

Florence, New Jersey 08518-2323
June 6, 2019

A regular meeting of the Florence Township Board of Adjustment was held on the above date at the Municipal Complex, 711 Broad Street, Florence, NJ. Chairman Zekas called the meeting to order at 7:32 p.m. followed by a salute to the flag.

Secretary Lutz then read the following statement: "I would like to announce that this meeting is being held in accordance with the provisions of the Open Public Meetings Act. Adequate notice has been provided to the official newspapers and posted in the main hall of the Municipal Complex."

Upon roll call the following members were found to be present:

Brett Buddenbaum	Joseph Cartier
Anthony Drangula	Larry Lutz
Anant Patel	Lou Sovak
B. Michael Zekas	Margo Mattis
Dennis Puccio	

Absent: None

Also Present: Solicitor David Frank
Engineer Hugh Dougherty
Planner Barbara Fegley

RESOLUTIONS

- A. Resolution ZB-2019-04: Granting hearing adjournment for the application of Foxdale Properties, LLC, for Preliminary & Final Major Site Plan with Bulk & Height Variances to construct a warehouse on property located on Railroad Avenue, Florence Township. Block 147.01, Lot 3.01 & 3.03.

Solicitor Frank mentioned the applicant is here tonight for their application to be heard, so he will incorporate their adjournments into the final resolution.

- B. Resolution ZB-2019-05: Granting approval to Bryan Pocino & Maria Minelli for Bulk Variance for area and side yard setback to construct a pole barn on property located at 2027 Old York Road, Florence Township. Block 171.01, Lot 5.04.

It was the Motion of Mr. Lutz, seconded by Vice Chair Patel to approved Resolution ZB-2019-05.

Upon roll call, the Board voted as follows:

YEAS: Lutz, Patel, Cartier, Sovak, Drangula, Puccio, Zekas

NOES: None

ABSTAIN: Buddenbaum

Motion carried

- C. Resolution ZB-2019-06: Granting approval to Robert W. Bates, Jr. for Bulk Variance for area to construct a garage considered customarily incidental to a residential use on property located at 166 Kinsman Road, Florence Block 97, Lot 6.

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It was the Motion of Mr. Lutz, seconded by Mr. Cartier to approved Resolution ZB-2019-06.

Upon roll call, the Board voted as follows:

YEAS: Lutz, Cartier, Patel, Sovak, Drangula, Puccio, Zekas

NOES: None

ABSTAIN: Buddenbaum

Motion carried

APPLICATIONS

- A. Application ZB#2019-02: Application submitted by Route 130 Truck Plaza, Inc. for a Zoning Interpretation or Use Variance in the Alternative with a Site Plan Waiver for property located at 2013 Route 130, Florence Township, Block 159.01, Lot 1.01.

Solicitor Frank stated we had received correspondence from the applicant's attorney requesting an adjournment to the July 1, 2019 meeting as well as consenting to an extension of time for the Board.

It was the Motion of Mr. Lutz, seconded by Mr. Cartier to adjourn application ZB#2019-02 to the July 1, 2019 meeting at 7:30 p.m. Motion unanimously approved by all members present.

- B. Application ZB#2019-04: Application submitted by 216 E. Front Street Florence LLC, c/o James McCafferty, for Use Variance to convert an existing mixed use of 2 apartments and 1 commercial unit to 3 apartments and 1 smaller commercial unit. Applicant is also seeking to install parking for 4 vehicles in the rear yard on property located at 216 E. Front Street, Florence. Block 61, Lot 3.

Chairman Zekas stated we had received correspondence from the applicant's attorney requesting an adjournment to the July 1, 2019 meeting.

It was the Motion of Mr. Lutz, seconded by Mr. Buddenbaum to adjourn application ZB#2019-04 to the July 1, 2019 meeting. Motion unanimously approved by all members present.

- C. Application ZB#2019-06: Application submitted by Diamond Pools for Bulk Variance for impervious coverage to construct inground pool with associated decking and other recreation features as well as a shed and spa on property located at 230 Leffler Circle, Florence, Block 165.04, Lot 45.

Solicitor Frank stated the applicant mailed hearing notices and published a hearing notice; however, the notice was published in the Courier Post and not in the newspaper of record in the township. He asked that the Board take jurisdiction of this application solely for adjourning it to the July 1, 2019 meeting. Solicitor Frank mentioned the applicant is not required to notice by mail again, but is required to publish their notice again, this time in the correct newspaper; the Burlington County Times.

It was the Motion of Mr. Cartier, seconded by Mr. Lutz to take jurisdiction of application ZB#2019-06 solely to adjourn the application to the July 1, 2019 meeting. Motion unanimously approved by all members present.

- D. Application ZB#2019-01: Application submitted by Foxdale Properties, LLC, for Preliminary & Final Major Site Plan with Bulk & Height Variances to construct a warehouse on property located on Railroad Avenue, Florence Township. Block 147.01, Lot 3.01 & 3.03

John Gillespie of Parker McCay stated he was here on behalf of the applicant, Foxdale Properties, LLC and that they were here with an application for Preliminary & Final Site Plan approval for the property known as Block 147.01, Lots 3.01 & 3.03 on Railroad Avenue. They are also requesting height variances for the building and a sound attenuation wall. The property is located in the Special Manufacturing zone, so the use that is being proposed is a permitted use. He noted that other than the height variances, this is a generally, fully conforming application.

Mr. Gillespie asked that the official township documents he recently submitted be accepted into evidence. These were marked into evidence as he explained the background of the property, which is as follows:

- The property is adjacent to ReadyPac
- The property has received approvals in the past. In 2006, the Zoning Board granted a variance for a 390,000 sq. ft, 60' tall building. Tonight's subject building is 300,700 sq. ft., 50' in height. If this application is approved, the approvals from 2006 will no longer be valid.
- Exhibit A-1 – On 9/23/08, the Zoning Board adopted Resolution ZB-2008-37, which granted Amended Final Major Site Plan approval.
- Exhibit A-2 - In 2013, the Township Council by Resolution 2013-112 directed the Planning Board to consider whether this property, along with others in the township qualified as areas in need of redevelopment under the NJ Local Housing and Redevelopment Law.
- Exhibit A-3 – On 6/24/13, the Planning Board concluded that indeed this property did qualify to have an examination of whether it was constituted as an area in need of redevelopment. The minutes of the 6/24/13 meeting were presented.
- Exhibit A-4 – Planning Board Resolution PB-2013-12 recommended to the Township Council to designate this property as an area in need redevelopment.
- Exhibit A-5 – Township Council adopted Resolution 2013-147 accepting the recommendation of the Planning Board.
- Exhibit A-6 – Under the redevelopment statute, once a governing body adopts an area in need of redevelopment, it sends the resolution to the State of New Jersey Department of Community Affairs. The letter from the DCA dated 8/23/13 to Mayor Wilkie acknowledging receipt of Resolution 2013-147 was presented.
- This redevelopment designation has never been rescinded by the township and therefore still meets the township's goals to use this underutilized property and it redeveloped using private capital, which is entirely what is being proposed for this project.
- In 2015, the property owner and the township began conversation about building apartments on the property. The intent was to provide a different housing stock and to help the township with its affordable housing obligation.
- In February 2017, a redevelopment plan was considered by the Planning Board for 330 apartments spread out over 18 buildings. 50 of the 330 units would have been affordable housing and would count as double toward the township's COAH obligation (100 units).

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- Exhibit A-7 – A deed dated 4/18/17 for 783 Railroad Avenue, Lot 4.01, that was purchased by Foxdale Properties at the township’s request and has since been sold back to the township.
- During an informal meeting between Foxdale Properties and the public, there was public opposition to that apartment complex and strong resistance to their proposals. A member of the public stated to leave it for the warehouse it was approved for and the members of the public that were present clapped in their agreement to that statement.
- On 4/25/17, the Planning Board recommended the redevelopment plan to the Township Council. Township Council never acted on this recommendation. Foxdale Properties realized the apartment complex was not going to continue any farther.
- The zoning and redevelopment designation have stayed in place.
- Exhibit A-8: A letter dated 5/31/17 from the Township Administrator/Zoning Officer, Richard Brook telling this applicant that the approvals for the ReadyPac expansion from 2008 were still good. Those approvals were for a Preliminary & Final Major Site Plan with a Height Variance for a 60’ tall building, 390,000 sq. ft.
- Exhibit A-9 – The minutes of the 5/3/17 Township Council meeting which state a resident, Ms. Marter, asked if Railroad Avenue was a county road. She was told it was not. She asked if the township could make it a ‘No Truck’ road. Mr. Sahol stated “that signage is in place to dissuade left turns from the businesses on Railroad Avenue and to turn right towards Cedar Lane. Railroad Avenue is the one road in the community that was designated as a truck route. The township was required to dedicate one local road as a truck route. If restricted, there would need to be another road designated as a truck route. Railroad Avenue was selected because there is the most industrial presence there.” It is still the township’s designated truck route.
- The zoning hasn’t changed so those approvals, in their view, still stand. these vested rights go with the land, not to the ReadyPac/Florence partnership. Railroad Avenue still has the status of the township’s designated truck route, the zoning is still in placed as an SM zone which permits a warehouse, except for the height variance this is an otherwise conforming application and it is still a redevelopment area.

Mr. Gillespie stated this application was deemed complete by this Board in January of this year. Since then, the applicant has made 3 significant changes. Following the completeness hearing, Erin Szulewski from Parker McCay, who was here that night, and John Dewey met with some folks from the public after the meeting. Because of some of the public’s concerns, the changes are as follows:

- 1) The Delaware Avenue residents were concerned about the basin because it was proposed to be in the are directly behind their properties. The basin has now been relocated to the opposite of the property closer to ReadyPac. In order to do this, they have eliminated some of the truck parking spaces.
- 2) The passenger vehicle ingress/egress and the truck ingress/egress were in the same location on the far right of the site. Due to concerns of the residents, they tried to move it as far away as possible by using ReadyPac’s ingress/egress but aren’t able to do so. They will now be using 5th Street, which is a mapped municipal road that they will build

it to municipal standards. This will be a “truck only” ingress/egress and will now be located further down Railroad Avenue and closer to the roundabout. It is designed to direct and require truck traffic coming out from 5th Street to take a right-hand turn to the roundabout. Trucks entering off Railroad Avenue will also only be able to make a left-hand turn onto 5th Street so will have to travel to the warehouse from the roundabout. The passenger vehicle only ingress/egress will be located more towards the Delaware Avenue side of Railroad Avenue. They did try to buy the property to the left of 5th Street, Lot 4.02, but were unable to have that discussion with the owner.

- 3) They have added a sound attenuation wall. The application was deemed complete in January without a sound wall because the Board couldn't require a sound wall. A sound wall is a performance issue, not a zoning issue. This application is before the Zoning Board because of the requested height variance. The applicant feels that it is more important to have the sound wall and to try to mitigate any noise coming off this property from trucks.

Mr. Gillespie asked the Board to keep in mind that within Florence Township alone, the Bed, Bath & Beyond building on Daniels Way has a 60' clear ceiling; Whitesell Construction on John Galt Way has a 36' clear; Amazon is 36' clear; QPSI is 36' clear and B&H Foto is 36' clear. They are also asking for a 36' clear for their ceiling. Earlier this year, the Planning Board approved a warehouse to be built on the former Griffin Pipe property, approximately 500,000 sq. ft. with also a 36' clear.

Mr. Gillespie stated he has 4 witnesses with him this evening. Solicitor Frank swore in Robert Stout, Professional Engineer and Land Surveyor with Stout & Caldwell; Andrew Feranda, Traffic Consultant with Shropshire Associates; Norman Dotti, Acoustical Engineer with Russell Acoustics, LLC; and Leah Furey-Bruder, Professional Planner with LFB Land Planning. Solicitor Frank believed all 4 witness qualified as expert witness. Chairman Zekas agreed.

Mr. Sovak commented to Chairman Zekas that Mr. Gillespie has stated this site before us has approval for a larger warehouse at 60' tall and asked then why are we here tonight looking for a variance for a 50' height. Mr. Gillespie stated that they want to modify the site plan to reflect less square footage in terms of the warehouse and a lower elevation for the height variance that was previously granted. As part of the site plan approval, one of the conditions (he thinks it's a matter of law, but wants to agree to it as a condition), is that those prior approvals become invalid and unenforceable and are replaced by the new height and the new square footage. Mr. Sovak confirmed they are here because it's a change in what was approved. Mr. Gillespie stated it is his position that if they can build up to 60', then they could still do that; but it is cleaner this way with a new application. He stated he believed they have vested rights and they'd have to come in for final approval anyway, but as the conditions of the earlier approval are still valid, they just have to come back for final approval. And because it is a different shape to the building and different layout of the site, it is not an amended final, it is a whole new application. They think this is cleaner and wanted to have a new approval and establish new rights.

Solicitor Frank stated the good thing is that it is not our job to decide whether those approvals are valid or invalid. It is our job to decide this application under the standards of our ordinances and the municipal land use law. Mr. Gillespie has laid out his perception of the law and perception of the status of the site and put forward the township's Zoning Officer's interpretation as to the status of those approvals; but we don't have to decide that. We really have to decide this application under the standards of our ordinances and the standards for the

grant of the kind of variances that are being asked for here under the municipal land use law and the relevant cases. He stated that he thinks it is interesting that those approvals were granted in the past, that they may be still valid, and that this Board granted that approval back in 2006 for what it perceived at that time to be for good reasons. It is not really material directly to our conversation about whether they meet the standards for today for the grant of new variances.

Robert Stout stated he is the engineer that prepared the previous expansion plans for the 393,000 sq. ft. building, 60' in height. He stated he would like to walk the Board through the changes that Mr. Gillespie referred to earlier and began to review the site plan based on the Board Engineer and Board Planner's updates. He presented Exhibit A-10, a colored rendering of the site plan. He stated this was submitted as part of the original application. Mr. Stout pointed out the following:

- The passenger vehicle and truck ingress/egress had dual driveways. The truck storage area is off to the west side and the car parking is off to the east.
- There was a retention basin located approximately 50' off the property line of Delaware Avenue.
- They had a 177 tractor trailer parking spaces.

Mr. Stout presented Exhibit A-11, a colorized rendering of the landscaping plan that was submitted with the revised plan and pointed out the following:

- The truck access has been relocated to 5th Street putting it about 500' away from the residential section. This will be designed to township standards and curbing put on the ingress/egress that will direct all the truck traffic to and from the roundabout and Cedar Lane.
- The building is 300,700 sq. ft. and consists of potentially two tenants, split down the center. There is 5,500 sq. ft. of office components at each end. The parking requirements are 345 parking spaces that will be 10'x20' each.
- The retention basin near Delaware Avenue has been eliminated and they have regraded everything to sheet to the west side of the property where the retention basin will now be located. By relocating the basin, the 50' buffer for the Delaware Avenue residences is now approximately 110'. All existing wooded area along Delaware Avenue and McCay Drive that is within the buffer area will remain.
- Circulation – they have met with the Fire Official and there will be a 20' wide paved driveway at the far end of the building that will provide a full loop circulation around the building. The Fire Official also requested an inner-connection for emergency vehicles only between 3rd Street and McCay which will give the fire department full access around the property.
- The trailer storage area has been realigned. On the original application, there were 177 trailer storage spaces. There are now 111 spaces in the center and there are 33 loading bays that will be 15' wide. The ordinance states 15' x 40' and 15' x 53' is being proposed. There will be 2 additional spaces that will meet the loading requirement. All the remaining spaces are 12' wide. The difference in spacing is in order to meet the township's ordinance.
- The retention basin is designed to accommodate everything draining down the site. The residential side is being isolated and all the activity is being kept between the new

building and the ReadyPac side of the site. The building will act as a buffer. The drainage will be collected in underdrains and directed into the basin. All the roof drains are connected and tied in and all collected into a series of inlets and drained into the basin. There is a design waiver being requested on the basin. NJDEP and the township have requirements and standards. This application meets all but one of those requirements; it is for the infiltration requirement and it will be exceeded. This site was originally a quarry for the bridge when it was constructed so this area is lower by about 7-8', so as part of that, there is not a discharge outlet, so this basin is designed to handle any storm issues.

- Lighting – normally on an industrial building like this, lighting would be 24' – 26' tall. Being respectful of the surrounding areas, the lighting has been lowered to 20' which drops the light levels down; however, this gives a lower than required light level for in the middle of the drive aisles. It is felt that a waiver is justified because this will keep all light on site and lessen the light that can be seen. Lighting will be along both access points, but will be shielded on the back so the light will be directed forward, not towards the residences.
- 24' Sound wall – it was originally designed to be straight along the back of the property bordering the adult community property. There is currently a large berm between the ReadyPac site and the adult community development. Because of the Board Planner's comments, the sound wall has now been moved in 50' and will run along the truck trailer parking to the edge of the building. The front sound wall will be moved in as well off the residential properties. This will allow landscape to be placed in front of the wall, making it easier to construct and giving it a much softer look from outside the property.
- Landscaping will be done extensively along the back and the front.

In answer to Board members' questions, Mr. Stout stated the following:

- The parking on the Delaware Avenue side of the building would be employee parking only and there will be an ingress/egress for passenger vehicles only at that location. This parking lot will have full circulation and has been designed for fire trucks to have full maneuverability.
- Tractor trailers will only be able to access the site from the 5th Street ingress/egress that they will construct. The original application allowed for a tractor trailer to have full maneuverability around the entire site. Trucks will now be limited to the west side of the site only.
- 5th Street is approximately 25' from the nearest residence. Trucks will be using 5th Street to access the site. 5th Street will be a municipal roadway at 30' wide.

Mr. Gillespie stated that 5th Street is a mapped public road. The residences along Railroad Avenue are in the SM zone, but they do have the rights to continue as RA properties. 5th Street is also in the SM zone. He explained again that they had approached the owner of Lot 4.02 requesting to purchase the property, because as ways to move the truck ingress/egress further away from the Delaware Avenue/Railroad Avenue intersection was being explored, they looked at Lot 4.02 to be the ingress/egress and not having to make 5th Street a road. Lot 4.02 would have been their ingress/egress and their private driveway. The property owner had no interest in discussing this with us. Mr. Gillespie stated they would have preferred to use Lot 4.02 instead of 5th Street and would still like to do that if it became a possibility. He stated 5th Street is a

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public road that has not been constructed yet, but they have a right to make the improvements to 5th Street. It is called an unimproved right-of-way which looks like a vacant lot at this time. The applicant will improve it to the municipal standards.

Solicitor Frank stated he has spent a fair amount of time in regard to this issue because he was curious about the relationship legally between an adjoining landowner and unimproved township right-of-way. He stated he agrees with Mr. Gillespie that they have a right to construct this street so long as build it to municipal standards. The governing body controls that street. Mr. Stout stated 5th Street will end at their property line and the site is privately owned. It will never connect to the 5th Street on the other side. It will be built to municipal standards but will have the hook in it specifically for truck traffic to route them to/from the roundabout.

Solicitor Frank stated that we as a Board do not control that right-of-way or the ultimate design of that street. That is the governing body's control. The Board can like this as a better solution and commend it to the governing body as a better solution. Similarly, there is an access on the back side of this site that is for emergency purposes requested by the Fire Official that uses a mapped township right-of-way to gain access to another township road. The applicant is proposing to improve that merely as an emergency access driveway, and, again, we can commend that to the governing body, but it's the governing body's road and ultimately, they will decide how it is designed, if it's built.

Mr. Stout referred to Exhibit A-10, which is what was originally proposed. It is felt that the full circulation circulates around the building adequately and the link around the side of the building will only be used by emergency vehicles. It will be chained or gated off. In working with the Fire Official, they wanted to make sure they were satisfied with all life safety issues they had. One of those issues was the Fire Official wanted to make sure there was that emergency access inner-connection just to make sure if there were any issues, they would have full fire safety access. It was not originally planned to be done, but the applicant has agreed to do it per the Fire Official. Again, this is up to the Board's discretion.

Mr. Stout stated they will also be doing extensive road improvements along Railroad Avenue, along their entire frontage to include sidewalk and in front of the 5th Street access. He stated that a gate or guard house is not proposed at the end of 5th Street and the beginning of their property. He added that all buffering will be done on their property and nothing else is proposed between 5th Street and the residences because it is a municipal road. Engineer Dougherty pointed out there is a retaining wall adjacent to the entrance because of a grade difference.

Chairman Zekas asked Engineer Dougherty to go through his review letter. Engineer Dougherty stated he will address his comments on the noise levels later on but will go through his comments with Mr. Stout regarding the site plan issues. He pointed out that he had a review letter in December 2018 prior to the completeness letter. The application was deemed complete on 1/7/19. He then issued a letter on 1/17/19 and had a subsequent meeting with the applicant on 5/13/19. Mr. Stout responded with a letter dated 5/22/19. Engineer Dougherty's final review letter was issued 6/3/19 and that is what we're reviewing now. It mentions on Page 2 what we're here for and that is the height variance which is more or less addressed by Planner Fegley. He stated that he and Planner Fegley both mentioned the 37 loading spaces are provided with 2 of the loading spaces not directly alongside the building. The applicant does meet the criteria, but he was questioning a loading space versus a loading dock and whether a variance would be required. Mr. Stout commented that the ordinance section 91:257 specifically outlines what a

loading zone/loading space is, basically giving a width and length (15' x 40') which means 1 for every 8,000 sq. ft. of building; they are required to have 37 spaces. By meeting the size ordinance, it gives them 33 loading spaces along the back of the building so they've widened the end units so we have a total of 37 spaces. Engineer Dougherty stated that as a result, a variance is not required.

Engineer Dougherty stated he'll leave any issues with signage to Planner Fegley. His Page 3 discusses design specification issues for stormwater management. He explained that Mr. Stout did mention about his comment #1, the minimum design volume to be infiltrated generated from the water quality storm, that is sort of a minimum and maximum that the State is asking for that only the water quality storm be infiltrated into the ground. This having been a quarry, really no drainage leaves the site so what Ms. Stout is doing is having all that water do the same thing that it does today, it infiltrates into a basin. Technically it doesn't meet DEP standards, but it meets the intent of no additional runoff created by this development. Engineer Dougherty stated this would be a design waiver required from the Board which he has no problem with the Board granting.

Mr. Gillespie stated that this will be filed with the DEP. Mr. Stout stated that Burlington Stores Corporate Headquarters expansion has the same type of design that was approved by the Planning Board earlier this year. Engineer Dougherty stated the soils are good for draining on this site and no water currently leaves the site, so that is certainly a reason for the design exception.

Engineer Dougherty also commented on the following and pointed out that Mr. Stout has agreed to make all design changes as necessary:

- Item #3: Structural stormwater management measures to facilitate maintenance and repairs: he is looking for an access drive into the basin, but Mr. Stout did point out to him that there is a grading shown that will give you access into the basin. This is really for long-term maintenance of the basin because it will be an infiltration basin. It is solely on their property and will solely be their responsibility. He is looking for a depressed curb along that area for access.
- Item #4: Stormwater conveyance system shall match crowns: this is a design waiver because our ordinance says to match crowns, which means matching the top of the pipes so you don't have pipes sticking up. That is really for hydraulic head, so you don't have losses in the pipe that would back water up. In this case, the pipes are relatively shallow to get them to the basin so there'd be a design exception to match the tops of the pipes instead of the bottom. There are no issues with the hydraulic head here, so he has no problem with a design waiver being granted.
- Item#5: This is a technicality; an address was incorrect on the sheets that were submitted.
- Item#6: Again, this is in our ordinance and with the DEP and how they monitor how we enforce our own ordinance. The Low Impact Development checklist indicates all of the environmental features that are being provided on this site, so he is requesting that a couple of those are corrected on the checklist.
- Street Lighting: his comment is that the lighting in the parking lot will be somewhat substandard. He wanted confirmation from the applicant and Mr. Stout that from a security standpoint with the lighting on the property, they are comfortable with the

lighting that is being proposed. Mr. Stout stated they are because all of the areas that pedestrians will walk and truck loading areas will be lit per code. The deviation is within the drive aisles where no one will be walking. Engineer Dougherty stated he has no objection to the Board granting that design waiver.

- He will leave the shade trees to Planner Fegley and will discuss the sound wall with the noise engineer.
- There is a fence on a neighboring property that it looks like the applicant will be tying into. Mr. Stout stated that on the original plan, for security they were going to tie their chain link fence they were putting along the property line into the ReadyPac fence, but since they are now putting the sound wall in, they will just tie it in and keep it on our property.
- Grading and Filling (page 4) – he feels these are engineering issues and Mr. Stout has agreed to work with him on these. Some of them have to do with the percentage slope of the lawn areas. Generally, you would want 2% for it to grade properly. There is a little less slope on the plan toward the basin. There is also some question on some of the existing contours where it's being tied in.
- The grading on the retaining wall on 5th Street right-of-way was already addressed in Mr. Stout's testimony.
- Traffic and Vehicles: he will wait for the traffic expert's testimony.
- Noise and Sound: he will wait for the sound engineer's testimony.
- The Fire Official is requiring that the inner-connection into the residential neighborhood requested for emergency vehicles only be paved. He doesn't have an objection to it being stone or paver blocks should the Board have any concerns with it being paved because it will not be accessible for cut-through traffic, it will be barricaded off by bollards and chains.

Mr. Drangula asked with the 8' lower grade to the site, will the 24' high sound wall only be 16' high for the adult community development. Mr. Stout stated that area on the site is pretty much level with the adult community development. The lower grade is in the area on McCay Drive and Delaware Avenue.

Chairman Zekas asked how high the B&H Foto sound wall is? Clerk Federico was able to refer to meeting minutes that stated it was to be 20' – 22' high.

Mr. Stout added that warehousing has become automated and therefore requires fewer parking spaces than years ago due to requiring less employees. There will be 354 parking spaces where 345 are required. They can possibly landscape parking, basically show them on the plan, grade them and design them and then could cut down on some of the impervious coverage. Compared to surrounding new warehouse development, they are close to double the amount of parking spaces needed. If the Board wishes, they could significantly cut the passenger vehicle parking down by making the last row of 99 spaces, landscape parking thus giving the residential even more of a buffer. Engineer Dougherty stated that the banked parking spots have been done in the past. It would potentially be graded, but it would be green space if and when they needed

it for additional parking. He feels it would be a positive to have the banked parking. The only reason for so many parking spaces is to meet the township's criteria as opposed to actual need.

Planner Fegley stated she had a 1/18/19 review letter and then a 6/3/19 review letter after receiving revised plans. She stated there will be testimony by the applicant's planner. She did meet with Mr. Stout this afternoon to go through her letter and reviewed the following with Mr. Stout:

- Page 4, #2: Storm sewer easement – is there going to be any reason to extinguish it or what is the purpose of it? Mr. Stout stated that a storm sewer easement is located between the dead end at Sassafras and McCay Drive. It's not their easement and is on another property and is for a drainage in the future. This is not part of our application and they are not proposing to do anything with it. This development will not have any impact on this storm sewer easement.
- #3 regarding the vehicles was addressed.
- She originally had a lot of questions regarding the sound wall because it was not known exactly where it was proposed to be built. She doesn't have as many questions now that it has been revised and will be built within the site and providing landscaping on the outer side of the wall as requested. She expressed her concern with the note that the final wall design, materials, color, pattern to be chosen by owners. She thinks the Board should have more information as to what the sound wall will look like or more specific detail. Mr. Stout stated that they are proposing a wall similar to what other warehousing developments have; it will be neutral in color and he stated they will change the note to state this will be coordinated with the Board Planner.
- There was no detail on the plan regarding the pump station. What will the pump station going to look like? Mr. Stout stated that there is area lower than Railroad Avenue and there is a sanitary sewer line along Railroad Avenue. In order for them to get gravity from the upper most office areas down to the front, this becomes fairly deep. They can gravity up to a point where they propose a pump station. The pump station in this case is not a structure, is below grade, basically a manhole that you will see. There will be a fence around it because there are control panels that will be located there. This will be a section that is dug out, gravitied out and pumped into the municipal system. It is a requirement for this site and not a variance being requested.

Mr. Stout commented on the emergency generator that Engineer Dougherty questioned. He explained this would be a requirement for any pump station because if power goes out, the generator will kick in to supply energy to the pump station. The generator will not have a sound buffer. This will only be used in an emergency situation and will meet all noise standards. It will, however, be exercised monthly for maintenance. It will be a small generator with a 2hp pump. It will be exercised during working hours on a weekday.

Engineer Dougherty stated you will only see the manhole, the generator and the fence surrounding it. Mr. Gillespie stated they do not believe it qualifies as an accessory use as there is nothing accessory about it and it is as a functionally principal part of the building. Planner Fegley stated she just wanted clarification as to what it was going to be since there was no description provided on the plan. It could very well be a building, so she is satisfied with the testimony. Her #6 asks for access to the pump station. Mr.

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Stout stated that the pump station is mostly maintenance free and is not something that is used every day. The only time it will be accessed will be during the exercising of the generator; once a month.

- Request was made that the fencing that is being proposed will be black vinyl and landscaping around the fenced area. Mr. Stout stated they will comply.
- General Comments, #1: The detail for the retaining wall made it look like an imposing structure, but Mr. Stout testified it will only be 2' high.
- Some of her comments go away because they are now not a concern, such as #2, because it is not being constructed within 2' of the property line because the wall is being moved in 50'. The same for the retaining wall because it is not that high.
- Detail of the wall panel slide across the fire lane: Mr. Stout explained that the sound wall will now be moved 50' into the property and run along the truck parking area to the corner of the building. Because there is an access for the fire lane, there will have to be some type of gate system. The gate will not be 24' high, it will be 14' high. They are proposing to have a one of the wall panels hinged and rollers on the bottom so it can be easily moved across the asphalt fire lane. It will only be accessed during an emergency situation. It will be maintained and details will be provided on the final plans.
- Mr. Stout stated there will be a sprinkler system throughout the entire building that will meet township's building code.
- #9, Looking for testimony on encroachments onto their property, for example from Lots 3.01 & 3.02. Mr. Gillespie stated there are a number of properties that have landscape walls, sheds and fences on Foxdale's property. They are asking that the Board allows that to continue and grant a waiver for the encroachments as they do not want residents to have to move any of these items. They stated if this is granted, they will reach out to the property owners to enter into an encroachment agreement, so the residents know they are not being asked to move their items.
- Landscape comments: They have agreed to work with Planner Fegley's office on all her comments. The most significant impact statement was if there was any hazardous material to which they have stated no based upon research that has been done and site visits.
- #2, Provide testimony on visual compatibility: Mr. Stout stated this is in the SM zone and will be industrial in nature. They will be keeping with the industrial look to the building and will have landscaping surrounding their property with buffering along residential areas.
- Signs: There were no building façade signs shown but Mr. Stout stated they will comply with the ordinance or if not, have to return to the Board. There is a monument sign proposed along Railroad Avenue and the detail of this sign complies in terms of size and location. Mr. Stout confirmed they agreed to landscaping and a mulch bed at the bottom.
- Details: #1 & #2 are details that need to be provided. #3 is there was a difference in sizes for the trailer storage area but that has been corrected on the revised plans. The

zoning boundary will be changed and the loading docks on the architectural plans didn't quite match the engineering.

Mr. Sovak mentioned one of the comments on the Environmental Commission's review letter in regard to the small wildlife on the property and that it was noted that they will lose some of their space and they would move to adjoining properties. The adjoining properties are mostly residences. Mr. Stout stated that one of the plusses they are now doing is doubling the size of the required buffer and all current vegetation within that area will remain. He stated there is no program being proposed to relocate the wildlife. Planner Fegley noted there was someone from the Environmental Commission in the audience so will leave her comments pertaining to their review letter for them to address during public comment.

The meeting took a break at 9:06 p.m.

The meeting was back in session at 9:25 p.m.

Andrew Feranda, a traffic engineer for Shropshire Associates, stated his firm was retained to do a study for the site. Mr. Feranda addressed the comments in Engineer Dougherty's letter dated 6/3/19, page 4, section 7, paragraph A, 1 through 3. Comment #1 – in their traffic analysis, they identified that the roundabout installed by the county operates at poor levels of service during the morning peak hour. The reason for that occurring is because most of the traffic coming through that roundabout is from Railroad Avenue. During a 15-minute interval, between 6:45 a.m. and 7:00 a.m., 40% of the traffic during that peak hour comes from Railroad Avenue. And because of the volume coming from Route 130 and onto Cedar Lane, that traffic gets on the roundabout first and causes a delay for the vehicles trying to get onto the roundabout from Railroad Avenue. He stated there is no traffic engineering solution that can be done to address this. The roundabout is newly installed to the county standards and is designed to accommodate the volume of traffic that comes through it. There is just that short peak period interval where there will be delays. It will operate with that same delay once their site is developed. The delay per vehicle waiting on the Railroad Avenue approach will go up by 5.3 seconds, not a substantial amount of time per vehicle. He stated that the majority of the traffic is coming from residential heading toward the warehouses; most likely employees going to work at that time of the day.

Mr. Sovak asked if they looked at additional traffic along Delaware Avenue. Mr. Feranda stated he looked at the intersection of Delaware and Railroad but not beyond that as to additional traffic stacked up on Delaware Avenue. They looked at the intersections on either side of the site; those are the intersections directly impacted by the site traffic. Mr. Gillespie confirmed that utilizing those 2 points, that was consistent with accepted traffic engineering practices for doing analysis. Mr. Feranda stated it was.

Mr. Sovak stated that there should also be additional traffic and delays at the intersection of Route 130 and Delaware Avenue at the traffic light. Mr. Feranda stated that employees will likely use that intersection to get to the site; however, the truck traffic will be directed toward Cedar Lane and the roundabout. The State, County and DVRPC are well aware of the traffic at that intersection and are looking at improvements needing to be made. He did look at the intersection of Delaware and Railroad and anticipates an additional delay of up to 10 seconds at the stopped intersection during the peak times. Based on the number of vehicles traveling through that intersection, the impact of this site compared with all the volume and the capacity for that intersection, will be very slight compared to the traffic currently going through that

intersection. He stated they did their study twice, both on a mid-weekday as is standard practice; September 2018 and November 2018.

Mr. Feranda stated the intersection of Delaware and Railroad is a T-intersection with Station Road as a spur off of it to the north and south with the railroad tracks in the middle. This all confines the geometry of this intersection. There is a lot going on at this intersection. They have analyzed the middle portion of this intersection and found that the impact of their site traffic will not greatly degrade the delay and the level of service for the Railroad Avenue approach.

Mr. Feranda stated he reviewed the Police Chief's letter dated January 2019. The Chief was concerned about the number of accidents occurring at Delaware and Railroad Avenues. He commented on 3 years' worth of accident reports, 2016, 2017 & 2018. A total of 16 accidents have occurred at this intersection. Of the 16, 12 involved violations to driver's doing things they shouldn't have done and the remaining 4 involved weather, deer or drunk driving which are accidents that can't be fixed. Of the 12 that occurred because of the intersection or violations in the intersection, there were 6 involving trucks (1 in 2016, 4 in 2017 and 1 in 2018). He stated the total accidents that occurred, 6 in 2016, 7 in 2017 and 3 in 2018, and has determined that the number of accidents is going down and in his professional opinion, he believes that people have found the right routes to the warehouses. Mr. Gillespie confirmed that Mr. Feranda obtained this information directly from the accident reports that they received because of their OPRA request. Mr. Feranda stated that is correct.

Mr. Feranda stated that from his analysis, the delay is not low standard at that intersection, it is satisfactory; however, it is geometrically constrained because of the railroad, not from any road features that can be corrected. He stated the traffic at that intersection is directional; going out of town in the morning there's about 600 vehicles, but the opposing direction is about 300. He estimates the new site will have 250 employees per shift change should the site be fully used as a very intense use, 2 shifts per day. 250 employees during an hour would mean there's 265 trips: 91 trips in in the morning and 174 trips out in the afternoon, and then 213 trips: 134 trips in and 79 trips out. There's some in, some out. This is called the peak hour of our evaluation.

Engineer Dougherty stated on page 4 of his 6/3/19 letter, Traffic and Vehicles, Mr. Feranda addressed basically the issue of the poor level service and that the additional traffic this site will add is minimal. The traffic already exists with a level of service. This applicant is not required to fix all of the problems. The State of NJ and the County has some culpability because of the state highway and Delaware Avenue and the roundabout are county roads. The roundabout works well outside the peak periods.

Solicitor Frank asked if it's possible by ensuring that the shift change at this site isn't coincident with the shift change at other significant warehouses, that it could not add to the peak problem. Mr. Feranda stated that offsetting shift changes certainly could help. Chairman Zekas stated this is something that should definitely be considered. Mr. Gillespie stated that no end user has been identified but they can assure the Board they can talk to the tenant(s) about this. The township has asked other warehouses to do this. Mr. Gillespie stated that Dennis Gertmenian, the principal of Foxdale Properties has always worked with the township and will make every effort for the tenant(s) to help with this.

Norman Dotti, acoustical engineer with Russell Acoustics, stated he did the sound analysis for this site and has visited the site multiple times. He stated a decibel is a way of measuring sound. He presented Exhibit A-12, a chart representing some typical sounds. Zero (0) decibels is not no sound; it is the equivalent to the minimum sound level the average person can hear. Zero decibels were represented at the bottom of the exhibit. Background sounds in a quiet bedroom would be about 35-40 dba (the way your ear hears sounds). The State noise regulation is principally based on dba measurements.

Mr. Dotti stated for the purposes of the analysis done for this facility, the State noise regulation for sounds during the daytime limit (7:00 a.m. – 10:00 p.m.) is 65 dba and at night (10:00 p.m. – 7:00 a.m.) is 50 dba. He stated he conducted an ambient sound study of the property. He stated the State noise regulation does not care how much sound is around you already, it regulates what comes off of a regulated source. In other words, if you have an operation taking place and it is otherwise very quiet out, you will notice that operation even if it is in compliance. However, when you already have a lot of ambient sound out there already, when you add in the additional sounds, they could be unnoticeable. He stated that the single biggest contributor to ambient sound is motor vehicle traffic. There are also animals in the woods, airplanes, trains, etc.

Mr. Dotti then presented:

- Exhibit A-13, an aerial photograph showing sound measurement locations. He set up environmental sound monitoring systems which measure the overall sound level. They ran continuously for 3 days; 72 hours of information. He stated that his study was done in accordance with acoustical engineering standards and all the instruments were calibrated. The locations of the devices were near the adult community development, up by McCay Drive, along the backside of Delaware Avenue, near the Delaware Ave./Railroad Ave. intersection and one on 5th Street.
- Exhibit A-14 contains 6 graphs that correspond with each sound monitoring locations that were taken on a Thursday, Friday, Saturday. At night, the sight is not supposed to produce more than 50 dba. Behind the adult community, the average sound level is at 53 dba. Areas 1 through 5 will not be impacted by the proposed warehouse. The existing sounds out there now are a louder by a significant amount than what will be coming from this operation with the inclusion of the sound wall.
- Exhibit A-15, a blowup of the sound graph, showed the sounds measured around 5th Street between the homes. There is quite a bit of sound there now with the motor vehicle traffic in the close proximity to the homes. That will not change whether the proposed operation is there or not.
- Exhibit A-16 is a graphic on how we can measure sound from a facility that hasn't yet been built. By applying acoustical engineering formulas, you can determine this. The exhibit is a model of truck traffic on Railroad Avenue. Near the homes, you are looking at 70 – 80 dba from trucks traveling down Railroad Avenue. This will not change due to what's proposed on this site.
- Exhibit A-17 shows the site with the sound wall. The model drives trucks around the site; 30,000 points are calculated and the loudest sound level is kept. The anticipated sound levels on this site by the adult community will be 45 dba; by McCay drive, 40 dba. The existing average for these areas is already 52 & 53 dba. Over by 5th street, the

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anticipated is 50-55 dba where there is already 75 dba in that area. This proposed use will not make the situation worse. The traffic on Railroad Avenue is closer in location to the homes on Railroad Avenue than the traffic that will be on 5th Street, and is also at a much faster speed. Exhibit A-18 is a closeup of the area.

In answer to questions, Mr. Dotti stated the following:

- When projecting a 40 dba level for the proposed use, it does not add to the already existing 55 dba ambient level making it a 95 dba, it would only increase by 1/10 dba not making it noticeable to the surrounding area.
- It is assumed that the HVAC will be located on the roof, and unless it's a refrigerated warehouse, the HVAC is inconsequential to the whole thing and that is why it's not included.
- Regarding backup alarms on the trucks, it depends on how loud backup alarms on the trucks, how close you are, and if the truck even has them. If the site uses yard tractors, they will have backup alarms. This is something you can control by having a broadband alarm and adaptive alarms so that they either make a whoosh sound instead of the beep, or they have a quieter beep if it registers that it's quiet. The onsite alarms are controllable.
- The height of the sound wall is significant because the assumption is that it is substantial enough that what goes through it is small compared to what goes over the top or around the end. When you do the math on sound reduction, the taller the barrier, the more the sound has to travel. You will get sound over the wall, but it will be reduced because of the height. This is where we determined the 24' height for the wall and is specifically related to the ability to achieve the outcome of Mr. Dotti's testimony.
- For the Delaware Avenue residents, the height being requested for the building will be a wonderful sound barrier at 50' high.
- The key to the materials to be used to construct the sound wall is to have is heavy/dense enough to keep the sounds that go through it at least 10 dba less than what goes over the top.

Engineer Dougherty stated that he was asking for a sound study to be provided but feels the testimony provided is sufficient and is acceptable. He did ask if they have an indication of what type of material would work for the sound wall. Mr. Dotti stated that given a rule for selecting the material, you will have an STC (sound transmission class) of at least 25. It doesn't have to be a massive structure to make it effective. Mr. Gillespie stated that before applying for the permits, they'd be happy to submit what it's going to be for the professionals' approval.

Leah Furey-Bruder, Professional Planner with LFB Land Planning, stated that for this hearing, she reviewed the township's Master Plan, the original prepared in 1976, and the included amendments; the reexaminations of the Master Plan that were done in 2007 and 2018; the zoning code; the freight movement study that was prepared by DVRPC for Florence and Burlington; and has visited the site and the surrounding area and all of the submission materials.

Ms. Furey-Bruder stated:

- Foxdale Properties has carefully designed this site plan to accommodate approximately 300,000 sq. ft. of permitted warehouse and distribution uses on this 30.82-acre site.

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- The property is within the SM-Special Manufacturing zoning district on the north side of Railroad Avenue.
- The immediately surrounding area contains a variety of uses including ReadyPac, Cream-o-Land, Amazon, B&H, and some other industrial uses. The area along Railroad Avenue has a solidly industrial character.
- There is the railroad and residential uses in the vicinity, as well, with the residential properties along Railroad Avenue being within the Special Manufacturing zoning district.
- The residential areas north and east are within Residential and Active Adult Residential zoning districts.
- DVRPC and the township have identified this area as a freight center of regional importance.
- In accordance with the township code, Section 91-250, the SM-Special Manufacturing zone permits offices, distribution centers and warehouses, and light manufacturing. It goes on to describe the specific uses that are permitted in the SM zone as manufacturers of light machinery, manufacturing of household goods, farm machinery, glass and glass products, jewelry, textiles and the like, fabrication of non-motorized vehicles, furniture, musical instruments, toys, fabrication of paper and wood products, bottling and canning of food and beverages, laboratories and lumber yards.
- This is a proposal for an industrial building that will accommodate permitted uses, but mainly warehouse and distribution.
- Along with many other properties along the Route 130 Corridor and north of Route 130, this site was determined to be an area in need of redevelopment in 2013. Though the redevelopment plans have been adopted to facilitate redevelopment of several other areas, or portions of this redevelopment area, there has been no redevelopment plan adopted for this particular site. It is their opinion, the designation as an area in need of redevelopment is an indication that the township would like to enable and facilitate redevelopment of the property.
- By looking at the Planning Board's redevelopment investigation and the impediments to developing this site that were identified by your Planner, those impediments are proximity to residential properties and access.
- The attributes of the site were identified as good frontage and access and the fact that the township was an advocate for development and support of industry on this site.
- The applicant's proposal will effectively redevelop this site through the instrumentality of private capital and they are willing to redevelop the property in a fashion similar to sites within the redevelopment area that have redevelopment plans, but without the township needing to intervene and without any financial incentives.
- The proposal is for a building that will be a maximum of 50' in height, where the SM zoning district permits a maximum of 30', in accordance with NJSA 40:55D-70, a D6 variance is required to permit the height of a principle structure to exceed the permitted height by more than 10%.

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- Additional variances are required from the township code Sections 91-92:E(3) for the height of the proposed 24' wall, where a maximum of 8' is permitted for, essentially for a fence in a commercial zoning district. And from 91-92:E(2) to permit the sound wall within the front yard setback from 5th Street right-of-way where fences and walls are not permitted in the front yard setback in non-residential zones. She stated this is a technical variance because the 5th Street right-of-way is a little sub-street which is probably 200' long and then it essentially dead ends. At the end, there is technically a front yard setback so the wall would be within that front yard setback.
- The approval of the requested height variances will enable this commercial property to be put to productive use and to be developed in a manner that they believe is compatible with the surrounding area.
- The township has already determined by virtue of the SM zoning district that this site is appropriate for the use proposed.
- The applicant would like to develop the site consistent with the current zoning, but it's really not possible with the permitted height. The industrial warehouse market has evolved such that 36-foot clear ceiling height is the minimum required for a building of this size. That 36-foot clear height requires an exterior roof height of approximately 44 feet and then an additional +/- 6 feet is allowed for the roof mounted equipment; giving it the 50' height.
- It would not be possible to finance the construction of a 30-foot tall building of this size. Additionally, if the building were to be constructed, it wouldn't be possible to find tenants to fill the space for a 30-foot tall building of this size. The applicant is seeking an alternative height that's feasible and compatible with the surrounding uses. Though the proposed building height is higher than what is permitted in this particular zone, the proposed use is ideal for this location and appropriate to the area and without the increased height, the building can't be built. Other than the height of the building and the height of the sound attenuation walls, the site is essentially compliant with the zoning.
- The proposal is generally consistent with the overall intent and purpose of the township's Master Plan and the township's zoning as well. They believe that the proposed building and use are appropriately prepared with a property that's well suited to accommodate the building and the use.
- Her testimony is intended to affirm that the 50-foot building and the sound walls are compatible with the existing uses in the area, that the proposal will make efficient use of a currently undeveloped and unproductive piece of property and it will be an asset to the township and will assist in further bolstering and maintaining the vitality of the local economy.

She continued that for a 'D' variance, the positive and negative criteria need to be considered; meaning there is a need to prove to the Board's satisfaction that there are special reasons for the board to grant the requested relief. They must also demonstrate that the proposal is particularly fitted to this particular location, that the site is particularly suited to the proposed structures at 50' and 24', respectively, and that the proposal will advance the purposes of municipal land use law and the township's Master Plan and zoning. As to the negative criteria, they need to

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demonstrate that there'll be no substantial detriment to the public good and that the variance will not substantially impair the intent and purpose of the zoning ordinance.

Positive criteria:

- This proposal promotes the general welfare by providing an appropriate use in a location that's been determined to be suitable for this type of use.
- The grant of the D6 height variance will promote the general welfare by enabling efficient use of land in a suitable location that has access to necessary infrastructure and is consistent with the intended uses for the area.
- Without the Zoning Board's action to allow the increase in height, the site can't be developed with the uses permitted or with the warehouse and distribution use at a scale that's appropriate to the site.
- Section A: The proposal promotes the public safety which therefore potentially reduces the need for public services. One of the reasons that the users of this type of space require the 36' clear height is to allow for advanced fire protection technology. It's called ESFR, which are Early Suppression Fast Response ceiling mounted sprinklers, and these replace the in-rack sprinklers and it provides more flexibility for moving things around inside the warehouse. The 36' clear allows a better sprinkler system.
- Section 2G: To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses, both public and private according to their respective needs to meet the needs for all New Jersey citizens. The township zoning plan identifies this site for office/warehouse distribution and light manufacturing site uses. The 50' height if proposed in response to the needs of the industry. Based on review of the township's Master Plan, it appears the purpose of the height restriction is to limit certain types of manufacturing facilities, not warehouse and distribution to those that would have less off-site impacts. The correlation between the building height and the intensity of manufacturing is not relevant to the warehousing and distribution sector and any tenant in a new warehouse building in any zone will require a 36' clear height inside the facility. The 30' building height maximum essentially renders development consistent with the SM zone infeasible on this site.
- After reviewing the Master Plan, the proposed use is appropriate for the location and will be in harmony with the surrounding commercial uses and will provide buffers and sound attenuation for the nearby residences.
- Section 2I: To promote a desirable visual environment through creative development techniques and good civic design and arrangement. The site design, together with the topography, will allow the site to be developed with minimal impact on the surrounding properties. The proposed building at the height proposed is consistent with the surrounding commercial industrial use including the immediately adjacent property, which was granted a variance to permit a 60' building. The proposed building will not degrade the appearance of the neighborhood and the height of the mature trees around the buffer are taller than the proposed building. The industrial activity on the site will be oriented away from nearby residential neighborhoods to the north and east. While the building may be visible through the trees, the activity on the site will not be visible from the residential areas to the north because of the orientation of the building and the

- sound wall, which is going to serve the dual purpose of sound attenuation and providing a visual screen.
- Section 2J relates to the promotion of the conservation of historic sites and districts but also relates to prevention of urban sprawl and degradation of the environment. This site is within an area that the township designated for development, it's in a redevelopment area. It's also in a planning area too on the state plan map, which is a smart growth area where it is intended that there be infrastructure to serve development and opportunities for economic development.
 - The Master Plan includes a statement of objectives, principles, assumptions and policies forming the basis forming the basis for the Florence Township Master Plan. In 1994, there were 15 objectives articulated, but just a few of them are specifically advanced by this proposal.
 - #1 - Managed and balanced economic development should be encouraged in the township. Township policy such as zoning and upgrading municipal services should encourage development of environmentally friendly commercial and office developments providing needed services, job and a strengthened tax base.
 - #9 – The township's land use plan should provide for a variety of land uses to meet the needs of the citizens of Florence.
 - #12 – The township's development regulation should be designed to be flexible and streamlined while promoting visually attractive design and the preservation of critical areas.
 - #15 – Many important changes are occurring to the road network in the Florence area. These changes will have important implications for the character and future development of Florence that may require changes to this plan. The township should remain active in monitoring the changes and changing township plans where necessary.
 - Chapter 8: there is a general description of the various zoning districts and there are 3 industrial zones identified; GM-General Manufacturing zone, the SM-Special Manufacturing zone, and the SMO-Special Manufacturing Overlay. The Master Plan notes that these zones are all central to the character and the economic well-being of the township and the region, and the differentiation in the Master Plan that's recommended for the GM and SM zones relates to the more significant off-site impacts that could be anticipated from the GM zone. The Master Plan points to that in the GM zone, there is a broad array of manufacturing, there's no limitations on the type of manufacturing that's permitted. In the SM zone, details are provided in terms of what types of manufacturing are allowed, so it's more light manufacturing. Both zones permit the warehousing and distribution without any differentiation between the two whatsoever. The SMO zone also permits the same as special manufacturing. When the zoning was created to implement the Master Plan recommendations, you have a permitted height in the GM zone at 75', permitted height in the SMO zone at 50', and then a permitted height of 30' in the SM zone. Typically, height restrictions are imposed to limit the intensity of development or to maintain a certain character of development. The stated reason for the differentiation between the GM and SM zoning district in the Master Plan is to limit off-site impacts that are more typically associated with manufacturing uses permitted in the GM zone. Warehousing and distribution are permitted in all 3 industrial

zones and no differentiation is identified. The height restriction in the SM zone really puts this property at a specific disadvantage and relative to other industrial zoned properties and creates a situation where a permitted use can't be developed under the current regulations. A 30' height in this case, would not just create a less intense warehouse distribution facility, it'll just make such a facility impossible in today's world and with the market demands.

- The sound attenuation wall at 24' also requires a variance and is designed to meet the sound objectives and to achieve the sound level readings that comply with the state noise regulations. The wall has been located in a manner that will allow the 50' buffer to residential property to be planted with evergreen screening and then have the wall at the 50' setback or beyond. The wall can be constructed of a variety of materials, as you've heard, and we can work with the township on the materials and color.
- The proposed 50' tall building and the 24' tall sound walls do not offend any purpose of the height restriction as it appears that the height restriction was meant to reinforce a more limited array of manufacturing and production facilities to be permitted in the SM zone relative to the GM zone; not the warehousing and distribution facilities which are permitted in all 3 of those zones.
- The 2018 reexamination specifically recognized that this area along Railroad Avenue is in a redevelopment area and that redevelopment opportunities that are presented to the township should be considered for their potential benefit. How we propose to use this site will be consistent with the overall intent of the land use plan and enable efficient use of space intended for this type of industrial development. The proposal will not negatively impact on the surrounding area and the applicant has proposed the sound wall to mitigate against any potentially detrimental impact to the residences in the vicinity. The proposed use and a 50' tall building is particularly fitted to this location and without variance relief, development of this site is inhibited and the site won't realize it's potential. The size of the site and the shape of the site are adequate to accommodate this size of a building; however, the building must have 36' clear ceilings in order to be functional in today's market. The visual impact of the increased height will be mitigated by the setbacks and the buffers and the mature vegetation.

Negative criteria:

- They believe there won't be any substantial detriment to the public good resulting from this proposal or from the height relative to a height that would be permitted, and it won't have any substantially detrimental impact on the surrounding properties.
- It will not impair the intent and purpose of the Master Plan or zoning ordinance.
- Despite the fact that the building and the wall height are above the height permitted by the land development code, the site is appropriate for these structures at these heights and can accommodate them.

Ms. Furey-Bruder stated that in conclusion:

- Any potentially detrimental impacts of the variances are negligible as the site has been zoned for the proposed use and the proposal will not injure or detract from the enjoyment of the surrounding properties.

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- It also will not detract from the overall character of the interchange 6A freight center area.
- None of the township's Master Plan goals or objectives will be undermined by this proposal either.

Mr. Sovak stated that even though Ms. Furey-Bruder had reviewed the permitted uses in the SM zone and stated that the warehouse is one of permitted uses but that it would require a 36' foot clear ceiling height, there are other industries permitted in that zone which may not require a 36' clear height.

Ms. Furey-Bruder stated that most of the uses that are permitted are of the same type, with the light manufacturing, and added that usually with manufacturing there is some warehousing that goes with that. She stated that she thinks that most of the permitted uses would require that same height. She explained she did explore what would be permitted here but that wouldn't require this height. What she discovered is that some smaller size buildings could potentially be built that have a somewhat of a lower height, but given the size of this site, a 30-acre site, it doesn't make sense to build a small building on such a big site.

Planner Fegley stated that the site could be subdivided and it doesn't have to be just one building. Ms. Furey-Bruder stated she didn't get into that analysis.

Planner Fegley commented that some of the things Ms. Furey-Bruder said were true but she feels that there were some that she doesn't agree with; such as, "it's infeasible to use this site for uses permitted" and "the permitted uses can't be constructed". Planner Fegley stated those comments are directed only towards this permitted use, the distribution center, because there are other uses that could be proposed. She stated she is questioning the testimony and its accuracy.

Ms. Furey-Bruder stated that what she believes what she is testifying to is accurate. In everything that they have learned and all the experience she has had, the industry a distribution warehouse industry.

Planner Fegley agreed that it is a distribution warehouse industry, but she feels Ms. Furey-Bruder was stretching it a bit with just a specific use given all the permitted uses and all the uses that could be permitted. Mr. Gillespie stated Ms. Furey-Bruder did testify to that and asked if there was testimony to the contrary. Planner Fegley stated that what she heard was that none of these uses could be done.

Ms. Furey-Bruder stated that when Planner Fegley is referencing "none of these uses", it goes back to the specific uses that are permitted in the zone and that includes various light manufacturing. She believes Planner Fegley is referring to laboratories, offices, etc. Ms. Furey-Bruder noted that as for the market for Office, there is no market for a large office to be built at that location.

Mr. Gillespie stated that even if there was, just so the Board can take notice, Burlington Stores office building is well above 50', it's actually 75' tall, so if you're going to say that offices could be built here, respectfully, he doesn't know if that's the case for a 30' tall office. He believes that's the testimony that Ms. Furey-Bruder is giving is that the various markets identified in that SM zone, various uses, there are no markets for them at 30', such as offices.

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Ms. Furey-Bruder stated that in planning, everything is related to everything else. We could say a laboratory could be built on this site. We could do research and figure out whether or not a laboratory at 30' is feasible, but she honestly doesn't know right now if that were possible. She stated that what she does know is that this area has certain type of industries that are being attracted to the area, and this is where the market is going for this area for this type of building on this type of site.

Planner Fegley stated that this is the first time the market is being talked about, and the market is different than just permitted uses, so she just wanted clarification. She pointed out that it is not only her questioning this, one of the Board members did, as well.

Mr. Gillespie asked Mr. Stout what height was approved for ReadyPac. Mr. Stout confirmed that ReadyPac was approved at 48'.

Ms. Furey-Bruder stated that her challenge is to see how everything connects. They want to be responsive to the market while also maintaining some sense of the standards that the township is looking to maintain; however, you're not going to have successful economic development if you're not responsive to the market.

Solicitor Frank commented that Ms. Furey-Bruder had testified about visual impact and asked if there were any exhibits that had some section views that hadn't been presented. Ms. Furey-Bruder stated there are but they were prepared by Mr. Stout, and asked that he testify regarding the exhibits.

Mr. Stout stated Exhibit A-19 is a visual section between the homes on Delaware Avenue and the proposed building. They've tried to create a visual impact to see what the impact of their building would be. 50' is the anticipated height of the building, and what is shown on the exhibit in the front section is the parking facility that is being proposed, which in this case they've actually talked tonight about making this more landscaping into that section; the last row of parking. This is 110' from the edge of the curb line to the property line with another 10 or so feet behind that. This is the existing 1-story house on Lot 3.09, which is the one closest to the property, right off of Poplar Avenue. The exhibit represents the anticipated visual impact with the existing mature trees within that area. Mr. Stout pointed out that the view of the top of the building is anticipated to be very obstructed. He did note that during the fall and winter, you would obviously be able to see the building.

Mr. Sovak asked what elevations were being used for Delaware Avenue and the starting point for the warehouse. Mr. Stout stated Delaware Avenue starts at 55-57 and drops to about 52-53, so the homes are up about 5 feet from the warehouse. The slope will stay exactly the same. He stated the trees in the buffer along the Delaware Avenue side are currently 30 – 50 feet tall.

The meeting took a break at 11:08 p.m.

The meeting was back in session at 11:12 p.m.

It was the Motion of Vice Chair Patel, seconded by Mr. Lutz to open the meeting for public comment. Motion unanimously approved by all members present.

Solicitor Frank explained to the members of the public present that is important to understand what the scope of this body's authority is, what relief is being sought by the applicant and what this Board can and cannot do. The applicant is here with a site plan application for a permitted

use in the SM zone. The warehouse use itself is fundamentally a warehouse use. If the applicant was not seeking the height variance for the building, then they would be before the Planning Board because they would not be seeking a D6 variance. Because of the D6 variance, the Zoning Board has the jurisdiction over that height variance. This means for us that because the zone allows this kind of use, the latitude of this Board with regard to approvals or denials or conditions is a lot less than it would be if this Board was using a Use Variance application; an application for a use that isn't permitted in the zone. The law says that if someone comes in with an application that meets all of the standards of our ordinance, then we have an obligation to approve it. When someone comes in with an application with a standard that doesn't meet a standard of our ordinance, then we need to examine the ways in which that application doesn't meet the standards. If they demonstrate that it is not an impairment of the zone plan, that it doesn't cause a detriment to the public good and that it advances the reasons we have zoning, then this body has an obligation to approve it. But it can impose conditions on that approval. Those conditions cannot just be anything that we think we want to impose. Those conditions have to be related to the deviation from the standard. So here, we have an application for a significant height variance. When we examine that height variance, this Board doesn't have the authority to deny an application or impose significant conditions on this application because it will add additional traffic to the various intersections. The site was zoned for this use.

Solicitor Frank continued by saying that when we're hearing from members of the public, they are free to say whatever they wish to say but to please appreciate that this body doesn't have the authority to just say "no, you can't do this." This body could deny the height variance, but fundamentally, a warehouse facility is permitted under the zone and the ordinances. The applicant has presented testimony with regard to the traffic and what the likely impacts are going to be. The sound discussion that was heard tonight was very informative regarding background levels and what the additional noise will be. Our ordinance does not require sound attenuation walls. Mr. Dotti testified to the performance standard that this application, or any application for this site, must meet. His testimony was that by adding the sound walls, this application goes beyond that by putting less sound at the property line than permissible under the State regulations.

Solicitor Frank concluded with saying we all need to understand what the limits are of the Board and weigh the public's concerns within the boundaries of what this body can do.

Russ Woolston of Delaware Avenue was sworn in by Solicitor Frank. He stated that he heard it mentioned that a condition of denial would be if it were detrimental to the surrounding area. He is concerned that a 50' tall warehouse behind him will have a detrimental impact on his property value as well as everyone else around it. Solicitor Frank stated that with regard to impact on property values, the detriment to the public good is not measured by Mr. Woolston's perception of what will potentially happen to the property values. Detriment is measured by noise, smell and visual impact. Mr. Woolston stated those are things that would impact his property value. Solicitor Frank stated the realm of the property values is the realm of expert testimony. Mr. Sovak asked if the residents were to get an expert witness to attest to the property values, would that be acceptable. Solicitor Frank stated they can and that would be acceptable.

Mark Hollern of 324 E. Front Street was sworn in by Solicitor Frank. He stated precedent had been set with regard to lowered property value with the lawsuit against Waste Management and the Tullytown Landfill. Solicitor Frank stated this was a property damage case in regard to the

odor. He stated Mr. Woolston's comment is his perception which is something that this Board can't receive.

Kristan Marter of 220 E. Front Street was sworn in by Solicitor Frank. She stated that there was testimony given at last night's council meeting about the truck traffic and the decibels of the truck noise, plus there are some laws on the books that may be able to help the residents get the trucks off of Front Street and Delaware Avenue. She stated the truck traffic is increasing. She stated trucks will follow their GPS and take the shortest route to get to where they are going. She asked what we are getting out of this application and how are the residents benefitting from it. She presented Exhibit P-1, an aerial view of the area. She stated that since 2012 in the surrounding area, 17 new warehouses have been built, have been approved to be built, or on hold. She asked if the area in need of redevelopment for this site could be rescinded at this time. Chairman Zekas stated that the zone is still the SM zone and this application is for a permitted use. She requested then that the Board denies the 50' tall building.

Keith Glasgow of 84 Abrams Drive was sworn in by Solicitor Frank. He stated he would like to see an easement along Abrams Drive. He stated the grade level from Abrams to the warehouse is 15'-18' higher. He has a 2-story house and a 24' sound wall will do nothing. His residence is right next to where the proposed retention basin and parking lot will be. He stated it is noisy enough now because of ReadyPac and having the open space would be much nicer and we don't need the warehouse.

Michelle Pattik of 410 Delaware Avenue was sworn in by Solicitor Frank. She stated she realizes the purpose of the Board is to approve the applications as they come through. All she is asking for is the Board to look at the ordinances and shut down ones that this township does not need anymore. Solicitor Frank stated the way land use regulation works under the municipal land use law is that first there is a Master Plan that is developed by the Planning Board. It is the governing body who adopts ordinances with the idea that the ordinances will carry out the Master Plan. When someone wants to do something that doesn't exactly fit in our ordinances, they come here.

Mark Hollern again spoke. He asked if this is the first time this has been presented to the Board and if there is as rigorous review done by this Board as with the Planning Board. Solicitor Frank stated that there absolutely is and that the Zoning Board gets the jurisdiction because of the D variance being requested. He stated that the Board and the Professionals were supplied with all the application documents, but this is the first time the applicant's testimony has been presented and we have seen the exhibits. The Planner and Engineer have met with the applicant to discuss all of their concerns. Mr. Hollern asked if this was the first time for the public to see everything or if it has been on file. Solicitor Frank stated it has been on file for public review since it was submitted at the end of November 2018. Mr. Hollern stated that he believes the traffic study is flawed after reviewing the county's studies.

It was the Motion of Vice Chair Patel, seconded by Mr. Lutz to close the meeting for public comment. Motion unanimously approved by all members present.

Chairman Zekas stated that he was hoping when Solicitor Frank explained what we are here to do, that the public would speak to those issues, but it went all over the place. Vice Chair Patel stated that he believes there are more public who would like to speak and because of the late hour, if it is possible to meet another time. Mr. Drangula stated topics got off point and we are only here for the height variances being requested for the building and the sound wall. Solicitor

45.

Frank stated that we concluded the public portion because of the time, not necessarily because all the public had an opportunity to speak. He stated that we do have an obligation to hear the fullness of the public comment. It is in fact necessary to adjourn this hearing to another date in order to allow for that. There was a show of hands by the members of the public that had a desire to cross-examine the applicant's expert witnesses. All expert witnesses are requested to be at the next meeting.

Chairman Zekas asked that only the members of the public who had not gotten a chance to comment tonight, be the ones that comment at the next meeting. He also requested that the comments, questions and cross-examinations be limited to what we are here for.

Mr. Sovak asked Mr. Gillespie if they planned on having their architect make a presentation because the drawings in their packet were very vague. He understands they won't have full construction documents because of going through the process but asked if there's anything else that can be presented. Mr. Gillespie stated they can do that.

It was the Motion of Vice Chair Patel, seconded by Mr. Lutz that this application be continued to the July 1, 2019 meeting, 7:30 p.m. The applicant is not required to notice for the July 1st meeting. The applicant agreed to extend the time for the Board.

MINUTES

It was the Motion of Vice Chair Patel, seconded by Mr. Lutz to approve the minutes of the Regular Meeting of May 6, 2019. Motion unanimously approved by all members present.

CORRESPONDENCE

There was no correspondence.

OTHER BUSINESS

There was no other business needing to be discussed.

ADJOURNMENT

Motion of Vice Chair Patel, seconded by Mr. Puccio to adjourn the meeting at 12:18 a.m., 6/07/19. Motion unanimously approved by all those present.

Larry Lutz, Secretary

/kf