there any problem with odor?

Mr. Arsenault: We store it at our current facility, and we don't have any issues with odor, I have smelled mulch at retail stores, but I think they use a spray. We did have some mulch delivered today and if you are within 20 feet of it you can smell it but outside 25 feet you could not smell it. We have people from Pine Valley Golf course that drive up and there is never an issue, there is never an odor and it is contained, my landlord has never complained about me storing stuff.

Mr. Norman: Did you pick this site in part because of its size and the distance from the neighboring properties so that if there were ever any nuisance issues would be at a distance.

Mr. Arsenault: So, it is a long and rather large site, some of our competitors may not have chosen it and a lot of guys would have chosen smaller lots. There is plenty of room so don't see an issue.

Mr. Norman: What about deliveries, landscaping materials, river rock and mulch? What is the delivery of it and how is it transported to this location?

Mr. Arsenault: The frequency of it may vary due to the season not much of it at all but during Winter but during the Spring Months it would be higher I would say once every 10 to 12 days. The trucks making the delivery would be Mack Dump Trucks so they are not Tractor Trailers but, they are three axel dump trucks that have the ability to turn into the lot and then do a complete 180 to get out of the facility and that is all we would ever require to bring in any type of materials to the site.

Mr. Norman: How many employees in the office?

Mr. Arsenault: Including myself there are four (4) and once again we will be moving to a facility that not only meets our needs but is double in size of what we have.

Mr. Norman: The repair garage how is that used?

Mr. Arsenault: The repair garage is only going to store spare machines because the only thing we do in our repair garage now is minor maintenance on the machines sparkplugs, air filters and things of that nature all truck repairs including maintenance is simpler for us just to send it out it is more beneficial for us in that regard. We just do simple things like tires for lawnmowers they just seem to go flat so it is just a place where we can put parts on the shelf and keep it dry inside the warehouse.

Mr. Norman: Where are the cars going to park?

Mr. Arsenault pointing to the site plan showed how the cars would come in and back up to the office to keep it organized and easy access to come in and out. He stated that the back lot would be just for the trucks where they can be loaded, they just received a couple of box trucks within the last few weeks and everything is on those trucks with no trailers so they can actually pull in the gate get right in the truck and go there is nothing to load and no lawnmower it actually makes it easier to fit into tight spaces.

Mr. Norman: Can you talk about the outdoor display areas?

Mr. Arsenault again pointing to the site plan showed where the out door display areas would be set up, showing where the office area and warehouse area was and that where the one display area was he thought would be a nice break area for his guys to come out and eat on a picknick table. He stated if any clients came to the property, they could see how they tied the landscape into the patio and the surrounding parking area showing how a sustainable landscape would work

Mr. Norman: Will there be any retail sales of landscape?

Mr. Arsenault: We don't intend to compete with companies such as Damblys Garden Center they are actually a close friend of our client and it is not the direction we are considering at this time. Like I said we don't do a lot of commercial landscape we don't commercial installation we have really identified our niche as residential and it is 100% residential so I don't sell retail the product that we store is for our own use not for retail use.

Mr. Norman: You are pretty much a daytime operation do you have any type of lighting for security?

Mr. Arsenault: It is with in our site plan, I do have lighting on the building, which is required, and I would prefer it as well. It just makes cense and perhaps though out the yard for safety when it gets dark early in the fall around 4:30 and we are locking up we should have some illumination in the space.

Mr. Norman: Signage?

Mr. Arsenault pointing to the street side of the site plan stating he was thinking a small retention wall with the sign sitting on top of that.

Mr. Arsenault: When I say retention wall, I'm talking about 12 to 18 inches a small decorative wall with a 6X6 stained walnut wood to make it look a little more rustic I think that is the look I'm going for. There is also a picture of it in our proposal and the sign would not be taller than 3 feet.

Mr. Norman: Is there anything else you want to be clear about tonight?

Mr. Arsenault: One thing that I want to say as to why I want to be here, obviously it's good for our business. Pine Hill is a centralized location to my clients to my commute to work, I like this County I like the Townships. It is centralized to my employees and my venders. I think this is something that will be good for the community as well as my firm. The final part is when I started this business I was not fortunate enough to pay my bills during the winter my mother was a single mother so getting a second job was a big deal for me and I had to do that for 3 or 4 years. I worked at that Dunkin Donuts for 4 years

and I looked out that window I could not tell you how many times and passed I don't know how many coffees out that window staring at the lot that I would be here tonight proposing my dream business on it. I just find it very ironic and humorous; it is a small world I guess that you can say who would have thought that 10 years latter I would be building on that.

Mr. Norman: Does the Board have any questions for Mr. Arsenault?

Mr. Waddington: Does anyone have any questions at this time?

Mr. Sitzler: Can we have that marked exhibit A-1 that would be your site plan?

Mr. Waddington: I have a question. Do you store any chemicals on location?

Mr. Arsenault: We do have gasoline and 2 to 3 piles of fertilizer that is on the ground for our fertilization team that would be stored in the warehouse as well in a secured area. Right now, we keep it in a storage shed that is completely secluded from any other contaminates gasoline and such. We only store there what we are using during that round what we call it and a round last five (5) weeks we bring in the material for the five weeks and when depleted we bring in another 2 to 3 pallets for the next round. We do have a fertilization division and we are fully licensed, and our guys are licensed under us to do that and we take safety with that very seriously. This is something we have been doing for about eight (8) years now and doing at our current facility.

Mr. Waddington: So, no liquid just fertilizer?

Mr. Arsenault: There is some liquid as well, probably about 10 gallons of concentrated fertilizer along with those 3 pallets

Mr. Waddington: Are you going to be doing cleaning of your equipment there?

Mr. Arsenault: Just like washing the vehicles?

Mr. Waddington: Washing your lawnmowers, cleaning your fertilizer spreaders any type of that stuff?

Mr. Arsenault: Yes

Mr. Waddington: The last question I have is how many customers are you going to have that are coming to visit your site?

Mr. Arsenault: Right now, I would have to go with what currently happens. We do have a store front office about 5 a day.

Mrs. Jones: Are you going to have lighting on the property?

Mr. Arsenault: As far as the plans go, they show the lighting and that is as far as I have for the lighting.

Mr. Dougherty: If I could clarify there is a plan sheet in here showing a landscaping utility plan that shows the light standard, light detail and lighting. So that is the lighting and you are not proposing more than that?

Mr. Arsenault: No

Mr. Hagy: Do you have a place to store all the grass and dirt, how is that going to be cleaned up?

Mr. Arsenault: As far as the lawnmowers go, we do have a pad where we clean and scrape it all up and put into a vegetation dumpster. As far as the fertilizer cleaning goes there is really is not too much cleaning that goes along with that. There is not too much dust with those machines, so it just goes through the hopper and right out. As far a liquid goes it is put right in a sealed container and brought to a vendor and they take a dispose of the cleaning of the liquid tanks so, we use cycle clean now for that. We have had the DEP come to our site now and they approved of where we keep all of our material, our fire hydrants, how we clean up our material, how we dispose of excess material so, that has never been a problem.

Mr. Dougherty: Can you point that pad out is that up near the building?

Mr. Arsenault: It is actually right off the garage door back here (pointing to the exhibit A-1), so that is to the rear of that building is a pad that is poured.

Mr. Dougherty: And that is shown on the site plan where it is?

Mr. Arsenault: Yes, it is

Mr. Dougherty: To follow-up on Bob's question that debris, once you clean it off you say you are putting that into the dumpster and getting rid of it somehow.

Mr. Arsenault: As far as the grass clipping debris from the lawnmowers that does occur, we do have dumpsters (Shown here pointing to the exhibit A-1) that goes to a vendor of ours that we dispose of all vegetation debris. (Pointing to exhibit A-1) We do have separate dumpsters that take care of the Office trash and recycling (office trash, the guys lunch, water bottles).

Mr. Norman: I just have one more question. The property owner to the rear of that property have you had any communication with them?

Mr. Arsenault: Yes, I have. So there are two (2) residential homes back here and as soon as we started showing some interest of walking the lot doing some cleaning back in the Fall, brush that was there trimming the grass and what not the homeowner came out and I had a chance to meet with him. He told me about the previous owner, and he seemed like a really friendly neighbor and I enjoyed the hour I had to meet and talk to him. He offered us water and Gatorade when we were cleaning up the site and was very welcoming to us at the site. I don't believe there is a resident in the first home there, there was a tenet the other resident told me that the last tenet moved out before we had a chance to talk to them.

Mr. Sitzler: So, you are here to seek a use variance because, the use is not permitted so, I wanted Mr. Arsenault to know that if the Board grants a use variance it will be limited to the hours of operation.

Mr. Norman: Understood and change will require an amended use variance.

Mr. Sitzler: Right so in the future if he expands the business in the future adds the number of employees, the size of the blueprint to get approval you have to come back to the Board and I only bring that up because if he has any idea now that now would be the time to talk to the board about that. So, if you have something you want to do next year now is the time.

Mr. Norman: Do you have any plans or conditions to increase your increase your business or add employees.

Mr. Arsenault: The only thing that we are going to continue to do is that we service a lot of Mt. Laurel which makes this property central to our customers. So, if there is ever a time for me to outgrow this facility which is out land dish for me to say at this time since this is not in my 1,2 or 3 year plan but maybe in my 10 year plan, I can't have 20 vehicles here they won't fit and it is not in my interest to do so because the travel time from here to other areas are still a great distance. So, if I expand, I will have to rent another site, so it does not overwhelm this facility. Currently I have 8 service vehicles I'm interested in having 10 to 13 here and that is really all I feel that this facility would hold otherwise we would be where we are at now running out of room.

Mr. Sitzler: I just didn't want you to come back here in a year or two for an amended site plan

Mr. Norman: Thank you, you actually helped us out.

Mr. Sitzler: So, you are at 8 trucks now and the maximum would be 13, just so the Board knows

Mr. Arsenault: We are going to stay content at the 8 service vehicles for now because I would have to recoup the cost but in 2 or 3 years at the least so, I would say in the next 10 years I would be gaining 1 to 3 trucks. There are currently 12 vehicles total in our fleet, 8 service vehicles and 4 are office vehicles which are taken home to the employee's homes after the work hours. So, we do hope to get to 10 to 13 service vehicles in the next 10 years.

Mr. Norman: Our next witness will be Mr. Fusco so he can wrap up Planning and Engineering.

Mr. Fusco introduced him self and gave testimony to his credentials and qualifications as a Licensed New Jersey Engineer

Mr. Sitzler: I believe he is qualified

Mr. Norman: The big issue if the Traffic Impact Statement can you go over that

Mr. Fusco: Real quick the way that Mr. Arsenault previously testified. He has some employees the site in the morning to get ready to do what they have to do get in their vehicle and leave. They come back at the end of the day and then those employees go home. There are a number of employees that go directly to the site they don't necessarily come to the facility every single day. We have estimated based on the information that he has provided us that 17 vehicle trips will enter the site in the morning and 17 vehicle trips will leave the site in the evening hours. I would imagine that during the week there may be some customers that need to come to the site for some reason. I believe they are not significant on a daily basis therefore based on the testimony that Mr. Arsenault has provided this evening and the information he has provided to us I have prepared the Traffic Statement I issued to you stating that the number of vehicles moving into and out of the site on a daily basis will have no impact on Cross Keys Road.

Mr. Norman: Okay, on site of the property is there ample parking?

Mr. Fusco: The site provided paved parking for customers and office workers. Those parking stripped spaces are directly across from the building and right next to the building. Beyond the fence line in the back of where the storage barn is there are a number of storage spaces that will serve landscaping vehicles it is stone so there is no stripped parking and we don't propose stops on those spaces.

Mr. Norman: The stone parking lot does that help with drainage issues?

Mr. Fusco: In reality I believe it does, but there are certain requirements that the Engineers have to follow based on State Regulations and we have to treat stone parking as it is impervious so any information that I provided for the application and to Mr. Dougherty all stone parking is treated as impervious so that is how the drainage calculation was prepared. For the type of business that he has I believe that the storage area that he has in the back is better off stone then paved based on my personal experience.

Mr. Norman: Will the office be serviced by a septic system?

Mr. Fusco: Yes, that is the intent there will be a septic system proposed based on square feet and number of employees the subject area will be directly across from the office within the estimated drive through for the parking lot.

Mr. Norman: What is proposed as far as storm water management?

Mr. Fusco: The facility has three (3) storm water management basins two (2) of the basins are interconnected the two basins out front up towards Berlin Cross Keys Road are interconnected by a pipe so they fill together hydraulically or at the same rate. Those basins are infiltration basins there is no positive out fall anywhere in this area, I had testified to that in other applications before you over the last 10 years we have been the engineers for other projects along Berlin Cross Keys Road. The soil in this area have a phenomenal infiltration rate. When designing an infiltration basin the DEP requires you to take that infiltration rate and cut it in half and even though we cut the infiltration rate in half it is still in the vicinity of 10 inches per hour which immediately drains the basin in the matter of a day. In the back of the property where the stone parking lot is being proposed we also designed another infiltration basin, the infiltration basin holds as much water as possible in terms of the surrounding topography and the water flows through an inlet and then the inlet feeds through a pipe and ventures out front and in the event that the basins out front should fail there is a spillway that leads out into Berlin Cross Keys Road storm drain.

Mr. Norman: The Site Planning did you prepare the lighting plan that Mr. Dougherty described?

Mr. Fusco: Yes, we did, the site plan provides throughout the complex illuminating the parking spaces only and on the building we did not due a lot of heavy illumination and light stations in the back for security only.

Mr. Norman: There is not going to be any significant light spillage issues?

Mr. Fusco: I don't believe so

Mr. Norman: We are requesting waivers from sidewalk requirements?

Mr. Fusco: In the Engineers review letter the Engineer has requested that we provide sidewalks and we have some sidewalk. Because this site is very narrow, and we are providing a 24-foot driveway apron there isn't much area to provide sidewalk. We have some on the plan, but we request a waiver to not construct it at all but, it is on the plan

Mr. Dougherty: Just to address some of the waivers, I do know they are requesting a waiver for pavement just before we get too far down the line. The waiver in the rear there where they do have stone, that does make sense our ordinance does state that any parking area has to be paved in this case they are paving where the employee vehicles will park but then the rear part is basically a laydown area, vehicle storage so I don't see a problem with that being stone as the Engineer had mentioned it does benefit the storm water also because you will have less runoff coming off of that than you would an actual paved service so I would have no problem with the Board waiving the strict requirement of having that area paved. AS far as the other waiver with regard to the sidewalk out front that is something that the Board has often required I know that up and down Cross Keys we have asked the people to put the sidewalk in so that is something that I would suggest that the Board not waive that we would want the curb and sidewalk out there along Cross Keys. The eventual goal is that if this is walkable with some of the other sites that we have approved curb and sidewalk. So, on those two waivers I just wanted to point that out where we stood with that.

Mr. Norman: Are there any other engineering problems at this time.

Mr. Fusco: The Board if I may, Mr. Dougherty has produced two Engineers review letters and I would like to address as many comments as we could. We are willing to do most of the revisions that are necessary I just need to bring to the Boards attention a couple of things as far as drainage. I guess it would be on page 5 of Mr. Dougherty's second review letter.

Mr. Dougherty: That would be the March 8th Review Letter

Mr. Fusco: Page 5 under item C paragraph 3. Mr. Dougherty correctly states there is .4 almost half an inch of freeboarding provided through the basin and that would be the basins out front and as I mentioned before a significant amount of runoff is stored in this basin from the runoff of the parking lot and for 100 year event as the basin fills up and falls and cascades into an inlet and the inlet as these two basins are filled up again for 100 year storm the actual spill way will be overflowed and curbed out in front and under the proposed sidewalk and onto Berlin Cross Keys Road. Because of the existing topography of this site, the site flows from the rear out onto Cross Keys Road because of that situation and the fact that the property is rather narrow I had a very difficult time storing all of the runoff that is required to be stored I was able to store for a 100 year storm however I was left with the situation because of the surrounding topography I could only provide 4 tenths of a foot of freeboard.

We would have to ask a waiver for that because 1 foot is required. In order to provide 1-foot Mr. Arsenault would literally have to fill this site from property line to property line from the right away on Berlin Cross Keys Road almost half way back to where the warehouse is going, a foot and a half to some time two feet it is roughly an acre and a half. It would be really expensive and would really impact so we would really like to as for half a foot of freeboard and I would be more than happy to meet with Mr. Dougherty and try to work something out and see if I can get a couple of more inches of freeboard. One of the things we can do to help increase the freeboard is to build walls around the basins instead of having slops around the basins they would have walls. One of the things that are negatives associated with building walls, first of all they are very expensive to build walls around the basins as long as they are and when you have them all these basins are close to the driveway and it becomes a safety issue for some reason if you leave the driveway coming along and they go into the basin it is an issue so again we are asking for a waiver we will do our best to increase the freeboard but there are limitations that the site apparently has that we have to control. The other indication that Mr. Dougherty has in his review letter is on page 6 item number 5, and for that item number 5 is to maybe instead of having the spillway flow and go under the sidewalk is to raise it up and have it cascade over the sidewalk which is being proposed. Well if I raise it up that far it tends to have no free flow now so it needs to slope because of the property and again I'm more that happy to meat with Hugh to review I just wanted to let the Board know that there are certain constraints that I have to deal with and I want to be able to work with Hugh but I don't want to have the situation where you have to come back if Hugh and I don't agree on something or something can't be done and I have to live with the design the way it is. Everything else we are able to resolve that is in Mr. Dougherty's review letter.

Mr. Dougherty: Mr. Chairman if I could just address that on the Storm Water? As the Board knows we adopted, basically the New Jersey Department of Environmental Protection has required us to adopt an ordinance that addresses Storm Water so basically it is the State of New Jersey Standards and they make the Borough enforce those standards. So then the State oversees what we do so even though it is our ordinance we have control over things that happen in our town the State of New Jersey also over sees what we do and if approve things that are against the ordinance the DEP has the say so. There is a way around that because we know our town better than the DEP knows our town so we can waive certain criteria on the Storm Water because again it is our ordinance but we just have to answer to the DEP. In a particular case like this what we would be that the Board and I would have no objection to the Board granting a waiver on strict conformance of our Storm Water provisions of the ordinance providing that there is some mitigation and that is what Greg is talking about we would sit down together and discuss what we can do on a site like this. The red lines are one thing but it is not one size fits all, you have a site like this that is unique that drains from back to front so we can work with that so what I would offer to the Board we could give a waiver of strict conformance to the Storm Water with some mitigation factor and that's what DEP is looking for is that if we do waive it that we are also getting something to improve storm drainage and improve water quality and I think I can work with the Engineer to do that.

Mr. Sitzler: Hugh can I just indicate that what you were generalizing the whole Storm Water Drainage System but what we are really seeking was waivers to the freeboard and the spillway calculation.

Mr. Dougherty: Correct

Mr. Sitzler: And that they would be providing mitigation with your consent

Mr. Dougherty: The DEP permits to waive things the same way as a bulk variance that is the way they look at this. These are our standards, you are waiving them and you do mitigation in lieu of the actual meeting of the standard so that is memorialized in the resolution and DEP actually does audits of us they will come in and do a review how well the Borough is doing how well we are doing, they will be reviewing the Borough's ordinance and if we have that there in the ordinance it shows that we thought that out we did not just waive it and let them do whatever they want. We thought it out and there was a rationale for the waiver and there is also mitigation in place.

Mr. Fusco: That is all I have does the Board have any other questions.

Mr. Waddington: Does anyone have any questions for the Engineer?

Mr. Dougherty: From an Engineering standpoint I think we will get into testimony with regards to the use variance that Joe will address but the traffic impact I looked at the calculations it is less than 1% impact so it is very minimal on Cross Keys Road. Which everybody knows it is a busy road, the one question I did have the 1 or 2 customers that come to the site during the course of a week or whatever they are off peak anyway so they are not even an add on.

Mr. Fusco: In my opinion yes.

Mr. Dougherty: So, the only peak hours are the 17 that he talked about coming in and the 17 leaving at the end of the day so that shouldn't be an issue at all. The parking is adequate and possibly for a little bit of growth as well. The only other conditions are outside agency approvals, which would be the Fire Marshal, the County Planning Board and other than that that takes care of all our engineering issues.

Mr. Norman: One more question and that is our trash issues a list of permitted uses of the Zone the landscaping business was

Mr. Fusco: Yes, the way that Mr. Arsenault will be using the property it is far than the other uses that are permitted in that Zone. Far less than Mr. Pursell's that was approved

Mr. Norman: And that goes to the use variance

Mr. Fusco: Correct

Mr. Norman: Next with us and grand finally is Scott Smith. Mr. Smith can you give the Board your credentials?

Mr. Smith addressed the Board and gave testimony on his credentials as a New Jersey Licensed Planner and the background of his experience as a Planner. The Board accepted his credentials

Mr. Norman: Can you discuss your observations regarding the current Zoning

Mr. Smith: I prepared some notes and I will read from these notes and probably answer everyone else's points. The property as you know is 113 Cross Keys Road and my observations regarding the current Zoning for this property. I'm very familiar with the property and the soil evaluations for this property and the Pursell property as well and other facilities that are located to the South West of this facility. In this GBD district as Mr. Dougherty pointed out in his report there are many, many permitted uses but we are not specifically permitted. So, we are here tonight for a use variance.

Mr. Smith testified about the location of the property and what businesses were located in the general vicinity of the site both in Pine Hill Borough and Winslow Township. He continued with the Pine Hill Properties in the vicinity that he was the Planner for. He Covered the Pine Hill Master Plan and Reexamination of the Master Plan as part of his testimony.

Mr. Smith: The location of the property is very well insulated from the residential properties which are to the North of the Site.

Mr. Smith then continued to go over the Reexamination of the Master Plan and explain that it was looking for development along Major Transportation Corridors in the Borough of Pine Hill and how Cross Keys Road was one of the Major Transportation Corridors that the Borough was trying to have developed.

Mr. Smith: The landscaping on the site will be a little higher end landscaping on the site. The positive criteria in my opinion this property along a County Road that is heavily traveled will go well with the existing developed properties in Pine Hill along that area and across the road in Winslow. (Hard to hear everything he was saying too many papers ruffling and he sounds muffled) After reviewing the Master Plan and the Reexamination Report this development will comply with the goals and objectives stated there in, the plan encourages development. With the testimony about the traffic with the number of vehicles that will be traveling in and out of it I feel it is keeping with the CBD Zone.

Mr. Smith Continued with the positive and negative criteria but was hard to hear his testimony.

Mr. Smith: The granting of the Use Variance if granted definitely would not be a detriment to the public good.

Mr. Norman: Let me just ask you a question the size of the parcel 1.9 acres does it make it suitable.

Mr. Smith: Yes, What Mr. Arsenault is planning for the property it would be a manageable and appropriate use for the property.

Mr. Norman: Is it suitable enough for getting the trucks in and out of the location?

Mr. Smith: Yes, it meets the County standards and there is plenty of turning radius for a tri-axel truck.

Mr. Norman: Will this use generally be compatible with the other uses of that are currently existing in the Zone?

Mr. Smith: Yes,

Mr. Norman: I have no further questions.

Mr. Luste: I have no questions just a statement for the Board. On the consideration of the variances, special exemptions exist under the positive criteria with the general purposes of Zoning. "General Purposes that is a key word." And under negative criteria a variance shall be granted without substantial detriment to the public good and that the variance shall not substantially impair the intent and purpose of the Zone Plan and Design Ordinance. Both of the Criteria that the client is testifying to is that correct.

Mr. Norman: That is correct

Mr. Luste: And on your narrations?

Mr. Norman: That is correct

Mr. Smith: In my opinion we meet the standards substantially.

Mr. Luste: Thank you

Mr. Waddington: Does anyone from the Board have any questions?

Mr. Hagy: Yes, I have one. You indicated that some of your employees will be taking the company vehicles home is that correct?

Mr. Arsenault: That is correct pertaining to the office staff, the four of us the estimators, managers, supervisors and myself. The office vehicles would be vans and cars I guess I should have specified that, and I have my personal pickup-truck.

Mr. Hagy: I understand that but all of our street except the main arteries like Erial Road are small residential streets and I see big box trucks in the streets with signs actually creating a hazard for our emergency vehicles and the gentleman here said some of the trucks you have the ability to turnaround

and access Cross Keys Road, so I do have an issue with that. I don't know if we have an ordinance in town that allows company cars and trucks to be in our residential streets, but I wanted to point that out.

Mr. Arsenault: Thank you, I believe most townships are prohibiting that and for good reason that you mentioned. The vehicles that they will be using are small sedans, one of them is me and I drive a small pickup and that is my work vehicle to and from work and my sale people drive Nissan Versa's they are a small compact cars but in the event they would not be able to do that I believe our site plan does have enough storage to have those vehicles kept on site and those employees drive their own personal vehicles which is an option but I would certainly have to drive my truck home it is a business vehicle but as I said it is a smaller pickup that is no different than any other citizen would drive.

Mr. Dougherty: Just for clarification Bob and I know they are saying business vehicle, but it is really a passenger vehicle.

Mr. Arsenault: Correct

Mr. Dougherty: So, they are not work trucks. The estimator drives out in his sedan, so a passenger vehicle goes into a residential neighborhood and goes around with the client and asks what they want done. So, these are passenger vehicles that he is talking about leaving the property all of the commercial vehicles stay on site.

Mr. Arsenault: Correct

Mr. Dougherty: Behind that fence

Mr. Arsenault: Correct

Mr. Dougherty: So, I think that is the distinction Bob, he is saying business vehicles but in reality, they are not they are passenger vehicles just like anyone would have on any street in the neighborhood.

Mr. Hagy: I do understand the situation however that is not the situation in the neighborhood and I just want to see that being a president where people bring home their large trucks and vehicles.

Mr. Dougherty: He is distinguishing the difference between passenger vehicle and again and he is calling it commercial and a business car and all of that, but it is a passenger vehicle. Your pickup truck you don't have a trailer hooked up to it.

Mr. Arsenault: No

Mr. Dougherty: So, even though he I saying commercial vehicles are leaving the site its passenger vehicles leaving the site at night but all the commercial vehicles the trailers and all of that stuff stays on their site unless they are working.

Mr. Arsenault: I apologize for not making that clear I guess since they are tagged commercial vehicles but the service vehicles the dump trucks, the pickups they stay at the yard as mentioned but, passenger vehicles that my office crew drive they have been taking them home. It doesn't have to be that way it just seems more convenient for them but as I said they are passenger vehicles and there are only three of them that my staff take home.

Mr. Waddington: Any other questions?

Mr. Waddington: I have a couple of questions that I meant to ask the Engineer before. Is there any type of fencing around those retention basins?

Mr. Fusco: No there are not any actual fences around, there is a fence around the perimeter of the site but, around each basin there are no fences.

Mr. Waddington: Is that back lot fenced in?

Mr. Fusco: Yes

Mr. Waddington: Does that fence go across that back retention basin?

Mr. Fusco: The fence goes across a portion of it. There is a portion outside the fence, but it is shallow.

Mr. Waddington: I believe, don't we have an ordinance where they have to have a fence around the retention basins.

Mr. Dougherty: Well in this particular case because the entire site is fenced in, I was looking at that as not being accessible to the general public and I think that is the intent of our fence ordinance that it is not accessible to the general public. Greg that fence does extend all the way around to the front as well.

Mr. Fusco: The fence only incorporates the back parking area.

Mr. Dougherty: So, the two in the front are not fenced only the back one?

Mr. Fusco: Correct

Mr. Dougherty: Generally, you are correct we do request the basins to be fenced. These are infiltration basins they are not intended to hold water the testimony was that they will drain. The fences would be right up against their driveway coming in, one of the things and I know we talked about weather they be chain link or split rail fence. I think we have done that in other cases so when it is split rail.

Mr. Waddington: Yes, they are doing that for the self-storage area.

Mr. Dougherty: To enclose the basin area with a split rail fence, it is sort of an attractive nuisance type thing.

Mr. Arsenault: It would be preferable not, only because like I said it is right up against the driveway.

Mr. Fusco: Your basins are 3 feet deep in the front.

Mr. Arsenault: Considering their shallow depths is it possible that could be waived because, I don't want to have too much on the site I don't want it to be cluttered. I totally understand your point, but they are dry.

Mr. Fusco: The base and side slopes are one (1) foot vertical and four (4) feet horizontal they are what we call traversable so if an automobile would to meander off the paved path and drive down the base and side slope it is traversable.

Mr. Dougherty: One other thing that is unique about these basins as Mr. Fusco had explained it is overflow so if the back basin fills up then the water comes up into these two basins, so they are shallow three feet deep. The Self-Storage remember they were very steep basins, and we didn't waive the fence in that case. In this case because it is 3 feet deep it's not a safety hazard really because you have a very shallow three feet off the driveway and the intent is not to collect water except when the back basin overflows and fills up.

Mr. Arsenault: The basins are not very wide so when you do erect a fence and you have maintenance teams go out to do maintenance and the basins not being wide will complicate the maintenance of the basins which is a large portion of making sure they are functionable. I think that it is not only site lines that may take away from a clean curb appeal it is not a safety issue and it could take away from a maintenance issue since it is only 25 or 30 feet wide and getting the vehicles in there to actually maintain the dirt of the set basins I think it is going to present a small challenge and take away from the way the basins were engineered and since the rear was engineered to take on the most of the water infiltration so it is just a request not to fence in those two front basins.

Mr. James: I think if you do that you open up for anybody to say on Cross Keys Road would not have to fence in their basin. It has been a requirement for everyone to fence in their basin and that is not something we have deviated from in the past so to do it now would basically open up that door for other people to say well there are some basins on Cross Keys that are not fenced in I don't have to do the same thing so it may be an inconvenience to you right now but it becomes a greater inconvenience for the Board later on.

Mr. Arsenault: I totally understand that. I guess my point may be on what we touched on earlier is that each property is unique and proposes its unique issues. I think this would be unique to us and that looking at Auto Lenders I know it is a different Municipality across the street but they do have a retention basin with no, they have a retention basin by the front parking lot that is not fenced in and

another one to relate is a New Donkin Donuts on 73 also in Winslow both of them I noticed are shallow basins two to three feet in depth so I think that is kind of related what we have here. Understanding that each property is unique and I understand the problem that it does propose to the Board, but I want to make sure it works for both parties, but I think as far as not fencing in the two front basins let's call them utility basins for maintenance to make sure they do function as they should and later considering the depth and seeing other examples them not fenced in maybe it does make sense for this unique lot.

Mr. James: But the examples that you cited are from another township to that doesn't apply, they may not have any fences throughout Winslow Township. The fact is that we do that means you are asking for an acceptance it doesn't matter that it is unique it is the fact that you are asking for a waiver to say that you are unique bit, a waive doesn't necessarily mean that you are getting what you want. Since it is a requirement for everyone else and to exempt that, here is what you are doing you are opening the Borough to other people saying that well on Cross Keys there is a basin with no fence why do I have to do it. There are a lot of potential investors that want to do the same thing.

Mr. Arsenault: I totally understand that waiver as well as the sidewalks, I have no problem with the sidewalks the only difference there is not a whole lot of frontage its shallow and for reasons we already discussed.

Mr. Norman: It is narrow, and you are adding some more fence and I don't want to say that aesthetics is more important than public safety, but we have already heard testimony that it is a safe basin. I understand that rules are there for a purpose but the reason you have a waiver is that not every property is the same and the precedence set in one case is binding on the other it is not. In Land use monuments made in the resolution that the reason you are willing to grant the waiver for this property is because it is a shallow basin and it is narrow and it doesn't represent a safety issue that would support it and maybe another property on Cross Keys comes down 6 months from now they have a deeper basin and needs more storm water management and in that case you can say you have to have it fenced in as a safety issue you can differentiate. The Board can do that.

Mr. Waddington: We can I understand what you are saying but, what Mr. James has told you we have not in the past given any waivers for that I can name a few retention ponds that are the same as that less than 3 feet that have fence around them, and we use to make sure that you had to have chain link fence around and the first one that we allowed to have the split rail is the self-storage facility and we allowed them to do split rail because it is right along a main road and a chain link fence six (6) foot high going all the way across would not look good for the property.

Mr. Norman: I understand because I represent other boards in other towns, and I had a town that was sync for sync the parking spaces were 10X20 they did not render for instance 9X18 spaces because the minivans with the doors flying open and they would routinely grant the request to get more parking spaces it's a policy issue and I understand that. I don't believe we are going to fight back on that because it is seemingly the tail wagging the dog as far as the project overall on the use variance.

Mr. Arsenault: is it possible to negotiate and once again it is another Municipalities, is that we do fence in the exterior the East and West sides of the property. Fence in that half so eliminating having the fence on the driveway side of the basin. They are still roped off per say with a split rail fence that would be my choice from anyone that would be walking from other lots in towards ours and in this case if we are in our lot we could go into basin and that would also allow me to have the proper equipment in there to service these basins because technically because they are not as wide as some of these other proposed basins within the township. It would just be easier for us to fence in on the Dunkin side and this warehouse side. Would that be something you would consider?

Mr. Waddington: It still does not prevent the public from getting into that retention basin if there was water in there. God forbid that there would be a child walking by there and get into the water basin and drown. I myself wouldn't feel right about it.

Mr. Arsenault: I completely understand that. I guess the only reason I'm asking for this request is because of the way that they do drain. Of course, I care for public safety more but I just don't believe this is as much as a hazard as this basin back here (pointing to exhibit A-1) as we said I just want to make sure this is something that works for everybody I'm not trying to across brunt saying that this is what I going to do I was just wondering if this is a happy medium of the local Board there is still some fence around the basin to secure the to be the explanation as to why that I would be the only one exempt of having the fence around the basin and it still technically is one it is just not 100% around.

Mr. James: You can make that argument, but it doesn't satisfy the requirement.

Mr. Norman: We understand that and that is the whole purpose of waivers because it doesn't satisfy the requirement. I don't what this to be the tail wagging the dog as far as the entire use variance application so maybe I will speak to my client but maybe one option you can do is separate the vote and just vote on the basin issue as proposed by my client first, if the waiver is granted fine if not you are not voting on the use variance you are just voting on the design waiver and the second vote would be the use variance which ever way it goes and then the second vote is the use variance. I'm just trying to be practical we may find out we get our answer, and we may not like it we understand we understand that, but we would like to at least hear from the whole Board.

Mr. Sitzler: What he is suggesting is that the first vote would be on the waiver for the fence, the applicant has offered us two. Build a fence on both sides of the front two basins but only on the outside because of the testimony that the Board heard earlier that it is a small shallow and it is not going to hold water and has a very fast discharge so it is not like the situation where there is 3 feet of water is going to sit there for a couple of days where a child can wonder in and drown so they are asking for that waiver if the fence is not completely around the front two basins for the Board to consider what would cover the outside of the property or at least the outside entry to the basins and I think what Council suggests is If the Board votes not to approve he understands. Does anyone have a motion to consider the proposal of the Outside fence? Is there a motion to deny the application because the waiver of the fence?

Mr. James: I make that motion to deny because the fence would only be on the outside.

Mr. Waddington: Do I there a second?

Mr. ford: Can I ask a question?

Mr. Waddington: Sure

Mr. Ford: Is it possible to redesign the area so there is one basin in the front rather than two?

Mr. Arsenault: If the question is can you redesign the property with one basin instead of two, I don't see how you can do that with the driveway.

Mr. Fusco: The front of the site is extremely narrow and with the standard you have to be so many feet away from the front property line before you start with your radius for the drive entrance, so it has to go in the middle. I understand what you are saying but it doesn't look we have an alternative. When they widen Cross Keys all the way through it is going to be a multi lane highway and you will need the driveway where it is.

Mr. Ford: What I was hoping to go with the question in hand was if that basin was just more or less along that one side of the fence like you have the long basin in the back or behind the back maybe more basin or by the front parking spots there.

Mr. Fusco: I tried to interconnect but there is three feet difference in elevation here and I spent more time with drainage on this that anything else on the site plan it is just a narrow site. No matter what we put on the property whether it is his business or someone else's you have to provide parking you have to provide dry well this is what we are struggling with so again if I slide it over another 5 feet this becomes narrow and what I lose here gets put over here it's the same difference and again the flow is from here (Pointing to the back of the property) to Cross Keys Road so what would really be dice since these basins are always empty (pointing to the basins on the next property) let the water run into those but it is owned by another company and we are not allowed.

Mr. Ford: I was just thinking if the basin was just on one side then the fence could be just on one side and then it would leave the other side.

Mr. Arsenault: That is exactly how the basin adjacent to my property and it is probably predated but it is only fenced on one side which is in the same Municipality and the one he owns and his is probable 12 to 15 feet deep.

Mr. Fusco: (Pointing to the site plan) This one back here?

Mr. Arsenault: Adjacent to that one

Mr. Fusco: Oh, yah that one is very deep.

Mr. Arsenault: It is 15 feet deep and fenced in only on one side and it is chain link dividing that basin from my basin. So that is what led me to this was to try to allow for safety, and I think that would be the side that you would try not to allow from a detractive nuisance not on my lot. We just need access to service them I have seen a lot of retention basins that don't function as they should because of access.

Mr. Sitzler: Unless anyone has any further questions.

Mr. Waddington: Any other questions?

Mr. James: You are saying all three basins have to be where they are located?

Mr. Fusco: In order to provide Mr. Arsenault with the buildings and parking and driveway entrance the answer is yes. If we were to move the buildings to the Dunkin Donuts side, we would need a variance for a side yard setback because he would be too close to his neighbor. If we move anything, we will have issues with the driveway with a driveway you have certain design standards that have to be met when the County Engineer reviews and if we move the driveway here (Pointing to the site plan) so now this comes off and goes here I still need to put it like this. The other alternative is to have all the drainage under ground but when you put it under ground you are only able to store 40% of the runoff in the void space of the stone that you are going to use to store the runoff in so now everything becomes 60% bigger so imagine these two basins 60% larger underneath the site filled with stone it economically practicable for a landscape business. If you are operating a Walgreens or a Wal-Mart if you are building a Target, you have very deep pockets you can do that with a 20- or 30-year lease well with a small Mom and Pop Landscaping Business trying to develop a very narrow property it's difficult.

Mr. Waddington: We have a motion on the floor do we have a second on that motion to deny the applicants idea on putting a fence on one side?

Mr. Waddington: If I don't have a second, I never had that.

Mr. Sitzler: With out a motion it doesn't go anywhere so the applicant has a right to have a decision from the Board they have a right to ask for a waiver. They framed it in such a way as they are willing to for lack of a better description partially comply with the ordinance requirement to put fencing around basins by leaving the outside with a fence so the Board should take a position, unless someone has another option, I mean there has already been some discussion about other options on the basins being enclosed. So, we owe the applicant something out of this if the Board feels, we can go in reverse and ask if you want to grant the waiver as opposed to a motion to deny it that would be a motion to grant the waiver. So, if anyone wants to make a motion to grant the waiver for them to be allowed the applicant to partially fencing that they asked which is a partial compliance.

Mr. Norman: It is my understanding that if you make the motion you are not bound to vote yes, you are just getting to a vote.

Mr. Sitzler: Yes, and the applicant deserves a vote up or down one way or the other. There has only been one motion to deny and that has not been seconded so we are just spinning our wheels at this point.

Mr. James: I would like to have Hugh's opinion on it.

Mr. Dougherty: I do think this is a unique situation where it is a shallow basin like was testified and I did testify too and everything the Engineer had mentioned putting it under ground it actually takes up more space and when you have a big dug hole that is a lot more efficient than pipes and stones, so it would be more costly it would be larger where if they put everything under ground the unfortunate part is it does drain to the front so the location of these basins are necessary where they are so there is not much you can really do based on the topography so the Board's standard of having the fence around it that is you have a right to since the Board has held to that standard. Staying to the fence the applicant has agreed to a split rail maybe having the split rail go down both sides of the driveway that is the aesthetic concern that you have I'm not sure I see a way around that. You are not going to prevent a Pederson from going through there going through there, but you are limiting vehicles and stuff like that from getting through there and again it is shallow it is only 3 foot deep plus it is an old saying someone can drown on 6 inches of water and that is a concern. I don't know if the fence was a foot down the slope a little bit it wouldn't be right up the driveway and further in so you don't have the closed in look that if you are driving down you are driving down a little corridor if it split rail instead of chain link which I would advocate for because chain link just has a separate connotation really. We have a chain link around the back for protection but in the front a split rail and down the slope a little bit where the fence is not right up the driveway the fence would be halfway down the slope it is almost like a safety link if that would help with the aesthetics.

Mr. Fusco: If I may if that would be the case, we would have to do that anyway because of the sign post a monument sign. The split rail is 40 inches high, and the monument base is only 3 feet in height so now you're going to have the top rail of the split rail fence coming through the sign information at the bottom. There needs to be some thought put into this.

Mr. Arsenault: That is another reason for our question here I certainly want to be along here (pointing to the plan) on the end of the basin, so this is where the proposed sign was so when you are coming down the road.

Mr. Waddington: What if we allowed you to bring it down a little bit into the basin?

Mr. Arsenault: I think it would depend on which we would be held down to.

Mr. Waddington: Well, the Chain Link is 6 foot, but we are not asking for that.

Mr. Arsenault: They sell Split Railing in 2 and 3 rail the 2 rail being 38 inches would that be acceptable?

Mr. Waddington: I think they have 2 rail down there.

Mr. Dougherty: Yes

Mr. Waddington: So, I think they are doing the 2 rail but they are also putting that wire fence behind it on the bottom rail so nobody can crawl in there or walk through it.

Mr. Arsenault: I will agree to that, it still doesn't appeal to the maintenance factor because maintenance and anything of that nature on a slope when you are working with machinery you have to account. So, then having a limited space to do so plus now a fence on the slope it really equates to a very difficult maintenance ability and as soon as these become older rails it becomes more difficult to do so that was what I was really trying to propose keeping it just to the exterior but if that is not possible I think that is a happy agreement if we use 2 rail and we don't install it on top of the retention basin we are granted to go a foot of two down to keep sight lines cleaner and especially if the sign is going to be blocked there is no reason for having it.

Mr. Dougherty: So, the fence is not right at the top of the basin, so what is our flexibility of moving that down slope, so you still have a fence

Mr. Waddington: It is a little bit lower, so you don't lose your sight line.

Mr. Arsenault: If we can do that I will certainly agree.

Mr. Sitzler: So, the two rail is how many inches did you say.

Mr. Arsenault: The 2 rail on top of the slope is 38 inches so, if you sink it down it is going to be closer to 32

Mr. Sitzler: Okay so, is that what you are shooting for is to make it as?

Mr. Arsenault: 30 to 32

Mr. Sitzler: 30 to 32 inches, so from the top of the basin the 2-rail fence will reach 30 to 32 inches.

Mr. Waddington: Correct

Mr. Sitzler: So, I would say no greater than 32 inches? So, if the board has that.

Mr. Waddington and several other Board members said that works for me.

Mr. Waddington: Is there any other questions from the Board?

Mr. Waddington: At this time, I will entertain a motion to open the meeting to the public concerning this application 2021-2.

Mr. Ford: I make a motion to open.

Mr. Waddington: I have a motion do I have a second?

Mr. Hagy: Second

All members present voted "aye" for was open to the public but there was no public.

Mr. Waddington: Seeing none I will entertain a motion to close.

Mr. Hagy: Motion to close seconded by Mr. James.

All members present voted "aye" closing the floor to the public.

Mr. Waddington: Do we need to grant the use variance first?

Mr. Sitzler: Yes, first would be a motion on the use variance and again the requires a majority vote from the Board since it is the highest variance under the land use law because the use is not a permitted use. It links to a lot of the permitted uses along the road as the Planner has testified which he is required to do that he believes that this use variance meets both the positive criteria which is the special conditions needed in order to grant a variance and meets the general purposes for the Zoning and it also meets the negative criteria which it must also meet which a variance can be granted with out substantial detriment to public good and that the variance will not substantially impair the intended propose of the Zoning under the Zoning Ordinance and that it meets both the Master Plan and the Reexamination which is required. So, that is what I would ask the Board to do is consider first because before reviewing the site plan you have to determine the use variance.

Mr. James: I make a motion that we accept the use variance seconded my Mr. Ford.

Mr. Waddington: Any questions on the Motion?

Mr. Waddington: Roll call please.

Roll Call all "aye" motion passed for the use variance

Mr. Dougherty: Now we would vote on the Major Site Plan?

Mr. Sitzler: Yes, now we had a lot of discussion on conditions and waivers specifically we just went through the fence issue and that has been resolved, the type of fence that is going to be installed as described as a split rail and to be positioned such so that it would be no more than 32-inches high with plastic mesh fencing behind the entire fence starting at the lower rail and as far as the storm drainage system there has been a request for a waiver for strict compliance for the freeboard and the spillway. And there was also numerous amounts of detail but of course the site plan will detail as described, in terms of the traffic plan as discussed as the vehicles will be going home and parking on the street and we determined that it would be passenger cars not heavy trucks and that in the future he would have no more than 15 service vehicles and if it would be grater he would create another site. He would not expand this site unless we approved it and he would have to come back for an amended site plan. No waive on the sidewalk, and I think that is everything.

Mr. Waddington: I will entertain a motion for the approval on the Major Site Plan with the stipulations that were just stated.

Mr. Ford: I will make a motion seconded my Mr. James.

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

Roll Call all present “aye” Major Site Plan approved with all the revisions/stipulations

Old Business: **Mr. Waddington:** Do we have anything under old business tonight?

New Business: **Mr. Waddington:** Does anyone have anything under new business other than the next meeting being April 8th at 7:30?

9:39 The Mayor and Councilman John reenter the meeting

Open Floor to the Public: **Mr. Waddington:** I will entertain a motion to open the floor to the public again.

Mr. Ford: Make a motion to open the floor to the public seconded by Mr. James.

All members present “aye” but no public present.

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

Mr. Ford: Motion to close seconded by Mr. Hagy.

All Members present "aye" Floor closed.

Motion to Adjourn:

Mr. Waddington: If no one has anything else I will entertain a motion to adjourn.

Mr. James: Motion to adjourn seconded by Mr. Ford.

All present "aye" meeting adjourned 9:42PM