

Florence, New Jersey 08518-2323
July 1, 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 7:35 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
Lou Sovak	B. Michael Zekas
Margo Mattis	Dennis Puccio

Absent: Anant Patel

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

RESOLUTIONS

There were no resolutions.

APPLICATIONS

- A. Application ZB#2019-01: Continuation of 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 spoke on behalf of the applicant, Foxdale Properties. He stated that at the end of last month's meeting, they left off with the public having questions of their expert witnesses and it was also requested by Mr. Sovak to bring the architect for this project for testimony and questions. He stated that Norm Dotti, their sound engineer, has another commitment to go to this evening and that he has no additional testimony to offer this evening. He asked if they could begin by having the public ask their questions relating only to sound so that Mr. Dotti could answer them and then be able to be excused from the meeting.

It was the Motion of Mr. Lutz, seconded by Mr. Cartier to open the meeting for public comment regarding Mr. Dotti's testimony. Motion unanimously approved by all members present. Chairman Zekas explained that this public portion is only for questions for Mr. Dotti in regard to sound/noise from the proposed site.

Keith Glasgow of 84 Abrams Drive was considered still sworn in from last month's meeting. Mr. Glasgow's (KG) and Mr. Dotti's (ND) conversation was as follows:

- KG: Said Mr. Dotti testified that there will be negligible sound impacts from the trucks coming in and out of the site.
- ND: He didn't believe he used the word 'negligible' but that the sounds will comply with the state regulations and that the sounds will be less than the sound that are currently on site.

47.

- KG: There will be sound abatement walls put up around the facility and where he resides happens to be quite a bit above grade as far as where the proposed facility is going to be located. He asked for the sound exhibit and pointed out where his residence is location.
- ND: The residence is located near where the sound device in position #1 was placed.
- KG: As far as the trucks are concerned, he would like to have it stipulated that low frequency sounds travel with much greater ease than the high frequency sounds that would normally be heard from cars going by or birds.
- ND: He does not agree to that stipulation. In distances under several thousand feet, there is no difference in how a low frequency sound propagates or a high frequency sound propagates. Barrier or berm effects are different for different frequency sounds. His calculations have taken all of that into account. When he did his analysis of the truck sounds, it wasn't the sound of one frequency, it was the sound of a wide range of frequencies down to as low as 20 cycles per second. He referred to Exhibit A17, and stated elevations were taken into account. The brown lines are elevation contour lines. He stated that if you are at a higher elevation looking down on something, that a barrier in the way absolutely plays into the sound, but he has included that into his calculations.
- KG: Does the calculation include the exposure of sound into his bedroom and how many decibels will he be hearing in his bedroom?
- ND: The trucks will be moving around and accelerating; however, as explained at the last meeting, this isn't an average calculation, this is the maximum of the truck sound, no matter where it is on the property, they've graphed out the maximum sound level. This is based on a heavy truck under heavy acceleration. He stated it will be about 45 dba.
- KG: How many of those dba's will be coming through two double-pane windows located in his bedroom?
- ND: The number that the State of New Jersey uses for this scenario is a 20-dba reduction. The state limit is 50 dba at night. He stated that right now on location, the average sound level is 53 dba; currently, it is above 45 dba 90% of the time. There will be very little effect from the truck operation compared to what is currently on-site now. The truck operations will easily comply with the limit that they have to meet.
- KG: There is a rise and the soundwall will be 24' high. While well-intentioned, it's negligible in offering any protection to the surrounding area.
- ND: That is Mr. Glasgow's opinion, which he is entitled to; however, the facts are they did their analysis with and without barrier in place, and the barrier makes a significant reduction and it is well under what the permitted level is.

Mike Donohoe of 80 Abrams Drive was sworn in by Mr. Frank. Mr. Donohoe's (MD) and Mr. Dotti's (ND) conversation was as follows:

- MD: Do Mr. Dotti's studies only take into account trucks moving in a forward direction?
- ND: They take into account trucks moving into all directions and they use the maximum sound level.
- MD: From his experience where he lives, trucks moving in a forward direction make a "rush" sound, which is low grade; however, when a truck is backing up it makes a much louder sound so people can hear it and not get in its way. He stated he can hear trucks backing up all night long from the ReadyPac site and they have a tree buffer in place. The trucks on the proposed site will be directly facing their property when backing up. Are the trucks are only going to operate during certain hours?
- ND: His assumption is that they could operate 24-hours a day and stated that's why his model is based on the nighttime criteria because that is more stringent. He also stated that his analysis doesn't address ReadyPac, only this proposed site. This site will have a sound barrier. ReadyPac, or any other source, is treated as its own source. This site is treated as its own set

of sounds. As far as added sounds go, if you look at Exhibit A14 and look at the area, and if you have a maximum sound level of 50 dba, that's the maximum we're allowed to put out. The average on-site is currently at 53.3 dba and if you add 50 dba to that, the increment is only about 1 additional decibel. The single biggest source of environmental noise is motor vehicle traffic everywhere. This will be truck sounds added to already existing truck sounds so nothing unusual will stand out in the current sounds. A car driving down the street in his location will be louder because the car is a lot closer.

- MD: He understands that, but a truck backing up even further away can be distinctively be heard. His contention is that trucks moving in a forward direction is fine, but trucks backing up make a different higher pitch sound.
- ND: He does not agree with that assessment.

Mr. Donohoe stated he objects to this application because of trucks behind his house backing up with the backup alarms, possibly around the clock. He stated that right now it is a mostly quiet area and he thought the site in question was a nature preserve because of all the animals they see; he thought it was going to be an open space area.

Mr. Sovak asked Mr. Dotti that when he mentions ambient noise levels when taking the readings, would that include any of the noise that comes from the ReadyPac site. Mr. Dotti stated that it includes everything that made an audible sound over the 72-hours of observation. It doesn't differentiate between the types of sounds; it just picks up whatever makes sound.

Mr. Buddenbaum stated that most tractor trailers do not have backup beepers; box trucks mostly have them and asked if this facility will have mostly tractor trailers or box trucks? Mr. Dotti stated that with distribution centers is, it is overwhelmingly tractor trailers. Under OSHA, tractor trailers are not required to have backup alarms; however, they are required for construction operations, not over-the-road tractor trailers. Mr. Buddenbaum asked if it is known what type of vehicles will be on-site. Mr. Gillespie stated it is designed for tractor trailers; however, there may be deliveries to the site made by box trucks. Mr. Puccio stated that yard trucks have backup beepers. Mr. Dotti stated that is correct; however, they can be controlled on-site. The OSHA standard is that the sound has to be loud enough to be heard in the environment that it is in. There is such a thing as an adaptive alarm which will adjust to the amount of sound going on at the time. There is also a broadband sound, which is more like a "whish" sound. The site does have control over this.

Phil Wilgus of 662 Delaware Avenue asked Mr. Dotti to confirm the locations of the monitors and questioned the days the study was done and why it was not done during the week. Mr. Dotti stated the days include a weekday and the weekend because most people are home on the weekend. If the study was done just on weekdays, there would be more ambient sound and those numbers would be higher than the numbers he's showing. There would be more ambient sounds, not sounds from the site. They have already taken into account the maximum sounds projected from the site. Sound monitors #3, 4 & 5 were along Delaware Avenue. The average level of #3 was 51.6 dba from existing sounds in the area. If only done on weekdays, there would be more ambient sound making it a higher dba. Their studies show the proposed site will produce 45 dba. With the current ambient 51.6 dba, or even a higher dba, the proposed site will be "masked" by the existing sounds. Mr. Dotti then stated his sound study was done on a Thursday, Friday and Saturday. Mr. Wilgus stated the dates noted on the study are for a Saturday, Sunday and Monday. Mr. Dotti checked the dates of the study done in 2018 and stated Mr. Wilgus is correct and he will correct the labeling on the chart. Mr. Dotti continued to explain that more trucks, more traffic, makes higher ambient sound levels which makes the sound from the site less intrusive, not more intrusive.

Keith Glasgow (KG) spoke again:

49.

- KG: Mr. Dotti keeps referencing that any additional noises from the facility will be drowned out in the ambient noise levels.
- ND: It's a little more complicated than that and explained that what he said was that if you have 50 dba maximum coming from the facility, the most that it can put out, and there is 50 dba of truck sound in the presence of the ambient sounds, which vary from 44 and 55 dba, that (a) it adds a miniscule fraction of a decibel to the total, (b) it is still in compliance with the state night time limit of 50 dba and (c) it's the same type of sound so that it doesn't stand out as being something different.
- KG: If there are more trucks running and more traffic once this facility is up and running, then he will hear it more than he hears it now.
- ND: It doesn't make the sound louder.
- KG: It will make it more noticeable. He stated he is not contesting Mr. Dotti's machines or study; however, the human ears are analog, not digital, and it will be noticed. He stated it will be adding new sources and that there is enough noise there now and they do not need any extra noise.

Donald Jones of 455 Delaware Avenue was sworn in by Solicitor Frank. Mr. Jones stated that he has a beautiful back yard that is private and silent. He stated that a warehouse is always noisy, and a constant noise, and this will change his and his wife's quality of life. He and his wife have lived in their home for many years and planned to live out the rest of their lives there and now this will change the character of their area and they won't be able to continue enjoying their back yard and family celebrations. Mr. Dotti had Mr. Jones show him exactly where he lives. Mr. Dotti stated Mr. Jones house is near location #4 on his sound study. The average measured sound at location #4 is just slightly louder than location #1; it's 53.4. He stated it is not silent near Mr. Jones' home. Mr. Jones disagreed and stated that there are no sounds coming through the wooded area while they sit in their back yard.

Mike Donohoe (MD) spoke again:

- MD: There is a forest currently there and once that is removed and the facility is put in, you won't have that buffer anymore and they will be eliminating what is already a barrier for the sound and asked if Mr. Dotti's studies took that into account.
- ND: When they did the analysis, they assumed no reduction for any woods in the way. The standard number for reduction for dense woods is 100 meters (330 feet) which will give you about 5 decibel reduction for noise. In most instances, they don't even consider trees that are here or take credit for them because they don't contribute very much at all as a sound barrier.
- MD: Machines on top of the building will make noise as well as all the trucks.
- ND: They expect the office spaces in the warehouse to have HVAC units but that will have minimal sound, and this will not be a refrigerated warehouse, so there will be no extra sound because of that. If it was, he would agree that it should be looked at and addressed. If the tenant were to change it to a refrigerated warehouse, they would have to comply with state standards.

Nancy Wainwright of 465 Delaware Avenue stated she and her husband grew up in the area. She reflected on the history of the area and stated a lot of things have changed. Her house is about 500 feet from Railroad Avenue and the railroad tracks and has concerns about the traffic. Solicitor Frank asked Ms. Wainwright if she had questions regarding sound for Mr. Dotti. Ms. Wainwright stated no. Solicitor Frank stated the Board can hear her comments later in the meeting but right now they are only focusing on questions for Mr. Dotti.

Mr. Sovak asked Mr. Dotti that as far as his statement that there would be no noise coming from the warehouse because the trucks are on the other side, doesn't the construction of the walls for the warehouse determine what kind of sound can pass through? Mr. Dotti stated that his impression is

that the walls will be filled with concrete. Unless the tenant was to do some type of manufacturing process inside that is incredibly loud, you won't hear it outside of a closed building. If they have open bay doors and are doing activity inside, then potentially that indoor noise could propagate outside, but this is not the case. Mr. Sovak stated the Board has not seen any documentation letting them know what the construction of the building will be.

Mr. Puccio asked Mr. Dotti that with his sensory readings, if the locations would pick up every time a train blew the horn by the crossing and that NJ Transit uses 96 decibels for the blast of the horn. Mr. Dotti stated yes, that would have been picked up. Mr. Puccio wondered is that would skew the analysis in any way. Mr. Dotti stated the monitoring is done at 5 second intervals and during that 5 seconds, it gets the maximum and the minimum and the average during that 5 seconds. He stated it would definitely pick up train sounds and that all sounds are included in his study; however, looking at the pattern of the study, most is from truck traffic.

Mr. Gillespie asked Mr. Puccio about him mentioning the word skewed, as in "were his numbers skewed" and wanted to have clarification for the record. Mr. Puccio stated he was asking about the train crossing the tracks and blowing the horn at 96 decibels and if the monitors recorded at 5 second intervals, and the train crosses every 7-8 minutes, approximately 140 times a day, if you took those 140 crossings out, would the average ambient numbers have a lower reading? He stated he didn't mean they were intentionally skewed, just that the train horn sound changes the numbers to a higher reading than it really is, because readings like that can throw numbers off. Mr. Dotti stated that if you were to monitor just a moment in time, it would be a big difference, but if you do it over hours and days, it has very little influence on the overall sound out there. There is 86,400 seconds in a day and if you look at the 3-second bursts of the horn, it really doesn't do much. The events are loud, but they are a very short duration and it takes a huge number to really have an impact of what the sound levels are around a neighborhood.

Mr. Gillespie confirmed with Mr. Dotti that he testified at the June hearing that all the issues explored again tonight, and the concerns raised by the public were a function of the use that is permitted on this property; a warehouse. Mr. Dotti stated it is his understanding that a warehouse is a permitted use for this property. Mr. Gillespie stated that the fact that they are seeking a height variance has nothing to do with the issues raised so far tonight; it's not a function of going from 30' to 40' or 40' to 50', it's a function of the warehouse itself. Mr. Dotti stated that the taller warehouse is a little bit more of a sound barrier to the Delaware Avenue side; however, it is a very minor benefit because once you are up to those heights it makes no audible difference in what someone on Delaware Avenue would hear. The building is definitely a sound barrier. Mr. Gillespie stated that the issues heard tonight don't arise from the height of the building, but of the use of the building. Mr. Dotti stated that is correct. Mr. Gillespie emphasized that this is a permitted use for the site.

Debbie Partyka (DP) of 705 Baird Drive conversation with Mr. Dotti (ND) was as follows:

- DP: How many trucks and cars are estimated to be traveling to this site?
- ND: He doesn't not know because it is his understanding there isn't a known end tenant at this time.
- DP: If this is the case, how could he know what the noise will be since he doesn't know the number of trucks/cars/hours of operation/etc. will be.
- ND: He may not know who the tenant will be but does not agree with her statements to that effect.
- DP: It's just common sense that more vehicles will make more noise.
- ND: If he was addressing the average sound level, he would agree with her. One truck an hour, 10 trucks an hour, 100 trucks an hour, the sound level would go up. This is not what was

51.

looked at, we looked at the maximum sound level. He stated that 1 truck, 10 trucks, 100 trucks all make the same maximum sound level.

- DP: Asked if he realized that this does not make sense to any of us?
- ND: If you're standing 50 feet off a road and a truck goes by, you hear the maximum sound level. If 20 trucks go by, you hear 20 maximum levels, but the maximum doesn't change. He explained that's why the analysis is done based on the maximum sound level.
- DP: It's just common sense that they don't want a bigger warehouse, a higher warehouse, because no matter what, there will be more noise.

Chairman Zekas stated that this application before us is for a smaller and lower warehouse than what was previously approved.

Mr. Sovak asked when Mr. Dotti says one truck has maximum output and that 20 trucks have a maximum output times 20, but if it were 20 trucks all at once, would it have a louder output? Mr. Dotti stated if you could put 20 trucks right in the space of one truck, then that combined output would be higher. But this is not what we have, you will have 20 trucks spread out over an area.

Mark Hollern of 324 E. Front Street asked Mr. Dotti that in terms of other sound studies done for other warehouses, B&H and Amazon, other engineers addressed the fact of simultaneous multiple trucks operating within the geographic limits of a particular site will amplify their sound. One truck travelling around the site at 25 m.p.h. and backing up into a loading bay is one thing, but 2 or 3 doing this at the same time produces a higher level of perceived sound. Mr. Dotti stated he was the sound engineer for B&H Foto and Amazon. Again, if you put all the trucks right next to each other that may be true, but typically the closest truck is what dominates and when this analysis is done, it takes that maximum sound level and literally moves it at 1 meter increments across the whole track and wherever the truck was that made its maximum sound level, that is the number that is used. Mr. Hollern asked more questions, not allowing Mr. Dotti to answer, made statements and argued that Mr. Dotti's information was not correct.

Solicitor Frank advised Mr. Hollern to stop and told him that he is here to cross examine Mr. Dotti; he can ask him questions, but he must let Mr. Dotti answer those questions. He told Mr. Hollern he could offer testimony at another point in this hearing and that if he wanted to offer testimony as an expert as some aspect in engineering, he could seek to be qualified by this Board by offering his credentials to do that. But, at this point, in his view he was not qualified as an expert to offer competent evidence to this Board.

Mr. Hollern and many of the public began to speak all at once. Chairman Zekas called the meeting to order and stated Mr. Hollern was done with questioning Mr. Dotti and asked for a motion to close public comment.

It was the Motion of Mr. Lutz, seconded by Mr. Buddenbaum to close the meeting for public comment regarding Mr. Dotti's testimony. Motion unanimously approved by all members present.

Chairman Zekas thanked Mr. Dotti and excused him from the remainder of the meeting.

Mr. Gillespie asked that Bob Stout be able to speak and stated he's is still sworn in from the previous meeting. Chairman Zekas stated that would be fine. Mr. Gillespie asked Mr. Stout if he had had a chance to consider the heights of neighboring buildings, as far as clear height and exterior height, in the vicinity of this property and generally, between Florence Township and Burlington Township as well. Mr. Stout stated he has. Mr. Gillespie stated there was an exhibit presented at last month's meeting by Ms. Marter, marked as P-1, and asked if had a chance to look at that. Mr. Stout stated he has.

Mr. Stout stated that what they have done is taken the exhibit that was presented by Ms. Marter at the last meeting and outlined those buildings, along with some of the other buildings not on her exhibit that have been built. They've got a series of elevations for the buildings to give the Board a baseline to the height of these buildings. The survey crew was able to physically locate the finish floor and top elevation of 9 of the following buildings. There are approximately 24 buildings within 5-mile radius of this site. The first 4 are:

	<u>Location</u>	<u>Zone</u>	<u>Clear</u>	<u>Total Height</u>
ReadyPac	Railroad Ave.	SM		45' (appr. at 55' in 2010)
Amazon	Cedar Lane	GM	36'	43.3'
B&H Foto	Cedar Lane	GM	36'	46.2'
Garelick Farms	Route 130	SM		75' (approved in 2003)

Mr. Stout went through the remaining buildings on Ms. Marter's exhibit, as follows:

	<u>Location</u>	<u>Clear</u>	<u>Total Height</u>
#2 (Burlington Twp.)	1600 River Rd.	36'	
#6 (Burlington Twp.)	1651 River Rd.	36'	42.5'
#9 (Burlington Twp.)	1800 Route 130 – 2 buildings	36'	47'
Not on exhibit	250 Daniels Way	60'	
#8 (Burlington Twp.)	1101 Pearl St.		60'
	1000 John Galt Way	41.14'	
	1500 John Galt Way	30'	40.52'
	2020 & 2030 Route 130	32'	35.35'
	2040 Route 130	36'	45.16'
	270 Daniels Way	60'	76.95'
#11 (vacant)	West Front Street.		75'
#12	West Front Street	36'	75'

Mr. Stout stated that some of this information was provided by the realtor that did 3 or 4 of these buildings; the 9 he testified to, they were able to survey and heights were verified in the field. Mr. Gillespie asked if these are accepted methods in making these determinations for the measurements. Mr. Stout stated they are and every one of these elevations are based on sea level. Mr. Gillespie asked about the balloon test to show the height of a building. Mr. Stout stated they did try the balloon test which a 5' diameter balloon is used. They were unfortunately unable to do this in this instance because the trees are higher than the height of the proposed building. They then got an average height of the trees by taking ground elevations and by shooting a prismless location which will shoot an elevation to the highest point it can reach on the tree to get the height of the trees. The average tree height in that area, from the corner of Legacy wrapping around to the back of McCay Drive and along the back of Delaware Avenue, is 55' tall. There are some as high as 80', but the average is 55' tall.

A member of the public stated she doesn't see how the height of each building and the trees is relevant to them and asked if the applicant is going to have testimony until 12:30 a.m. again. Another member of the public stated they didn't have a chance to finish public comment from the last meeting and that this is what tonight's meeting is for. Will they have a chance to have full public comment tonight? Chairman Zekas stated that what the applicant has prepared and is presenting tonight is information that was brought up by a member of the public last meeting. A member of the public argued that they didn't need to know 24 heights of buildings that aren't hovering over their heads in Florence's residential areas.

Mr. Gillespie assured everyone that their goal is not to drag everything out; however, their goal is to establish a record upon which this Board can make a decision in accordance with the law and the State of New Jersey governing height variances. They are also trying to address some of the issues that were raised last meeting first as opposed to the public comment now, then having the testimony and then the Board voting and not having to allow for another public comment. Chairman Zekas asked for the public's indulgence and stated the applicant is allowed to finish their testimony.

Mr. Stout continued by stating the majority of the tops of the trees will be 10' higher than the finished elevation of the building. He explained the architect will testify as to the building height and the pitch. He is only talking about the maximum height they are requesting, which is 50'. In some areas, the building will be lower, but at worst case, they are 10' lower than the treetops. Mr. Stout also explained they are doubling what is required for the residential buffer along Delaware Avenue. This is why they've reconfigured the building a bit, as in moving the basin from one side to the other, to give the residents a larger buffer. There will be 110' to the curb line and they are also talking about adding an additional 18' by eliminating the last row of employee parking. This will allow close to a solid 125' of open space with all the existing woods to remain. Mr. Gillespie asked if the means to make these measurements are generally acceptable means to reach the conclusions that he's reached? Mr. Stout stated they are.

Mr. Gillespie stated that Mr. Sovak asked Mr. Stout at the last meeting about the distance between trucks entering the site from 5th Street and the house at the corner of Railroad Avenue and 5th Street. Mr. Stout had stated that it will be coming within 25' of the house. Mr. Gillespie asked him if he had a chance to perform exact measurements for that house where it sits in terms of Railroad Avenue and 5th Street. Mr. Stout stated he has, and that Lot 5.02 is on the corner of Railroad Avenue and 5th Street. It currently sits 24.81 feet back off of the right-of-way. The front of the house to the paving on Railroad Avenue is 31 feet. The edge of the house (southwest corner) is 31 feet to the right-of-way. The corner of the house to the curb line is 42.2 feet; at the front corner will be 49' due to the way the entrance will be designed.

John Romano was sworn in by Solicitor Frank. Mr. Romano stated that he is the project architect from Wolfe Architects. He received his master's in architecture in 1992 from Virginia Tech. He received his bachelor's in architecture in 1979 from the University of Pennsylvania. Mr. Romano was declared an expert witness.

Mr. Romano presented Exhibit A-20, a perspective rendering of the finished building, and pointed out the orientation of the streets. He stated the height of the building is driven by the 36' clearance to the underside of the structure and to the depth of the structure. The slope needed is a ¼' per foot to drain water to the back toward the basin. Right now, the total height of the building is at 48.3', which will be at the highest point. He explained the building will be built with cast concrete panels that will either be brought in or cast right on site. The panels will be 4" thick. At this point, it is not known whether they will be brought in or poured on site. He stated that the lowest point of the building will be 5' lower than the 48'3" maximum height. Mr. Gillespie asked Mr. Romano if he or his firm has designed warehouses and distribution centers besides this one. Mr. Romano answered yes. Mr. Gillespie asked him to tell the Board what the current standard is for clear and exterior heights for a warehouse/distribution center being developed today. Mr. Romano stated that standard clear is 36' high for racking purposes. He stated with a 36' clearance, the normal exterior heights are between 40 and 50 feet. Mr. Romano stated his firm also designs office buildings and a typical office building is usually no less than 3 stories high which is 45' high.

The applicant's planner, Leah Furey-Bruder came forward stating she wanted to respond to Fire Official Brian Richardson's letter of June 28, 2019 regarding her testimony regarding the EFSR

sprinkler system. His letter advises the Board that “there is no requirement for a certain height of the building in order to accommodate the referenced sprinkler system.” She explained for context, she provided the testimony relative to that sprinkler system in the context of the positive criteria where we look at the purposes of the Municipal Land Use Law (MLUL) and indicate which purposes of the MLUL are being advanced by the proposal. She had mentioned the sprinkler systems related to purpose of MLUL (A) which relates to the promotion of public safety, public health and the general welfare. It was meant in the context as one small piece of the overall puzzle just to advise the Board that in a building of this height, this advanced sprinkler technology is now commonly used in buildings of this height. She did not mean to indicate that the sprinkler system requires this height; the point was to just advise the Board that we are requesting this height because it is industry standard and is what’s demanded in the market. As a result of that, technology has evolved to allow this type of sprinkler system which is more convenient and more flexible than previous in-rack sprinkler systems. She stated she does agree with Mr. Richardson’s letter.

Mr. Gillespie referred to Ms. Furey-Bruder’s discussion with Planner Fegley at last month’s meeting as to other permitted uses able to be built in this zone at 30’ tall without a variance and that Planner Fegley specifically mentioned laboratories, offices, manufacturing. He stated that despite the fact that they don’t have to prove that other uses can’t be done, Ms. Furey-Bruder used a permitted use and it’s just a height variance that makes this a conditional use application. All we have to do is talk about the use, and to provide some level of understanding here, he asked her if she had a chance to give that further consideration as to whether officer or laboratories of manufacturing are also trending higher than 30’ or are at 30’. Exhibit A-21, the 2018 Florence Township’s Master Plan Reexamination was marked into evidence.

Ms. Furey-Bruder stated that as Mr. Gillespie just referenced, the Board’s Planner acknowledged at the hearing on June 6, 2019 that a warehouse/distribution use may not be possible with the height restrictions and asked why not develop the site with other permitted uses. She pointed out that the mix of uses that is permitted in the SM zone is fairly typical across municipalities. However, the viability of different uses within those zones is really impacted by the regional and local economic land use context. You will see research & development and laboratories in clusters and you see them throughout the northeast. This is not an area where laboratories and research & development are clustered. Office buildings are trending back toward center cities and not in the suburban areas as they were at one time. Warehouse and distribution use really benefit from being near critical transportation networks, which is what you are seeing in this area, near Exit 6A. The DVRPC dubbed Interchange 6A as a freight center of importance. The proposed use is consistent with other uses in this area. Pointing back to the Master Plan Reexamination Report authored by Planner Fegley and adopted last year, one of the requirements for a Master Plan reexamination is to consider the extent to which there have been significant changes in the assumptions, policies and objectives forming the basis for the Master Plan or development regulations as last revised with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of resources, energy conservation, collection and disposition of recycling and changes in state, county and municipal policies and objectives. The reexamination plan looked back at the previous reexamination plan done in 2008, as well as redevelopment plans that had been adopted since 2009. The Master Plan Reexamination reviewed a recommendation from 2008 for a new Research/Office Park zoning district which would have been in addition to the existing OP-Office Park district. The report concludes that there was little to no interest in office development other than as a minor element to major warehouse and distribution facilities. The report further explains that lands that had been proposed for research and office park zoning were the subject of a 2016 redevelopment plan that had been adopted for proposed warehouse, light industrial and manufacturing and solar panels with a maximum height of 75 feet. It goes on to state that it was not anticipated that properties that are already in the OP zone

would be developed for office use as there has been no interest in this type of use. She just wanted to reaffirm that office development is not currently trending in the market. Ms. Furey-Bruder read the last sentence on page 7 of the 2018 Master Plan Reexamination Report: “The R/OP district was not adopted and zoning remains the same as it was in 2008 because no viable end user or developer has been interested in this type of development.”

Mr. Gillespie confirmed with Ms. Furey-Bruder that this application is not a use variance. She stated that is correct. It was confirmed that case law treats this effectively as a conditional use, a permitted use but there is a deviation from one of the conditions in the ordinance. Ms. Furey-Bruder stated this is how a height variance is looked at, per the MLUL a height variance is looked at as a D-6 variance, where as a conditional use variance is a D-3. In terms of their effect, it’s essentially the same type of testimony because the use is permitted but for the fact that it doesn’t comply with this particular condition; in this case, the height. Mr. Gillespie asked her if by deviating from the 30’ condition, are they negatively impacting or affecting the suitability of this property for this use. Ms. Furey-Bruder stated that we are not and this proposal makes efficient use of this space.

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

Russell H. Woolston, Jr. (RW) of 399 Delaware Avenue conversation with Mr. Stout (RS) was as follows:

- RW: What the distance from his house to the car parking lot area would be.
- RS: It will be 110 feet, which he showed to Mr. Woolston on one of the exhibits.
- RW: Are all of the trees that are currently standing in between his property and the car parking lot going to remain.
- RS: That is correct and that everything seen in that area in dark green will remain. Some areas will need to be cleared for grading but will be replanted once complete. Mr. Stout reminded Mr. Woolston that there is a possibility they will not have the 3rd row of parking because they really don’t need it. If the Board chooses to let them not have it, it will add an additional 18 feet to the 110 feet.
- RW: Where will the retention pond be located?
- RS: Referencing Exhibit A-20 it was explained that by the architect switching the roof pitch, the water will all run in one direction. All water will sheet flow towards the opposite side of the site, the ReadyPac side, where the retention facility will be located; in the vanilla section of the exhibit from the edge of the paving to the fence line.
- RW: Regarding trucks coming to the facility, if they turn left onto Railroad Avenue from Delaware Avenue, will they be able to turn right into the entrance of the facility?
- RS: They will not because of the way the entrance will be curved. They will not be able to turn into the facility from the Delaware Avenue direction. Mr. Gillespie stated that they have asked the Board to approve the curved entrance way, but it is ultimately the Township Council who approves what 5th Street will look like. And as Solicitor Frank mentioned earlier, if the Board wants to make a recommendation to the Township Council that it follow that design to discourage any traffic from making a left and force it to go right and prohibiting from making a right turn in, hopefully they will adopt it that way.
- RW: How high are both buildings where McCollister’s in Burlington Township used to be?
- RS: Both buildings, which will be warehouses, were approved at roughly 45’.
- RW: There will not be any provisions for trucks to drive around the end of the building, correct?
- RS: That is correct; only emergency vehicles will be able to travel around the building.
- RW: Did they considered a sound wall on the Delaware Avenue side?

56.

- RS: The building will be the sound barrier.
- RW: What is the width of the building?
- RS: Approximately 320 feet.
- Mr. Sovak asked if the building was roughly 1000' long running parallel to Delaware Avenue.
- RS: That is correct.
- RW: Assuming this gets approved, when would they break ground?
- RS: There are still a lot of outside agency approvals needed, so it is not perceived to be done this year.

Mike Donohoe of 80 Abrams Drive stated that Mr. Stout mentioned there were 65' trees existing on the site now, where are they located on the site and if there are going to be any trees left after this facility is built. Mr. Stout stated the trees are up to 65', and there are a few that are 80', and there will absolutely be trees left. Referencing Exhibit A-11, Mr. Stout stated they are meeting the 50' buffer that is required along residential areas, with it doubled on the Delaware Avenue side. Along the Legacy side where Mr. Donohoe lives, there is a berm and where it tapers down, the sound wall will be along that area. There will be landscaping on the residential side of the wall. Planner Fegley is very adamant on making sure that we have a nice evergreen buffer with we will work with her to be compliant to code. Mr. Stout said there will be clearing of trees on the legacy side, but landscaping and new trees will be put in. Mr. Donohoe stated that it will be years before those trees are matured and they will have to live with this building until then.

Lynn Hewitt of 951 Sassafra Street (off of Delaware Avenue) was sworn in by Solicitor Frank stated she appreciates the expert testimony for Foxdale Properties; however, she wanted to speak to common sense and draw everyone's attention to Chief Boldizar's memo regarding the traffic issue. She stated that one of his comments sums up the way she feels: "while I can appreciate commercial growth of the township, I feel this type of application is better suited for an area along the Route 130 corridor and not on a residential road." She also stated she appreciates that there is precedent for the height of the building, but she would really appreciate not having this height looming over the neighborhood.

Gerri Watts of 1332 Maple Avenue was sworn in by Solicitor Frank. She asked if the traffic for this building will be directed upon leaving towards the roundabout or will it come onto Delaware Avenue? Mr. Stout again explained their proposed design of 5th Street and how trucks will not be able to physically make the motion to travel towards Delaware Avenue and will be directed to the roundabout. Ms. Watts stated in or out, they will not be on Delaware Avenue then. Mr. Gillespie stated they are not testifying to the fact that trucks may not come down Delaware Avenue and make a left on Railroad Avenue, we're saying they will not be able to turn into the entrance from that direction. At some point they will realize to not go that way. They are not offering testimony that no one will travel Delaware Avenue to get to this site; the testimony is that you are not going to be able to use the entrance if they travel that way. Ms. Watts stated that she has to strategically decide how to get out of town and wants to know how this is making her life better? How is this benefitting her?

Chairman Zekas stated we have discussed this at length at last month's meeting as to the zoning on which this property is located and the roads which are controlled by the county and that is really beyond the control of the Board, and Florence Township in general and that it is a county and state issue.

Debbie Partyka of 705 Baird Avenue asked if there is a weight limit on the regular streets in Florence Township and is pretty sure there is. If there is, 5th Street that is being discussed is like all our other streets in town and how are they going to allow trucks to use it. Solicitor Frank stated that there are weight limits on some local streets, but on every single case, those weight limits would accept or

exempt local deliveries. But a local business in that area, grocery store or a warehouse would have access. This is not applicable to this application and this is not the Board's issue.

Paul Worrell of 401 Delaware Avenue was sworn in by Solicitor Frank. He stated the only reason we are here is the 20' additional height not allowed. The reason the applicant wants that height is so they can make more money on his investment. He understands that. The reason he doesn't want the 20' is because he wants his investment not to lose money and asked the Board to choose wisely.

Mark Hollern (MH) of 324 E. Front Street stated he considered himself still sworn and stated:

- MH: There have been a lot of reports done for the construction projects in town, and nearby, that are in the same format as this application. There are also projects proposed and currently under construction in this area for which the traffic will rely on the same roadways and asked if the traffic engineer could go over again, which of these facilities are factored in and how the traffic count was done; for example, at Florence Columbus Road and Route 130 which is heavily congested and how it was allowed for the future developments.
- Mr. Gillespie stated that Mr. Hollern has suggested as a matter of fact that these other facilities are going to use the same roadways. What other facilities is he talking about that will use these same roadways?
- MH: Florence-Columbus Road was mentioned specifically because one would assume that trucks traveling north and south would either use the Turnpike or 295 and exit same and use Florence Columbus Road to either make a left on Route 130 to travel south to Cedar Lane or cross Route 130 to Delaware Avenue to make a left onto Railroad Avenue.
- Andrew Feranda (AF), the traffic engineer from Shropshire Associates, stated they did their traffic counts at Delaware and Railroad as well as Railroad and Cedar at the roundabout. Their counts were done in September and in November to take in account seasonal factors. Their report does take into account other approved development. After they've done their counts, if there is approved development in the area, it is added in. In addition, they use a prescribed growth rate from DOT and add that in addition to their count plus the approved development total. So, they are counting roadways as they exist with whatever traffic is coming from occupied development, they then add the growth factor by growing it out by the percent per year out to the buildout year and they also add in point development from other approved development within the area of the study.
- MH: Then he can assume the counts from the 2 warehouses being built at the old McCollister's was added.
- AF: Their analysis is done taking in account any occupied building, that occupied traffic is already on the road and that is counted. If it's an approved development that doesn't occupy the road yet, the traffic study from that particular site is taken into account and is added in. What would pass by the site and use the roadways is layered in and taken into account.
- MH: Then he can assume that all of the approved developments noted on Ms. Marter's exhibit from the last meeting, the projects approved by Burlington Township governing body, and proposed developments are factored into Mr. Feranda's analysis.
- AF: He would be careful with that assumption. They cannot make assumptions. They can only add in approved sites and growth on the roadway which takes into account traffic that might randomly use these roads and they do that within their study area. As for the 21 or so locations mentioned earlier, he does not believe they are all approved, some of those locations are suggestions and may not even end up becoming an application.
- Mr. Gillespie stated that for the record it's not the Burlington Township governing body that approved the applications referenced.
- MH: He corrected himself and said the Planning Board. Just as in Florence Township, the same process for the traffic studies occurs in Burlington Township and has occurred repeatedly

for a number of the proposed projects on Ms. Marter's aerial photograph. He is getting at the methodology of the study; what known approved projects you have for which traffic studies have been written, published, submitted to the Burlington County governing body for approval and have gained approval. He's just asking if those have been added to their data to forecast the volume of traffic that would come across Florence Columbus road and impact our intersection.

- Solicitor Frank (DF) stated this has been asked and answered.
- MH: It is impossible to believe that all of those that have been approved, that every single developer and every single Master Plan that has had a reexamination report tagged to it does not set off a red flag and say when there's this much evidence of congestion already in the area, that the roads will not continue to be overtaxed beyond their breaking point.
- Chairman Zekas stated that this goes beyond the scope of the application; that Mr. Hollern makes a good point, but is not going to get an answer.
- MH: What every Planning Board and Zoning Board is getting is the same old traffic report and they're saying they may have generic growth factors but at some point they're adding in approved developments and nobody says "wait a minute, we're congested and we've got to stop development because we're choked and can't hold the volume." You see it in our neighborhood that it's true now.
- DF: Referring back to where we were before we started public comment last month. We are hearing an application for a height variance and also preliminary & final major site application for a warehouse development that is a permitted use in the zone. The issues that are before the Board are not traffic and are not noise. This Board is obliged to operate within the boundaries of the MLUL which prescribes the role of the Zoning Board of Adjustment and is a precise cookbook from the legislature about how planning and zoning has to be done. We have a limited range of authorities; one of which is not simply to deny an application for a permitted use because there is a traffic impact from it. He stated that Mr. Hollern is entitled to his views of the traffic and he won't disagree that all development has traffic impact, but we do not, as a body, have the authority to deny an application for a permitted use because of traffic impacts.
- MH: There's normally a process where these applicants come before the Planning Board and all this information is vetted and the Planning Board evaluates it as yes or no. This was a different process where they came before the Zoning Board and you then said this review will be just for the height variance, and all the information was presented nonetheless and was not just confined to the zoning application. So, there must be some venue at which this information is shared with the public, scrutinized, cross-examined and vetted and approved. It cannot simply circumvent the entire planning board process. He questioned Solicitor Frank that he was telling him as the solicitor for this room that that process was not circumvented by coming to this Board and asking only for design.
- DF: No process has been circumvented by the making of this application to the Zoning Board of Adjustment.
- MH: Tell him how it has not if the Planning Board's normal role is to hear all those issues, have the public comment on it and make a decision based on any one of the issues; traffic, sound or whatever.
- DF: As stated last month, everybody was told about what the role of either board is when faced with an application for a permitted use that meets all of the zoning standards that are applicable to that application. The board has an absolute obligation to approve it; end of story. It doesn't matter whether they create traffic, it doesn't matter if they create noise as long as the noise is within permissible limits as what's Mr. Dotti has told us. If an application is for a permitted use, whether it's the Planning Board or the Zoning Board, and the meet the standards of the zone, it must be approved.

- MH: The normal process is to come before the Planning Board, to unveil that information and to get a separate approval.
- DF: It is not the normal process for things to always go to the planning board. Sometimes, the zoning board of adjustment has jurisdiction. In this case, while this is a permitted use and while, if they didn't want a height variance of this extent, they could go to the planning board and be heard there. Once they want a height variance, it falls under subsection 40:55D-70d(6), or a D variance of any flavor, this body is the only body that has jurisdiction to hear the site plan. He stated that once this board gets jurisdiction, they hear everything.
- MH: Isn't it a little ironic, and he is just expressing his concern, that simply because of that unique situation, you can get a free pass to come to the Zoning Board and hear only the zoning portion of the application.
- DF: There is no free pass and that absolutely every issue that may properly be discussed at the Planning Board for a site plan, for a permitted use, is in fact being reviewed and is going to be reviewed at the Zoning Board as a part of this application. He that Mr. Hollern has a confusion that he thinks at another board they would have a broader range of authority to hear other issues and deny based on those other issues and that is not a correct understanding. If it were at the Planning Board, they would be even more constrained because they wouldn't be hearing a height variance. This body has a responsibility to hear and decide that height variance first and then to move on to the site plan issues. He believes the site plan issues have been largely worked through and is essentially compliant, which is being agreed to by the professionals. This is the same as what they would have said at the planning board. Really the only issue here is the height variance and that has to be judged by this board based upon the criteria applicable to variances. First, satisfaction of the positive criteria, and we had significant testimony from their planning expert about the positive criteria. Then we have to address the negative criteria, not about everything, but about that height; that difference in height. The negative criteria has two prongs; first, that it not be substantially detrimental to the public good and second, that it not substantially impairs the zone plan of the zoning ordinance. So if you have relevant things to say about either the positive criteria for the variance that is being discussed based in the purposes of zoning or things to say about impairment of the zone plan or about detriment to the public good that flow from the height variance that are relevant to that, then please.
- MH: That is his point; that you say to let all of this into the public record, all the testimony about sound and traffic and all that, but then you're very circumscribed with respect to your review and what it is that you're reviewing to give approval for and it's the zoning height variance only, so it just seems very...
- DF: We are also reviewing the site plan but what he's saying is that the review of the site plan is to see whether or not that it meets the standards of the relevant ordinances. We as a town have ordinances with regard to how big the setbacks have to be, what you have to plant in the buffers, about the lighting, about how many parking spaces you have, etc. We have a really significant section of our ordinance that's driven by the DEP regulations about stormwater management and water quality. Our site plan review, as it would also be at the planning board, is to measure this application, to look at this application and see whether it meets the standards of the ordinance. Our professionals pick through the applicant's plans to make sure that they do. They write review letters which are part of the record and have analyzed it and they concur in the testimony of the applicant's professionals that in fact this meets the standards, the site design standards, or our ordinance and the setback standards. Let's talk about the height variance.
- MH: That is what he's saying, but it's still coming back to the height variance as the criteria on which everything else will be judged and the hell with the sound and the traffic studies and the detriments.

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- DF: The testimony that we heard from Mr. Dotti is that the sound will in fact be compliant with the standards that are applicable to the sound. He had described in great length; I think largely to help the public understand the application and help the Board understand it. The effects of the various sound barriers and his examinations, but in truth, you're sort of right; it's not really relevant to the issue of the height variance.
- MH: But again, it's relevant to the people of the town, it is what it is, you've explained it, but I don't agree. It's the law, it's regulation in following it that way, but in principal and fairness and rightness and the benefit of the citizens, but the name of the game is to go for a variance and work development through creative passing and drafting and passing ordinances.

Russell Woolston's (RW) conversation with Solicitor Frank was as follows:

- RW: What he is saying is that even if this is the straw that breaks the camel's back, regarding the traffic, the Board can't consider that.
- DF: What he is saying is that if there is some relationship to the requested height that goes directly to traffic, maybe it's relevant, but help us understand why it's relevant.
- RW: When the earlier approvals were given, we didn't have traffic like we do now, but the world doesn't stand still. Now we're looking at the world as it is right now, but what Solicitor Frank is saying is the Board can't take that into consideration because that's something that's not part of what's already in the ordinances and everything else.
- DF: The land use regulation process doesn't start and end here tonight. The land use regulation process started a generation or two ago with the development of the first Florence Township Master Plan under the MLUL so there's a long chain of stuff. First, we do Master Plan reviews, then we develop ordinances and along the way, the township makes decisions about what they're going to do, and it doesn't turn on a dime. This property has been zoned this way for a very long time so it has been in the Master Plan of the community in the zoning ordinances for a very long time that a warehouse/industrial use could go there. The ordinance of the township could be perceived as an invitation to people to buy lands to do those things there. We are at the very end of the process for this property here.
- RW: He understands this, and as this progressed through, nobody realized what was going to happen. Now all of sudden, we've hit a wall and that's why everybody's mad. It's getting pretty bad, you don't live here, you don't go through the traffic we see every day. What you're saying is there's not a darn thing we can do about it now.
- DF: Everybody needed to start and change this a long time ago to be changed today.

Pat Scharnitz of 1326 Maple Avenue pointed out that the only real argument he's heard for granting the height variance is because it's industry standard. He said he does see a direct correlation with the height of the building with the traffic in the area; if you're going to put more goods in the building, you're going to have more truck traffic in and out. The point he'd like to make is that he doesn't think it is Florence Township's burden to keep up with industry standards with warehouses. They knew what the property was for and how big/high of a building that could be put there. So, if they want to put a warehouse, it should be built by the ordinances in place, and he moves that the Board reject the height variance.

Debbie Partyka (DP) spoke again and her conversation with Solicitor Frank (DF) is as follows:

- DP: This really upsets her and that it is a shame they didn't know about a lot of this with our lives being so busy to do something about this back then. As Mr. Scharnitz stated, if it's a higher building height, there will be more goods and more trucks. When this was approved years ago, did they really think there would be this much traffic? There's nothing the Board can do about it, but they can stop the height. It's just common sense. She stated she also feels it's kind of bias that the applicant has all their experts here and the public doesn't have their

own experts, for their benefit, so maybe before the Board votes, maybe the public can get their own experts so it's not bias and asked everybody what they thought.

- DF: Asked if she was asking for additional time so that the members of the public can hire additional experts to offer additional testimony?
- DP: She'd like to say that, but who's going to pay for that; it which would have to be us. If she posted all over Facebook and media and they all put our money together, maybe they could hire their own traffic expert, their own sound expert.
- DF: Asked her again if she was asking the Board for additional time stating this is a really serious question, and her position at the microphone is not a forum to call upon the public. It's to talk to the Board and cross examine the applicant's professionals. This is a serious question because this is much like a court of law, so everybody here has rights to due process of law; the applicant has rights to due process of law; the public has rights to due process of law. So, it is extremely important that she has reasonable opportunities to avail herself of her rights to participate in this process. And, if she feels very strongly from the testimony that she's heard, that she has a strong need to hire her own professional to come here and offer the Board different testimony, then she needs to say that; but, it can't be a "we think we might do it." She's asking the Board to delay justice for someone else so that we can keep the door open for her. If she is serious about doing this, then it would be incumbent upon the Board to give her some time to do it, not a limitless amount of time, but some time.
- DP: Asked the Board why they can't hire the professionals for the public?
- Chairman Zekas stated the Board has professionals here to assist the Board which includes Solicitor Frank, Engineer Dougherty and Planner Fegley.
- DF: Engineer Dougherty's and Planner Fegley's firm have within their doors experts in traffic, site engineering, landscape architecture, etc. They are the point of the spear here tonight but they are backed up by a lot of other professionals with other sub-specialties, so the Board does have the advantage from their review letters of a rather full review of the issues that are relevant to the Board's decision. But that doesn't end the discussion because she, as a member of the public, also has a right to participate in this proceeding, with if she wishes to have her own experts or her own counsel, but he did state it is a bit late in the proceeding to be doing that since this is the second evening for this hearing.
- DP: She will have to rely on the Board to reject it, because at this time they don't have enough people or enough money to hire their own experts. Hopefully and prayerfully, with common sense, the Board will deny the height variance. It will be a warehouse either way, but it may not be their warehouse and a lower height building will mean less traffic.
- Chairman Zekas stated that everything's a trade-off because they could have less height, but it could be a larger building with less buffer.
- DP: Asked what bulk variance they are here for and what is meant by bulk.
- Mr. Gillespie stated there are bulk standards and a bulk variance is requested if something varies from one of those standards. In this case, the bulk variance is being requested because of the height of the soundwall.

Brian Richardson, Florence Township Fire Marshal, was sworn in by Solicitor Frank. Fire Marshal Richardson stated just for the record, he met with Bob Stout before the meeting and they discussed the gates for the proposed 24' high soundwall. Instead of the gates swinging out, they will slide, so if the application is approved, he just wanted it noted that he had some input of the type of gates for the soundwall. The gates will be 14' high and 20' wide and will sit over the fire lane. Mr. Stout stated they are in agreement with this.

Seeing no one else wishing to be heard, it was the Motion of Mr. Lutz, seconded by Mr. Puccio to close the meeting for public comment. Motion unanimously approved by all members present.

Mr. Gillespie stated that he understands some of the items of concerns; traffic is traffic. A question came up earlier about the sound and the relevance of the traffic and sound studies. They weren't required to submit a sound report or have a sound expert testify; in fact, their check list was approved in January of this year during the completeness hearing. They had no sound expert even named because it is not a requirement in the ordinance, but there is no way they would present this application without it, even though it's a permitted use, because they know those questions are going to be asked. The fact of the matter is they didn't have to offer it; they have to meet the sound standards of the state and Mr. Dotti has offered testimony to show that will be done. If they don't, it becomes a performance issue, and somebody comes out and knocks on our door. Mr. Dotti also testified that the sound issues have nothing to do with the difference in height, whether it's a 30' high warehouse or a 50' high warehouse, the same results would be obtained at the end of the day in terms of the analysis. He stated there's been no evidence submitted that increasing the height from 30' to 50' is going to increase any traffic; there's speculation. There's a lot of speculation about things.

He continued with stating this Board is a quasi-judicial body and it takes evidence, and that's why we've been very careful by marking all of our exhibits, very careful when we've testified and what is being referred to; this is a record. And the only evidence that you have before you advances the idea of granting the height variance and he cannot reiterate enough that this is a permitted use, this is the SM zone. We're not seeking a use variance for something that is not permitted. We're asking to construct a building that's consistent, not only with distribution centers and warehouses in the immediate vicinity, but in the area generally and in the industry. And there has been testimony provided for that. Testimony about the property right next to this that is even higher; 75' for Garelick Farms, 55' that was approved for ReadyPac. Mr. Stout offered testimony about the actual heights and the clear heights. There is no question that Ms. Furey-Bruder's testimony was also supported that this is where the industry is. It is not so people can make more money, it's where the industry is and what's required in order to have a warehouse that is marketable and financeable.

Mr. Gillespie stated he mentioned earlier that he didn't need to disprove that you could not build a 30' high laboratory or bicycle manufacturing, or manufacture carriages (which is one of the other permitted uses), we didn't have to prove that we can't do that either. We chose a permitted use that the township put in our lap and it was warehousing/distribution and all we have to prove, because it is a permitted use that effectively transfers or converts this to a conditional use application. We have offered that. In fact, the Supreme Court of New Jersey 5 or 6 years ago said if variances of this type are requested in connection with a permitted use, a lower threshold equivalent to the standard applicable to conditional use variances is appropriate. In Ms. Furey-Bruder's testimony she stated, which is also what the case is saying, "Does the condition from which you seek a deviation render that property less suitable for the permitted use?" She testified "No, it makes it's more suitable for the permitted use. That the deviation makes it more suitable and actually advances the suitability of the site for this permitted use." That's what the Supreme Court and the Appellate Division require us to show you and that's what we've done.

Mr. Gillespie stated the record as Solicitor Frank just mentioned is filled with evidence in support of the positive and negative criteria. The height doesn't create the issue that the public is concerned about. It has nothing to do with the issues. The only reason to deny this variance is to appease the public that's present, and I know that instinct takes you to do that, but you have a different duty and responsibility, most respectfully. The public present would like you to deny this application on the pretense that we didn't meet the height standard because not granting us the variance means it can't be built for a warehouse because the industry won't allow that. That is exactly what Ms. Marter urged you to do when she said at the last meeting "So then the only recourse that we have is to decline the 50' building which would then require them to make the building smaller which will then require

them not to build it. So, I request that we deny the 50' building and make it a 30' building and then not have it built", to which the audience applauded. That's what you heard tonight, deny the variance so they can't build it at all. Not weigh the evidence, not consider what's been put in front of you in terms of evidence, not consider that this is a lower standard, it is a permitted use and we have met those requirements that the deviation from this height requirement actually advances the suitability of this site for the purpose that the township has allowed it to be. In terms of the question on whether or not you have truck routes, we offered evidence in the first hearing, remember Railroad Avenue is your only township designated truck route. He understands, he gets it. As Solicitor Frank stated it's a little late in the game; we talked at the last meeting about whether the public could hire an appraiser to speak on property values. And the answer was yes, they can; nothing was done. So, anything about lower property values is pure speculation, but even if there was testimony, Solicitor Frank would tell you the law doesn't allow to consider that in a zoning context.

In conclusion, Mr. Gillespie respectively urged the Board that the application meets the standards as the evidence more than goes beyond the standards. He doesn't dispute that the Board is put in somewhat of a difficult position because nobody in Florence Township wants to see any more trucks. 30', 40' or 50' high is not creating more trucks, the permitted use is there; that's where the trucks come from. He respectfully urged the Board to grant the application.

Mr. Sovak asked to make a comment before getting to the more formal things. He stated he knows we have an issue with traffic, but that's not part of the application. The biggest thing is the height variance and 30' high is permitted in this zone. And yes, there are other warehouses in this zone that are taller than 30'. But he thinks this particular site is significant because of the amount of the residential housing all along the perimeter of this building. If you have a building that is 970 feet in one direction and 310 feet in another, that's 1280 feet on 2 elevations which would bog the residential properties. At 20 feet higher, that's an additional 25,600 sq. ft. of visibility. To him, that affects the residents all along Delaware Avenue and McCay Drive. And that's what we have here, is the height. The traffic is bad, we all know that. The sound, their sound expert made a very good case. This Board has to deal with the height and this is a significant variation and impact on the people around the site.

Chairman Zekas stated that what we have is the applicant's request for a height variance. We also have approval required for the bulk variance for a C variance for height for the soundwall. The issue of the truck entrance/exit on 5th Street is something that the Board can make a recommendation to the governing body based on the applicant's proposed plan.

Solicitor Frank added that we would be commending that to the governing body as a preferred design, in our opinion because we don't have jurisdiction over the street. He also stated the applicant has presented Preliminary & Final Site Plans, which are also themselves a separate approval which they are seeking.

Engineer Dougherty stated to that end, the applicant has satisfied the site plan and engineering standards of our ordinance. He stated he had gone through his letter dated June 3rd at the June meeting and the applicant basically addressed those issues. He thought they had made some caveats to stormwater; they actually exceed the standard in a good way that they will retain all the water on site as opposed to letting any off. But that requires a design exception waiver. Their site lighting is less intense as well, then would be required by ordinance, but that would be another design exception, but it was testified to that the less lighting meets their needs, but to him it's a positive thing because it'll be less intense for the neighborhood. He stated he did hear testimony with regard to the traffic and there could be potentially controlling of traffic by timing of the trucks because there was a window of a very short period of time where the roundabout was a level service 'F' and poor conditions and that short window could be mitigated to a certain extent by timing of the trucks with the potential tenant.

64.

He wasn't sure if that could be a condition of the resolution, but it could be that it will need to be looked at so that it could lessen the congestion at that peak 15-minute interval. In regard to the noise, the ambient alarms on the trucks work so that as the surrounding noise got less and less, the alarm didn't have to be as loud. Again, that could potentially be a condition in the resolution that the potential tenant for this site could investigate in using the ambient alarm.

Solicitor Frank stated he believed it is feasible that any resident vehicles to the site would use the adaptive alarm but obviously you have trucks that come and go that are owned by others and they'll have what they have. Solicitor Frank added that we talked about a lot of things last month; one of which was that the applicant said they would suggest as a condition of approval that their prior approval would in fact be extinguished, so there is still there an approval that allows construction of a 390,000 sq. ft., 60' tall building. We also talked about how the soundwall would be relocated from where it was first shown on the original submission plans and that the landscaping will now be between it and the adjoining residential instead of it immediately adjoining the residential. We talked about a bunch of revisions of things, like fence details; delete a fence on the ReadyPac site; working a bit with Engineer Dougherty's office with regard to site grading details; the phantomization of 100 parking spaces on the east side of the parking lot which would reduce some impervious cover and also provide a wider residential buffer to the rear of the houses along Delaware Avenue; soundwall design with regard to color and pattern would be subject to administrative review and approval of the Board Planner; the pump station will not be above grade; the emergency generator would be fenced and landscaped; monthly maintenance of the pump station and generator would be exercised during regular business hours on weekdays; compliance with the Board Planner's landscape comments; there aren't presently any building signs on any elevations but they would be compliant with ordinance standards and subject to administrative review by the Board Planner and if they needed any relief, they would have to come back before the Board; mulch will be placed at the base of the monument sign with landscaping; other landscape comments, items and plan detail items under comments in the Board Planner's letter, #1, #2, #4 & #5; requiring the tenant to work with the township to offset shift changes from peak hours noted in the traffic study to minimize additional traffic at those peak times; yard tractors to use adaptive type back up alarms or broadband sound instead of the beep for the backup alarms; and the usual conditions with regard to escrow and outside agencies. These are conditions related to the site plan.

Solicitor Frank told Chairman Zekas that it was his choice to vote on the height variance and the preliminary and final site plan separately or it can be voted on all together. He stated he believes we've had a lot of discussion from the applicant's counsel about the legal standard that is before the Board. You really need to focus on the impacts of the height variance on the public good, on the zone plane and look at it. Mr. Sovak spoke to that. But you need to look to that question and not to the other issues that are out there. Chairman Zekas asked for a motion regarding the height variance of up to 50' first.

Ms. Mattis asked if there was any possible consideration to the fact that they are requesting up to 50' and Mr. Romano stated 48.3' during his testimony and Mr. Stout stated that some of the other warehouses in the area were 40 – 45' high. Could it be a consideration to be 45' tall? Mr. Gillespie asked if Ms. Mattis' question is would they amend their application to a maximum of 48.3' and attempt to do lower if they can? Ms. Mattis stated yes. Mr. Gillespie stated they will agree to do that and they will amend their application to request a height variance of up to 48.3'.

Chairman Zekas asked for a motion based on the applicant's request to allow a maximum building height of 48.3' with intent to build lower if possible.

65.

It was the Motion of Mr. Lutz, seconded by Ms. Mattis to approve the height variance of 48.3' with the intent to build lower for Application ZB#2019-01.

Upon roll call, the Board voted as follows:

YEAS: Lutz, Mattis, Buddenbaum, Drangula, Zekas

NOES: Cartier, Sovak

ABSTAIN: None

ABSENT: Patel

Motion carried

Chairman Zekas asked for a motion for the Preliminary & Final Major Site Plan to include the necessary design exceptions and the bulk variance for the height of the soundwall as well as all the conditions previously mentioned by Solicitor Frank.

It was the Motion of Mr. Lutz, seconded by Mr. Buddenbaum to approve the Preliminary & Final Major Site Plan with Bulk Variance for the soundwall for Application ZB#2019-01.

Upon roll call, the Board voted as follows:

YEAS: Lutz, Buddenbaum, Drangula, Mattis, Zekas

NOES: Sovak, Cartier

ABSTAIN: None

ABSENT: Patel

Motion carried

The Board took a brief recess at 10:37 p.m.

Chairman Zekas called the meeting back to order at 10:48 p.m.

- B. 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.

Blake Lyman, homeowner of 230 Leffler Circle and Scott Jarvis, owner of Diamond Pools were sworn in by Solicitor Frank. It was confirmed that Diamond Pools is the applicant.

Mr. Lyman gave the Board an overview of what he is proposing and the variances being requested. He stated they would like to put in a pool, a hot tub, with surrounding patio and walkways, and a future garden type shed to store yard equipment and the pool items in the off-season.

Chairman Zekas confirmed this will be a 17' x 40' inground pool with a concrete patio surround plus a shed and they are looking for a bulk variance for impervious coverage. Mr. Lyman stated that is correct.

Engineer Dougherty stated he does have a letter dated May 13, 2019. Allowed lot coverage for building is 20% with an additional 5% allowed for accessory uses (decks, pools, sheds, etc.) equaling 25% being allowed for lot coverage. The applicant is seeking 32% lot coverage. He stated that in his letter that the applicant should describe the character to the neighboring homes and the surrounding area. Mr. Lyman stated there are woods directly behind his property with a 4 – 5' drop off at the end of his property and there is a housing development on the other side of the woods. Engineer Dougherty asked if his rear yard drains towards the woods, so that all this impervious coverage can drain to the back area, and if at the front of the house that drains out to the street. Mr. Lyman stated that is correct. Engineer Dougherty told the Board this will give them an idea that this proposal will not drain towards the street and will drain to the woods. He printed out an aerial photo from Google Earth which was marked as Exhibit B-1, 7/1/19, to show the character of the neighboring homes. There are other

locations that have inground pools and decking, and some sheds as well. He pointed out in the center of the photograph is a large detention basin. Presumably when this development was built, they would have designed the detention basin for the maximum building coverage which would be the 25% coverage. Most likely that 25% would be counting the home, draining to the street and then to the basin. The areas behind were probably not accounted for in the basin design. But, it's basically direct runoff to the rear of the property. Going from the 25% maximum building coverage which the basin would have allowed for to the 32%, he believes at this point the applicant's impervious coverage is de minimis because it is going to the wooded area, there's a large area between him and the adjacent property to the rear, and it is not going to the basin so is not putting a burden on the basin.

Engineer Dougherty confirmed that the proposed use of the space is for recreation and personal use, and the shed itself will be for yard equipment and winter storage for items associated with the pool and patio. Mr. Lyman stated that is correct. Engineer Dougherty asked what materials would be used for the decking. Mr. Jarvis stated that all is proposed to be concrete with the exception of the existing higher wood deck that is off the house. The new patio and walkways will all be concrete and will join with the existing deck. Engineer Dougherty asked what the surface is under the existing deck. Mr. Lyman stated there is currently a concrete patio under the deck. Engineer Dougherty stated in this case, the deck is considered part of the impervious coverage because of the concrete underneath so the 32% being requested is correct. He stated that as to the appearance, there will be a fence surrounding the area so it will not really be visible to the street. Mr. Jarvis stated the design here is really to keep as much of the outdoor living space behind the house so it is not visible from the street. The property does drop off approximately 6 – 7 feet in elevation from the driveway down to where the swimming pool is going to be so you really couldn't see anything from the street regardless. They have taken a lot of time and care in the design and are rearranging the stairs coming out of the main floor of the house, they also have a walk-out from the basement. The main floor of the house comes out to a small wood deck and the stairs will be rearranged to come down to the patio of the pool so that everything is more usable, more open. Again, the majority of the patio space will be contained behind the foundation of the house, with the exception of a sidewalk leading to the front to the driveway.

Engineer Dougherty stated that these are the points of consideration for the Board on the actual need for the variance. One of the things to look at, as other people put in amenities, the 20% that is standard for most zones and as the Board sees this on a yearly basis, the Board may want to consider, if we're seeing a lot of these variances for impervious coverage, it might be that the 20% + 5% is too restrictive and may want to recommend to the governing body to increase the percentages. Chairman Zekas agreed that this is something the Board should look at. Engineer Dougherty stated that in this particular case, the water will drain towards the rear of the property and not going through the basin that was designed for 25%. It will be a de minimis impact from this property.

Chairman Zekas asked if there is a rear yard setback issue. Solicitor Frank stated the shed is under 100' sq. ft. so the 2' setback is okay. Planner Fegley confirmed that was correct.

Chairman Zekas asked if all setbacks were compliant even with the concrete surrounding the pool. Engineer Dougherty stated he did not see a setback issue with the concrete and the pool itself is 14 feet away and Solicitor Frank stated he thought it wasn't an issue because it is not a structure. Mr. Jarvis stated their understanding was the setback was 10' from rear to water's edge of the pool because the concrete doesn't constitute as structure. Planner Fegley stated that the wall of the swimming pool shall not be located less than 6' from and rear or side property line or 10' feet from an alley or easement. Engineer Dougherty stated there is a proposed sitting wall that looks to be in excess of 6' from the property line. Mr. Jarvis stated it is.

67.

Mr. Lutz confirmed that the fire pit is not considered a structure and Engineer Dougherty asked if it was raised. Mr. Jarvis stated it is a raised fire pit, but nothing more than patio blocks stacked. It is not a permanent structure and there will be no gas line run to it and it will be 7 – 8 feet away. Chairman Zekas asked that it be verified that it is not considered a structure. Engineer Dougherty stated this went before the Zoning Officer and came down as a recommendation and it was basically just a bulk variance for impervious coverage. Engineer Dougherty stated that even if it was considered a structure, it would be far enough away.

Solicitor Frank stated that we have a request for an impervious surface variance for a structure that is common in the neighborhood. We also have testimony from the Board Engineer that it doesn't impact the basin that was designed to handle the runoff from the development because the runoff from this area wasn't designed to run to the basin anyway because the runoff goes into a woods area. The concern for the impervious surface coverage is not really an issue in this particular instance.

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

Seeing no one wishing to be heard, it was the Motion of Mr. Cartier, seconded by Mr. Lutz to close the meeting for public comment. Motion unanimously approved by all members present.

Chairman Zekas asked for a motion for the applicant's request for a bulk variance for impervious coverage to allow the installation of a pool, surrounding decking, and the shed.

It was the Motion of Mr. Cartier, seconded by Mr. Lutz to approve a Bulk Variance for impervious coverage for Application ZB#2019-06.

Upon roll call, the Board voted as follows:

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

NOES: None

ABSTAIN: Buddenbaum

ABSENT: Patel

Motion carried

- C. Application ZB#2019-08: Application submitted by John Larocco for Bulk Variance for impervious surface coverage to construct an inground pool on property located at 48 Fountain Blvd, Florence Township. Block 171.02, Lot 24.

John Larocco was sworn in by Solicitor Frank. Mr. Larocco stated that he is looking for a bulk variance for impervious coverage of 29%. He provided the Board and the professionals a copy of his letter which included his response to Engineer Dougherty's review letter. This was marked as Exhibit A-1, response letter. He explained they would like to install an inground pool which will cause him to exceed the 25% allowed on his property. He stated that Engineer Dougherty declared his application complete; however, raised several issues:

- The need for the variance, which he has explained
- Characterize the neighborhood: The neighboring homes are single family dwellings of singular construction, mostly having smaller footprints than his home on lots that are on same size or larger. His neighbor directly south has an inground pool, as well as his neighbor 2 houses to the north. There are other pools, inground and above ground on Fountain Boulevard.
- The existing space is lawn and the proposed use is an inground pool. They did have an above-ground pool, and that was removed last year.
- The inground pool will be pre-molded fiberglass construction, Viking Pools Model "Fiji" as manufactured by Latham Pools. It will have curved sides within a rectangle measuring 34' X

68.

15', 5 – 6 feet deep at its deepest point. It will have a concrete walkway extending 3' from the edge of the pool in all directions with an additional concrete area on the southeast corner.

- The appearance of the pool will be sapphire blue on the inside of the pool, the concrete will be gray and there shall be ornamental landscaping around the concrete. There shall be a 6' solid white PVC fence on the north side, which is their closest neighbor, and a 5' black aluminum railing-type fence on the other three sides.
- The grading of the pool shall be level towards the house and will slope slightly to the south and west and slightly more towards the north (nearest neighbor's yard). The soil in the area is pretty sandy and only rarely, and for a very short time, is standing water visible.
- The purpose is so that we can construct a pool that will serve us, our family, friends and neighbors for many years to come.
- They did obtain approval from the Burlington County Soil Conservation District because they do have septic nearby.

Engineer Dougherty stated that the applicant's letter has certainly addressed his June 27th letter going through it point by point. He did generate a Google Earth image, Exhibit B-1, Larocco, 7/1/19, for this property at 48 Fountain Blvd. It does show some adjacent neighbors with pools as well and he did pick up they did have the above-ground pool there. He thinks that the characteristic of the above-ground pool was similar to what his inground pool will be. It does look like the 3' deck area is probably a minimal deck area that you would need to service the pool area. He stated that some townships' ordinances, not ours, consider the pool water is a pervious surface because it can accept rainwater because there is usually a lip between the surface of the water and the top of the pool deck. In this particular case, the applicant is seeking 29% which is an overage of our ordinance of 20% for the building and additional 5% for decks, pools, sheds, etc. But considering that the pool itself may be considered porous, then it may be less than the 29%. He would grant the variance for the 29% to be safe; he just thought this was an interesting point.

He stated again, as with the previous application, if we are seeing this type of application a lot, we may want to revisit that ordinance that we can get Planner Fegley involved and other towns to see what the norm in the surrounding area is. He stated this is in the AGR zone. Engineer Dougherty stated that based on the existing above-ground pool and the testimony that the soils are fairly sandy and rarely see puddling on the property, he does not think there would be any issues with regard to drainage. There is ample room for it to drain from the impervious coverage. There are no setback issues, because they will have 12' to the side, so it is just the impervious coverage they are looking for a variance for.

Mr. Buddenbaum asked how they will get the pool into the back yard without driving over the septic tank. Mr. Larocco stated they will have to drive a little on the neighbor's property and the pool company does request a signed form from the neighbor that they are waiving any liability for any damages. He stated his neighbors are fine with doing that.

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

Seeing no one wishing to be heard, it was the Motion of Mr. Lutz, seconded by Mr. Buddenbaum to close the meeting for public comment. Motion unanimously approved by all members present.

Chairman Zekas asked for a motion for a bulk variance for impervious coverage to install an inground pool and surrounding concrete decking.

69.

It was the Motion of Mr. Buddenbaum, seconded by Mr. Cartier to approve a Bulk Variance for impervious coverage for Application ZB#2019-08.

Upon roll call, the Board voted as follows:

YEAS: Buddenbaum, Cartier, Lutz, Sovak, Drangula, Mattis, Zekas

NOES: None

ABSTAIN: None

ABSENT: Patel

Motion carried

- D. Application ZB#2019-07: Application submitted by Patricia Prendergast for Use Variance to construct a pole barn considered customarily incidental to a residential use on property located at 1004 Potts Mill Road, Florence Township. Block 165.01, Lot 2.12.

Patricia and James Prendergast were sworn in by Solicitor Frank. Mr. Drangula stated he will need to recuse himself from this application as he is a property owner listed on the 200' list.

Ms. Prendergast stated that from what she understands is that they will need a use variance to construct a pole barn with a lean-to to be used to house animals; horses, feed and supplies for the horses. This will be an agricultural use in an R-Residential zone.

She stated they currently have shed rows and a livestock fence for the goats. A positive of the new pole barn will be to get rid of the shed rows and make their property look more uniform, as the new pole barn will match their house in color. It will be much more appealing to the neighbors and will look cleaner. The shed rows will be sold once the new pole barn is built. There is also a 10 x 10 shed next to the shed rows that will be removed as all of the things stored in this shed will be relocated to the new pole barn.

She stated the new pole barn will not exceed 20' in height, the side walls will be 12' high with an 8' pitch to the top of the roof; it will be 18' height so it will be less than the 20' allowed in the ordinance. The pole barn will be 36' wide. There will not be a formal driveway to the pole barn so there will not be any additional impervious coverage for a driveway. She will access her pole barn by truck and trailer about twice a year to deliver supplies and hay so there is no need for a driveway. They do plan to have electric in the pole barn for lights, a fan and heat. The septic tank is on the opposite side of the house so the pole barn will not interfere with the septic. The well is in front of their house which is also not near the pole barn. They have a creek and wooded areas behind their property but they are fairly far behind their house. There is an 80' setback to the back line of their property which puts them outside of the marsh area. The pole barn will be well away from that setback. She stated they are not doing any changes to the grade of their property and the area is pretty flat. She stated the structure will be used for farm animals.

Chairman Zekas asked if there would be water run to the pole barn. Ms. Prendergast stated there is already an existing frost-free hose in the field where the pole barn will be built and that will remain.

Engineer Dougherty stated his review letter is dated June 26, 2019. He stated Ms. Prendergast basically answered his comments with her testimony. He did have a question regarding the grading and her testimony that it is relatively flat. He asked if the grade is pitched toward the rear of their property toward the creek? He stated they are creating an impervious surface and are removing some, but creating more with the pole barn and roof shed and would like to know where that will flow to. Ms. Prendergast stated that the property is graded so that the water does go toward the direction of the creek gradually, but the grade is very slight. Engineer Dougherty's concern is that it will not impact the adjoining properties. Ms. Prendergast stated it will not and that the water will soak into the ground or flow toward the creek.

Engineer Dougherty stated that the pole barn will have minimal impact on the additional impervious surface based on the description of the grading. He stated that it is a large lot and there is no impact on the septic system. It does seem like they are removing some of the things that are older and this will have a more aesthetic appearance. Engineer Dougherty also asked what the 60' x 40' structure they have in the front of their house is used for. Ms. Prendergast stated that the same company that is building the new pole barn built this structure, so everything will match. Mr. Prendergast stated the structure is used to store his hobby cars, a camper and farm equipment. It does have 10' doors so that it's big enough for him to pull equipment in to work on it. It is a steel walled pole barn. They do park their normal driving vehicles in front of it, which is a stone area that is enclosed.

Planner Fegley stated her review letter is dated June 26, 2019. She did have a concern about the creek and wooded marsh area and asked if there is a drop-off to the creek. Ms. Prendergast stated that the property goes back pretty far, 80' – 100', and then drops about 10' down to a marshy area. The wetlands are defined by the drop-off. Planner Fegley stated she likes the idea of the lean-to attached to the pole barn so the animals can be out but still be able to go back into the pole barn to eat and for protection. Ms. Prendergast stated she'd like to keep it as natural as possible for the animals. She added that everything will sit back off the road.

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

Seeing no one wishing to be heard, it was the Motion of Mr. Lutz, seconded by Mr. Buddenbaum to close the meeting for public comment. Motion unanimously approved by all members present.

Solicitor Frank stated the site is suited to this application and is large enough. Planner Fegley is comfortable with the site for this particular kind of use. The use variance is for allowing agriculture in a zone where agriculture is not approved. This is in an R-Residential zone but is 6.07 acres in size; 1 acre for the house and 5 acres for agriculture for farm assessment, which the lot was probably designed with this in mind. This is what is different than the recent applications for large pole barn which were residential accessory structures that were just bigger than allowed; this is a structure that will be used for agriculture.

It was the Motion of Mr. Lutz, seconded by Ms. Mattis to approve a Use Variance for application ZB#2019-07.

Upon roll call, the Board voted as follows:

YEAS: Lutz, Mattis, Buddenbaum, Cartier, Sovak, Puccio, Zekas

NOES: None

ABSTAIN: None

RECUSED: Drangula

ABSENT: Patel

Motion carried

- E. 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.

Solicitor Frank stated that the applicant has new counsel and he believes they are having some scheduling conflicts, so they are requesting an adjournment to the August 5, 2019 meeting.

71.

It was the Motion of Mr. Lutz, seconded by Mr. Puccio to adjourn application ZB#2019-04 to the August 5, 2019 meeting at 7:30 p.m. Motion unanimously approved by all members present.

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

Solicitor Frank stated that there is a problem with this application. The applicant is significantly in arrears with escrows and are not really pursuing this application and we haven't had any substantive conversation with their professionals about changes to their plans. Given the posture of this application and considering how it is dragging on, for purposes of clearing up the Board's docket, it would not be a wrong to dismiss this without prejudice. He advised the Board this would be an appropriate thing if they chose to do so.

Chairman Zekas stated the Board has never even opened the hearing for this application. He asked if the township will still have to pursue getting the escrow funds. Clerk Federico stated the township is legally obligated to make sure the invoices are paid, and the township will legally try to recover those funds from the applicant. Solicitor Frank stated the applicant does sign a contract, an escrow agreement, that is submitted with their application.

It was the Motion of Mr. Lutz, seconded by Mr. Cartier to dismiss application ZB#2019-02 without prejudice. Motion unanimously approved by all members present.

MINUTES

It was the Motion of Mr. Lutz, seconded by Mr. Cartier to approve the minutes of the Regular Meeting of June 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 Mr. Lutz, seconded by Mr. Cartier to adjourn the meeting at 11:48 p.m. Motion unanimously approved by all those present.

Larry Lutz, Secretary

/kf