

**DELANCO TOWNSHIP PLANNING BOARD
REGULAR MEETING
MARCH 4, 2008**

Ms. vanGenderen called the meeting to order and led the flag salute.

Sunshine Statement:

Please be advised that proper notice of this meeting has been given in compliance with the Sunshine Law in the following manner. Written notice has been mailed to the Burlington County Times and Courier-Post newspapers and published in the January 7, 2008 editions. Written notice has been posted on the official bulletin board of the Township of Delanco at least 48 hours prior to the meeting.

Present: Mr. Ouellette, Mr. Templeton, Ms. Mader, Mr. Martin, Mr. Matulewicz, Ms. Moore,
Ms. vanGenderen, Mr. Denlinger, Ms. Jass, Mr. Taraschi.

Absent: Mr. Corcoran, Mr. Lord.

Continued Applications:

**Fishburn, William
Block 804, Lot 1
1225 Delaware Ave.
R-1 Single Family Residential Zone
Bulk & Use Variances
(Began at 7:37:38PM and ended at 8:48:07PM)**

Testimony was presented to the Board on 12/04/07 and the hearing was to be continued at the 01/09/08 meeting.

An announcement was made at the 01/09/08 meeting that this application will be continued at the 03/04/08 meeting and that the applicant was not required to re-notice.

Robert Kingsbury represented the applicant.

Mr. Germano stated that the Board's secretary contacted him to find out if certain board members would have to audit the tape of the December meeting in order to participate in the hearing. Mr. Kingsbury advised him that he intended to start the hearing from scratch and that whatever went on in December would be irrelevant and no one would have to audit the tape for the December meeting in order to be eligible to participate in the hearing.

Mr. Kingsbury stated that Mr. and Mrs. Fishburn propose to build a gazebo on a riverfront lot. He stated that gazebos are a permitted accessory structure. Mr. Germano wrote an opinion that the waterfront is not a separate lot and is part of the main lot. It is not a separate structure on a separate lot. It is a permitted structure on the lot and it does not require a variance. The gazebo will meet the 12 foot height limitation and will meet the 6 foot setback requirements. It will have one light that will be inside the gazebo up under the roof and six ground level lights.

The Exhibits were marked as follows:

- A1 – Map showing the site location.
- A2 – Sketch of proposed gazebo.
- A3 – Photo of their house viewed from the Delaware River.
- A4 – Tiffany Style Pole Light fixture.
- A5 – Light with shield.

Mr. Fishburn was sworn in by Mr. Germano.

Mr. Kingsbury asked Mr. Fishburn about the lights at the end of the property.

Mr. Fishburn stated that the ground lights are for security and that they had a problem with the area being a hangout. Lighting up the house stopped it. Putting lights along the side will also help. It is very dark there.

Mr. Germano asked about the purpose of the light in the gazebo.

Mr. Fishburn stated that it is there so that they can see and that it won't be on unless they are in the gazebo. It will be a ceiling fan with a light. The lights on the side will be lit when they are not there.

Mr. Taylor asked if the lights will be on a photo cell or timer or be on all night long.

Mr. Fishburn stated that they will be on a timer and a photo cell and will be on from dusk until 1AM or 2AM.

Mr. Matulewicz asked if they can be on a motion detector.

Mr. Fishburn didn't think one would work well in that area.

Mr. Taylor asked if the security would be for the people that are sitting in the gazebo.

Mr. Fishburn stated that it would be for the gazebo when he is not there.

Mr. Taylor suggested that a motion sensor could be put inside the gazebo.

Mr. Fishburn stated that he would not object to that.

Mr. Taylor stated that it would only be activated when someone goes into the gazebo and it would be dark at other times so that views of the river aren't foreshortened all night long.

Mr. Fishburn did not object and stated that the security lights will shine on the ground so that we can see out into the river.

Mr. Taylor stated that the exhibit shows them as being 12 inches high and that they can be placed on a small post at a height of 2 to 4 feet. He asked how high they will be.

Mr. Fishburn stated that he was looking at placing them at 2 feet.

Mr. Taylor stated that there is an ordinance provision under 110-21 that prohibits unnecessary offsite glare from any property either residential or commercial from encroaching on an adjacent property. The Board will need to make a determination as to whether or not the lights as proposed would constitute unnecessary glare. Under a dark skies provision in the ordinance we are trying to create all down lights because we don't want unnecessary sideways and upward lights that impact wild life and cause unnecessary glare to humans. The proposed lights meet the requirement. The Board needs to determine if there is any offsite glare at the property line that would create a nuisance to the surrounding properties.

Ms. vanGenderen asked how close they will be to the property line.

Mr. Fishburn stated that they will be six feet from the side lot line.

Mr. Germano asked how far they will be from the street.

Mr. Fishburn stated they will be six feet from the pavement.

Mr. Germano asked if the question concerning glare from the lights can be left to the Building Inspector when he reviews the plans and issues the permit.

Mr. Taylor stated that it could be subject to the Zoning Officer. It will be recessed to a height that the light would not be visible from an adjacent property. There could be a restriction in the resolution to guide the Zoning Officer or one of the Board's professionals to make a determination that the light in the gazebo is not dropped below the soffit.

Mr. Germano stated that there can be a condition that will leave the determination as to whether or not the design will meet the condition up to the Zoning Officer and the Construction Code Official.

The Board agreed.

Mr. Germano advised the Board that at the December meeting we agreed that this proposal would require a use variance because you can't have an accessory building without a principal building. Since there was no principal building on the lot this could not be an accessory structure. Mr. Templeton stated that when the property was originally sold in the 1860's there was only one lot.

Mr. Germano stated that Mr. Kingsbury did a memo arguing why a use variance was not required. After researching the matter he found out that tax maps are drawn according to a set of rules for tax assessors for tax assessment purposes only and you shouldn't consider them definitive for zoning purposes. The rules are made up by the Treasury Department. He prepared a memo stating that this is not a separate lot and that it is part of the main house lot. He came to the conclusion that a variance was required because gazebos are not permitted according to the ordinance that is currently in the code book. However it was brought to his attention that an ordinance was adopted in 2006 that is not in the code book that permits gazebos. The Division of Taxation rule says that the tax assessor is not allowed to use the same lot number for property on two sides of the same street. If a lot goes across the street you have to give it a different lot number. That's why our tax map shows it as a separate lot. There are 21 of these lots along the riverfront. The assessed value of the lots is included in the assessment of the main lot. The lots are not intended to be used as separate lots. This lot is part of the main Fishburn lot therefore there is a principal structure for the permitted accessory structure. He came to the conclusion that we have a permitted accessory structure that is being placed where the ordinance says it can be placed. The only issue would be the lighting.

Ms. vanGenderen asked if the ordinance delineates between a front yard and a back yard.

Mr. Germano stated that it does. The definition of front yard in the ordinance is the area between the principal structure and the street.

Ms. vanGenderen stated that if you're making the argument that it is all one lot it would be in the front yard.

Mr. Germano agreed. The code book prohibits pools and garages in the front yard. It does not have the same restriction for tool sheds, gazebos and pergolas. They are allowed to be in front yards.

Ms. vanGenderen stated that she hadn't seen the ordinance and that is why she was questioning it.

Mr. Germano stated that the lot is on the Delaware River and is in a flood plain and that there is a flood damage prevention ordinance. Mr. Dougherty looked at the ordinance to determine if it would have an impact on it. It is not a building for habitation but it must be very securely anchored so that in an event of a flood it doesn't float away and damage persons or property.

Ms. vanGenderen asked if they get water on the lot.

Mr. Fishburn stated that he plans to put in a cement slab and that he hasn't had water there in the six years that he has been there.

Ms. vanGenderen stated that the water does come up on some of the properties.

Mr. Dougherty stated that he wanted to address a couple of engineering issues. He asked Mr. Fishburn if the slab will be at grade.

Mr. Fishburn stated that it will be at grade.

Mr. Dougherty asked if the cement pad or gazebo would cause any drainage problems.

Mr. Fishburn stated that it will not.

Mr. Dougherty stated that the gazebo would have to be anchored to the slab in accordance with the flood damage prevention ordinance.

Mr. Fishburn stated that it will be attached to the slab with anchor bolts.

Mr. Dougherty stated that it would be reviewed by the Construction Code Official. He advised the Board that there has been a Waterfront Development Permit issued for the gazebo that is valid through July of 2012. He stated that he is satisfied from an engineering standpoint that the

gazebo is not affecting drainage or grading. He advised the Board that the gazebo will be ten feet from the side property line and that the lights will be six feet from the side property line.

Mr. Fishburn stated that Mr. Dougherty is correct about the location and that the gazebo will be 34 feet from the right of way for Delaware Avenue.

Mr. Taylor stated that according to the survey it will be 33.9 feet.

Mr. Fishburn agreed.

Mr. Germano stated that nothing in any approval of the Board or our Township authorizes the placement to be different from that authorized by the Department of Environmental Protection.

Mr. Taylor stated that the minimum side yard setback should be 10 feet and the minimum front yard setback should be 33 feet from the Delaware Avenue right of way.

Mr. Kingsbury asked if the Delaware Avenue paved cart way is the same as the right of way.

Mr. Taylor stated that it appears that the dimension is taken from the property line which is the right of way and it does look like it is right on the curb line.

Ms. Jass asked if there is a street lamp on the property.

Mr. Fishburn stated that there is one on the Township right of way.

Mr. Taraschi commented that the front yards for the 21 lots on the riverbank are different than the normal front yards throughout the community and suggested that the land planner single them out in the master plan to come up with some language that would approach the issue concerning the placement of tool sheds, gazebos and pergolas.

Mr. Taylor stated that they have discussed the issue with Mr. Germano and Ms. vanGenderen. This is such a unique area that we are trying to apply a Township wide ordinance to something that is tremendously unique. The views need to be protected for everyone and there needs to be bulk standards or overlay standards to specifically address them.

Mr. Templeton stated that he lives several blocks from Mr. Fishburn's property and that the 1850's deeds from the Delanco Land Company for the lots talk about buildings on the lots being verandas, bath houses and boat houses of an ornamental kind. Deed restrictions may already be in place.

Mr. Germano requested a copy of Mr. Templeton's deed for himself and Mr. Taylor so that they can review it while working on the master plan.

Mr. Taylor stated that the worse scenario for neighbors, the town and everyone would be for there to be a change in title of a waterfront parcel and someone coming in for an undersized lot development application. He hoped that the deed restrictions are already in place that would preclude that and stated that the deed restrictions should be reaffirmed and new restrictions be put in place to clarify it mainly as it relates to principal structures. A boat house would not be permitted under the Township's current ordinance.

Mr. Germano stated that the restrictions in the old deeds are still binding.

Mr. Taylor asked Mr. Kingsbury if Mr. Fishburn's deed has the same restrictions.

Mr. Kingsbury stated that he did not know.

Mr. Germano stated that if Mr. Fishburn's deed has similar language he is restricted to what is there. If that language is not in his deed we still have our Zoning Ordinance and the Municipal Land Use Law to protect the Township from what the Board is concerned about. It can be dealt with within the context of the master plan in time to protect the Township. He suggested that the Board entertain a motion to interpret the zoning ordinance so as to view the lot where the gazebo is proposed as part of the principal lot and that the gazebo is a permitted structure and no variance is required. The resolution should recite the representations that the applicant made about the location of the gazebo, the height of the lights, the condition allowing the Construction Code Official and Zoning Officer to independently make sure that the overhead light complies with the applicable section of the Zoning Ordinance on light spillage onto adjoining properties.

Ms. Mader commented that it should include the inclusion of the motion sensor and timer.

Mr. Taylor stated that a timer can be put on it so they only go on after dusk until 2:00 AM. By putting a motion sensor on it it will only go on when someone is in the gazebo during those hours. The gazebo light and the site lights will be activated by the mechanism.

Mr. Matulewicz stated that the ground lighting would not be on continuously.

Mr. Taylor stated that that is correct.

Mr. Denlinger asked if that takes care of the concern about what is happening on adjacent properties.

Mr. Fishburn stated that he wants the ground lighting on continuously so that he can see.

Mr. Taylor stated that he will only need to see when someone is out there. If you are out there using the space they will be on.

Mr. Fishburn stated that it is for security and is a deterrent and that he wants them on from dusk until 1:00 AM. He had no objection to putting a motion detector in the gazebo.

Mr. Kingsbury stated that the ground lights will be very low in intensity and will be 60 watt bulbs with a shield.

Mr. Taylor stated that they will be very bright on a very dark riverfront.

Ms. vanGenderen questioned if there are any other lots along the riverfront that have this type of lighting.

Ms. Mader stated that one property has a gas light.

Mr. Germano swore in Mrs. Fishburn.

Mrs. Fishburn stated that 617 Delaware Avenue has four lights. There are two fixtures in the trees. Each fixture has two spotlights and the lights are up in the trees.

Ms. Mader stated that the lights are not operable and that she thinks that they are not legal.

Mrs. Fishburn stated that if the house is sold the new owner could make the lights operable again.

Mr. Germano advised Mrs. Fishburn that our zoning ordinance is against lighting that spills onto other people's property. Lights up in trees will have the affect of spilling on to other people's property. The lighting that you are referring to is contrary to our ordinance and is not a precedent for allowing the lighting that you want to do. He asked if there is any other lighting along the river.

Ms. Mader stated that there is a gas fixture on the Schweder property which probably predates the ordinance.

Mr. Taylor stated that the entire waterfront is dark except for the lights that are on the utility poles. Visually this would be in striking contrast with the remainder of the waterfront. The applicant has submitted very little data to demonstrate compliance with the ordinance that talks about a maximum of 1.0 foot candles. He suggested that detailed photo metrics can be laid out on the plan for the Board to review so that they can determine compliance with the ordinance. Then the Board can make a decision at the next meeting.

Mr. Kingsbury suggested that the planner can come out at night after the lights are installed. We will abide by whatever his recommendation is. If we feel that it is unreasonable we will then come back before the Board. There is no reason to throw this into another Board hearing.

Mr. Ouellette asked Mr. Fishburn to clarify the number of lights that will be installed.

Mr. Fishburn stated that there will be six lights and the seventh light will be in the gazebo.

Mr. Ouellette stated that the print shows only four lights plus the gazebo.

Mr. Fishburn stated that there will be three on each property line and one in the center of the gazebo up high.

Mr. Ouellette asked how far apart they will be.

Mr. Fishburn stated that they will be twelve to fifteen feet apart from each other.

Mr. Templeton stated that many of the riverfront properties have had some type of vandalism that has occurred at night and during the day. Rocks have been removed from seawalls during the day. Some kind of solution has to be found to satisfy the Fishburn's concern with the integrity of

their property and what they are investing in it. The Township has a concern to maintain the waterfront as a passive and quiet place.

Mr. Germano asked Mr. Taylor if he would be willing to do the inspection.

Mr. Taylor stated that he will defer to the Board on the issue. Six lights at 60 watts each is too high and that it would have to be reduced. Having six lights would distract your attention from the tranquil surrounding and you will draw attention to the area. The potential of the lights being on from 5:00 PM in the evening until 2:00 AM in the morning in December seems to be excessive. It is an important issue and the Board can charge me with this.

Mr. Matulewicz and other Board members agreed with Mr. Taylor that it would be excessive.

Mr. Germano stated that 60 watts is bright in that atmosphere.

Mr. Martin asked what the Board will be voting on.

Mr. Germano stated that the Board will be voting on the interpretation that this is one lot and therefore a gazebo is an accessory structure and is permitted and no variance is required. The resolution should recite the representations that were made so that we are clear that we are not permitting things that are not permitted by the ordinance.

Ms. Moore asked if this should be opened to the public.

Mr. Germano stated that it was advertised as a variance and people will have to understand that since no variance is required we are not in a position to dictate to the applicant. It is generally a good idea to allow people to talk if they came out to be heard.

Mr. Matulewicz stated that we all recognize how unique the waterfront is there and that darkness is a large part of why it is so attractive on nice summer evenings. To have six lights in a line on that corner of the waterfront is going to be an unacceptable degradation in the view shed. A motion sensor on limited lighting would satisfy the security issue without distracting from the view shed.

Mr. Fishburn stated that he did not agree because the public area beside him is a hangout.

Mr. Matulewicz stated that if it is a hangout and people are going in there unobserved and there is a motion detector the lights will come on and you will see them.

Mr. Fishburn stated that the motion detector would only be in the gazebo.

Mr. Matulewicz stated that the ground lights in that corner of the property will also have a motion detector.

Mr. Germano stated that everything will go on at once according to Mr. Taylor's recommendation. The motion sensor trips everything.

Mr. Fishburn stated that he wants everything to be lit other than the gazebo. The gazebo would be on when we are in it.

Mr. Matulewicz stated that it will be a nuisance.

Mr. Fishburn stated that the lights will be two feet from the ground with a shield.

Mr. Matulewicz stated that they will be the only thing lit on a completely black streetscape on the riverfront.

Mr. Fishburn stated that there is a lamppost on the Schweder property.

Ms. Mader stated that it is about 15 watts.

Mr. Fishburn stated that the light in the lamppost is bigger and that it has four candles in it. He also stated that his lights will be two feet from the ground.

Ms. Mader suggested that more than one motion sensor be installed. One for the gazebo and one where people try to sneak by. The lights will come on if people are trespassing on your property or on the public property.

Mr. Fishburn stated that it will be safer if it is just lit.

Mr. Germano stated that he is concerned about Mr. Templeton's statement that vandalism even occurs during the day when it is brighter than what the lights are going to make the area.

Mr. Fishburn stated that the house next door to him has been broken into twice and he is concerned. He also stated that he is concerned about someone taking his seawall down because it is stacked.

Ms. Mader stated that she has caught people taking the rocks during the daytime. It is dangerous to do at night. The people she caught were from a landscaping company.

Ms. Jass asked if four lights could be used instead of six lights and placed differently on the property.

Mr. Fishburn stated that he could see his way through that.

Ms. Mader stated that there will still be a constant illumination.

Ms. vanGenderen stated that when she is walking along Delaware Avenue in the morning or evening she is looking out on the river and that they would be in the view shed.

Mr. Germano swore in Shaun Fishburn who is Mr. Fishburn's son.

Shaun Fishburn stated that if the lights are going to be two feet high and you are walking; at a normal height the glare will be down on the ground and you will be able to see out into the water.

Ms. vanGenderen stated that as you approach the property you are going to see the light.

Shaun Fishburn stated that the light will be spread all along the ground and not skyward.

Ms. vanGenderen stated that it will be in the view shed as you look out on the river.

Mr. Taylor stated that it is an anomaly. If you are in an entirely dark surrounding and someone lights a match 30 feet away your eye will be drawn immediately to the match. Not because it is bright but because it is totally different than everything around it. Even if the lights are at two feet they will draw the eye to it. It will not be blinding but it will change the visual character of the dark scenic corridor on the riverfront.

Ms. vanGenderen stated that the issue that everyone is having trouble with is that it is going to be different than anything else and that the lights are to be on constantly.

Mr. Fishburn suggested that he stay with the six lights with a motion detector and have the two corner lights on constantly at the river.

Mr. Matulewicz stated that it would be the worse place for them if you are going to leave them on.

Mr. Fishburn stated that it is his most vulnerable spot because they walk along the wall.

Mr. Germano stated that Mr. Fishburn is concerned about rocks being removed from the wall.

Mr. Matulewicz stated that if there are motion detectors on the lights you would think the problem would be solved.

Ms. Moore stated that people will be startled by the lights.

Mr. Denlinger asked if they walk along the top side of the wall or along the river.

Mr. Fishburn stated that they do all sorts of things.

Hearing opened to the Public:

Carolann Willard – 102 Lilac Lane – She commented that if someone has a flag along the river the flag will have to be lit up. There have been robberies next to their place and she can understand why they want the lights. They have permission from DEP and she doesn't understand what the problem is. Mr. Germano stated that they didn't need DEP approval for the lights. Mr. Martin stated that the electrical work would require waterfront development approval from the DEP.

Since there were no further public comments Ms. vanGenderen closed the hearing to the public.

Mr. Kingsbury stated that the issue is the location of the lights. Mr. Fishburn suggested that his compromise would be that the two on the ends will stay on until 1AM or 2AM rather than be on motion detectors.

Ms. vanGenderen stated that the two lights closest to the river would stay on and that the other lights would be on motion detectors.

Mr. Germano asked if there will be four lights.

Ms. vanGenderen stated that there will be six lights and that Mr. Taylor will help them determine an acceptable wattage for the lights.

Mr. Germano stated that if the applicant and Mr. Taylor cannot agree on the wattage it will have to be brought back to the Board. He stated that the motion would be to interpret the Township's ordinance to hold that this lot and block is actually part of the main lot and block not a separate lot. The proposed structure is an accessory structure and as a gazebo it is permitted in the zone. The resolution will contain what he has represented that he will be building and the amount of oversight that he will be willing to accept for the plan. What the Board has a right to impose is what is in one small section of the Zoning Ordinance. Mr. Taylor has pointed out that the Board has a right to require the applicant to come in with engineering drawings showing the foot candles for the lighting. In lieu of that, what they are willing to accept is the planner's view of what is reasonable under the circumstances. The Board has to determine if it is willing to accept that.

Mr. Taylor stated that the applicant's representations would be subject to the installation and that they will provide a 10 foot side yard setback and a 33 foot setback from the Delaware Avenue right of way. One recessed light within the gazebo will be on a motion sensor, timer and photo cell, six lights will be not less than six feet from the side yards, and the wattage is to be determined by his office and the applicant, two of the lights will be operational from dusk until 1AM, the remaining lights will be on a photo cell, timer and motion sensor.

Motion by Mr. Martin, second by Ms. Moore.

Mr. Ouellette, yes; Mr. Templeton, yes;

Ms. Mader voted yes and stated that she liked the compromise that they made with the Board; Mr. Martin, yes;

Mr. Matulewicz voted no and stated that the lighting issue is so sensitive that it needs additional documentation;

Ms. Moore voted yes and stated that she shares Mr. Matulewicz's concerns and that the Board's opportunities to get further concessions are limited and she is trusting that the Board's planner will apply his judicious expertise so that we have a viable solution;

Ms. vanGenderen voted yes and stated that she was concerned about the view shed and the anomaly of having a lit area on a dark waterfront that is one of the towns best assets;

Mr. Denlinger, yes; Ms. Jass, yes.

New Applications:

HOVBROS Delanco, LLC

Savannah Mews

Block 2100, Lots 3.01, 3.02, 3.05, 6, 7, 8.01 & 8.02

Coopertown Road

PRD/V Planned Residential Development/Village

Preliminary Major Subdivision & Preliminary Major Site Plan

Completeness Determination

(Began at 8:48:53PM and ended at 8:56:19PM)

Patrick McAndrew represented the applicant.

He stated that William Bodwell their engineer and Jeff Goodwin from K. S. Hovanian & Sons are also present and that they are before the Board for a completeness review. He requested that the four open items in Mr. Dougherty's review letter be deferred until the plans are revised. He asked to defer the existing deed restrictions until the plans are revised and submit the proposed

homeowners documents during the course of the application. He also stated that they are basically agreeable to the recommendations in his letter.

Mr. Dougherty stated that his letter is dated February 29, 2008 and that since the applicant has agreed to the deferrals he would be okay with the Board granting the deferrals and deeming the application complete.

Ms. Jass commented that she didn't see any lighting or utility boxes on the plans that were received by the Newton's Landing Homeowners Association.

Mr. Bodwell was sworn in by Mr. Germano. He stated that they were only showing a minimal lighting plan at this time and that they are using the same fixtures that were used in Newton's Landing and other projects that have been done in the Township.

Mr. Dougherty stated that at the site plan stage they will be showing them in detail.

Motion to grant the deferrals and deem the application complete by Ms. Moore, second by Ms. Jass.

Ms. Mader, yes; Mr. Martin, yes; Mr. Matulewicz, yes; Ms. Moore, yes; Ms. vanGenderen, yes; Mr. Denlinger, yes; Ms. Jass, yes.

Mr. McAndrew asked if they can notice for an April 1st public hearing.

Mr. Dougherty stated that it sounds like it will be heard at the April meeting and that he will notify him if there is a change.

**Iwanicki, Brian & Suzanne
1109 Coopertown Rd.
I-2 General Industrial Zone
Bulk Variances
Completeness Determination & Hearing
(Began at 8:56:21PM and ended at 9:23:15PM)**

Mr. Dougherty stated that based on his letter dated January 28th the application was declared incomplete. The applicant submitted additional items on February 22nd. He recommended that the application be deemed complete.

Motion by Ms. Mader to find the application complete, second by Ms. Moore.

Mr. Ouellette, yes; Mr. Templeton, yes; Ms. Mader, yes; Mr. Martin, yes; Mr. Matulewicz, yes; Ms. Moore, yes; Ms. vanGenderen, yes; Mr. Denlinger, yes; Ms. Jass, yes.

Jeffrey Snow represented the applicant.

Mr. Germano swore in Mr. Iwanicki.

Mr. Snow stated that the applicant is proposing to construct a deck, a pool and a garage and that he submitted an application for a use variance. He also stated that because they had previously obtained a use variance and that these are accessory uses to the principal structure they do not need the use variance. After a discussion with Mr. Germano it was determined that they only need a variance for the deck. There is open land around the house and the property behind it. The Board can grant the variance without any substantial detriment to the public good or impairing the intent of the ordinance. When the use variance was approved the R-2 standards were used but were not specifically put into the resolution. R-2 requires a setback of 20 feet rather than 24 feet. Mr. Germano stated that Mr. Snow accurately repeated his opinion about the status of the accessory structures. When you approved the variance for the principal structure that implied that accessory structures that go along with it were approved. If no "D" variance is involved the Mayor and Mr. Templeton will be eligible to vote. You are being asked to modify the prior approval by letting a structure come six inches closer to a side lot line.

Mr. Taylor suggested that this resolution should recite all the bulk requirements so that Mr. Iwanicki will not have to come back to the Board for a small addition.

Mr. Dougherty stated that he agrees but that there is an issue concerning the Avery property that is behind this property that is land locked and doesn't have public access to a street. The existing driveway that goes back to the Avery property is on the Iwanicki lot.

Mr. Snow stated that he has prepared a grant of easement for the Avery property and that they will take care of it with the Avery application. The County only wanted one access in and out of the property.

Mr. Taylor asked if there is a County widening and County access driveway being issued.

Mr. Snow stated that they dedicated property to the County along the frontage.

Mr. Iwanicki stated that the opening had to be 26 feet wide because of the dual property use and that the 13 foot wide road is okay. We proved that fire trucks were able to get back and forth because there was a fire on the property before. The first 30 feet of the road also had to be paved.

Mr. Dougherty stated that the Municipal Land Use Law requires that in order for a building permit to be issued the lot has to have street frontage. The Avery building is an existing building that doesn't have street frontage. It does make sense that the County would want to limit access to the County road.

Mr. Snow stated that when the other application comes back the easement will be part and parcel of the final approval on the Avery application.

Mr. Germano asked why the application needs to come back.

Mr. Snow stated that he has to revise the plans and that they have been completed.

Mr. Germano asked if they have to come before the Board again.

Mr. Snow stated that the plans and easement agreement have to be approved by the professionals. He also stated that the Historical Commission will have access to the building before it is demolished.

Mr. Taraschi stated that there is a playground on the property that appears to be in the area where the swimming pool will be located.

Mr. Iwanicki stated that the swimming pool will be in front of it.

Mr. Taraschi stated that there is a portable on demand storage building on the property.

Mr. Iwanicki stated that it is a sea box that he is using as a shed.

Mr. Taraschi stated that the Township is proposing to limit and remove them.

Mr. Iwanicki asked if it would be grand fathered because it has been there for five years.

Mr. Germano stated he didn't know if it was allowed in the first place.

Mr. Iwanicki stated that he used it when he had his business and kept it.

Mr. Germnao stated that to be grand fathered it would have to be legal in the first place.

Mr. Snow stated that he will look at the new regulation.

Mr. Taylor asked if it will be removed as part of the application.

Mr. Iwanicki stated that he will not remove it unless he is required to do so.

Mr. Taylor stated that if it is not a lawful existing structure and was not reflected in the preliminary approval and if there was never a permit obtained for it then it does not lawfully exist.

Mr. Snow stated that if it is not permitted by the Township ordinance they will have to address it. If it is illegal under the Township ordinance he will have to get rid of it.

Mr. Germano stated that there is no ready forum for that to be determined.

Mr. Snow stated that the Board can notify the Zoning Officer and he can determine if it is permitted. He also stated that he didn't know if it is illegal and that it is a sea box and is not a permanent structure because it can be moved.

Mr. Germano stated that if it is there for more than six months it is permanent according to the construction code.

Mr. Taylor stated that if it was used in conjunction with a business that presents additional issues.

Mr. Snow stated that if there is a possibility of complying with the new ordinance we will look at it and if we have to we will try to do that.

Mr. Taylor asked about the size of it.

Mr. Iwanicki stated that it is a 20 foot by 8 foot storage container like you would see on a construction site. My business wasn't in the Township or County. He planned to side it and put a roof on it and make it into a shed.

Mr. Germano asked about the location of it.

Mr. Iwanicki stated that it is in the back right hand corner of the lot.

Mr. Germano asked if it is shown on the plan.

Mr. Iwanicki stated that it is not on the plan because it is not permanent and that he moves it.

Mr. Germano asked if it is in a place where it can stay.

Mr. Iwanicki stated that he is comfortable with where it is now and that he plans to landscape in front of it and on the side of it.

Mr. Germano stated that if the Board is comfortable with it staying that Mr. Iwanicki will side and put a roof on it and make it permanent.

Mr. Iwanicki stated that he intends to do that.

Ms. Mader asked if it meets all the set back requirements for the R-2 Zone.

Mr. Iwanicki stated that it does and that it is movable.

Mr. Germano asked how long it will take to complete the work on the sea box.

Mr. Iwanicki stated that it would only take him a couple of weekends.

Mr. Taylor went over his report and clarified that the garage will be 840 square feet. He stated that it is the maximum permitted by the ordinance and asked for testimony about the materials and whether it will be complementary to the principal structure.

Mr. Iwanicki stated that it will match the house.

Mr. Taylor asked if the shed will be modified, be made permanent and match the house.

Mr. Iwanicki stated that it will.

Ms. Moore asked if the shipping container will have to sit on a pad.

Mr. Dougherty stated that it has a floor and from a stability standpoint it would not have to be on a pad.

Mr. Iwanicki stated that it is on packed gravel now.

Mr. Taylor stated that he will be required to get a building permit and comply with the construction code.

Mr. Iwanicki stated that he will get a permit and comply with the code.

Mr. Taylor stated that trees were required to be planted as part of the prior approval.

Mr. Germano asked if they were planted.

Mr. Iwanicki stated that he planted 20 some trees on the property.

Mr. Snow stated that some were planted along the property line to the right as required.

Mr. Iwanicki stated that trees were planted on the right of way and the side of the produce stand.

Mr. Taylor stated that a number of trees were required by the Board in 2004 and asked if they had met on site.

Mr. Iwanicki stated that they had walked the site and that trees were planted. He also plans to do work on the front yard.

Mr. Snow stated that the number of trees was reduced because the industrial property and Avery properties contained a number of trees. There already is a buffer of trees on the commercial properties.

Mr. Taylor was satisfied with the testimony concerning the trees and agreed that the R-2 zoning standards should be applied to this property.

Hearing opened to the Public:

Since there were no public comments Ms. vanGenderen closed the hearing to the public.

Mr. Germano stated that the Board will have to make a motion to grant a side yard set back variance to permit the deck to encroach beyond the 24 feet permitted in the previous approval and that all of the bulk standards of the R-2 Zone should apply for future additions to the principal structure and any accessory structures that may be added in the future and that they will bring the sea box into conformity as described. The garage will be sided and constructed to match the house.

Mr. Taylor stated that future changes to the R-2 ordinance should apply to the property.

Mr. Germano stated that the most current R-2 ordinance will apply.

Ms. Moore moved to grant the motion as articulated by the Board's attorney, second by Ms. Mader.

Mr. Ouellette, yes; Mr. Templeton, yes; Ms. Mader, yes; Mr. Martin, yes; Mr. Matulewicz, yes; Ms. Moore, yes; Ms. vanGenderen, yes; Mr. Denlinger, yes; Ms. Jass, yes.

Mr. Germano stated that the documents concerning public notification were reviewed and everything was in order and timely and the Board had jurisdiction.

McCloskey, Carolyn
717 Laurel St.
R-4 Single Family Residential Zone
Bulk Variances
Completeness Determination & Hearing
(Began at 9:24:21PM and ended at 9:41:29PM)

Mr. Germano swore in Ms. McCloskey the applicant and Gary Baker the applicant's contractor.

Completeness Determination:

Mr. Dougherty stated that the application is for a variance for a building addition and a deck. He went over his letter dated February 29, 2008 which recommended that the application be deemed complete at the meeting this evening.

Motion to find the application complete by Ms. Mader, second by Mr. Matulewicz.

Mr. Ouellette, yes; Mr. Templeton, yes; Ms. Mader, yes; Mr. Martin, yes; Mr. Matulewicz, yes; Ms. Moore, yes; Ms. vanGenderen, yes; Mr. Denlinger, yes; Ms. Jass, yes.

Application Hearing:

Ms. McCloskey stated that she wants to build the addition for her handicapped son who previously had a stroke. The addition will provide a bedroom for him.

Mr. Dougherty went over his letter dated February 29, 2008. They are asking for a side yard setback of 8 feet where 12 feet is required. There are existing setback non-conformities and the lot is a non-conforming lot in the R-4 Zone. There will be no increase in the non-conformities. He asked how the site operates currently with the narrow distance between the garage and the house.

Ms. McCloskey stated that they will take the temporary ramp down and that it will be wide enough for handicapped accessibility and personal use.

Mr. Taylor stated that she should check with the Construction Code Official to make sure that there is adequate room for accessibility.

Ms. vanGenderen stated that the existing dwelling is already closer to the side lot line. The plan for the addition would be 8 feet.

Mr. Taylor stated that the addition requires a variance but is not exacerbating the existing non-conformity.

Mr. Dougherty stated that the plan is not scaled properly. There will be about 7 to 7 1/2 feet between the garage and the new structure. A minimum of 4 feet would be required for accessibility.

Mr. Germano stated that there is a hardship because the lot is too narrow and because of the layout of the house and because of the location of the other structures. The applicant is limited to where the addition will go. He asked if this situation occurs on other lots in her area.

Mr. Matulewicz stated that he is 3 feet from his side yard and that there are others.

Ms. McCloskey stated that she did not know.

Mr. Dougherty stated that page 16 of the tax map shows that the adjacent lot is 50 feet wide and there are similar lots in the neighborhood that are between 45 feet and 50 feet. It is typical to have a 50 foot wide lot.

Mr. Germano stated that the lots are too narrow and the side yard setbacks suffer as a result.

Mr. Taylor asked Ms. McCloskey if this is consistent with the neighborhood.

Ms. McCloskey answered in the affirmative.

Mr. Taylor asked her if in her opinion there won't be any impact to the zoning plan or zoning ordinance.

Ms. McCloskey stated that she didn't think so.

Mr. Taraschi stated that he reviewed the drawing that was submitted and asked her if there is something there already that she is going to expand on.

Mr. Baker stated that the back half of the house is a single floor with a shed roof and when the addition is put on they will not be able to continue the pitch down and will have to put a gable roof coming back over the existing family room.

Mr. Martin stated that the drawing that was provided shows a second unit and that part of it already exists.

Mr. Baker agreed.

Mr. Martin asked if the side setback can be 5 feet in case there is an issue with the building code official. That way they would not have to come back.

Ms. vanGenderen agreed.

Mr. Germano stated that it is possible.

Hearing opened to the Public:

Since there were no public comments Ms. vanGenderen closed the hearing to the public.

Ms. vanGenderen stated that she liked Mr. Martin's suggestion to grant the variance for 5 feet which is consistent with the existing dwelling.

Ms. Mader suggested that the variance be granted for 5 feet with the condition that if it will be 5 feet the extra 3 feet should be used to open up the space by the garage; not to just have a bigger bedroom. If the applicant wants to slide the addition over that would be okay. A narrow passage way will make it difficult to do things in the backyard.

Mr. Taylor suggested that there should be flexibility. You can reduce it to 5 feet with an attempt to make sure that there is adequate circulation to the rear without establishing an exact number. Some interior flexibility may help as well. He asked Ms. McCloskey if 5 feet is consistent with her lot and the other lots in the neighborhood.

Ms. McCloskey answered in the affirmative.

Mr. Taylor stated that based on the configuration of the home itself it would be more practical for it to develop in line with the 5 foot setback as opposed to having to create a corner.

Ms. vanGenderen asked for a motion on the application.

Ms. Moore made a motion to grant the variance with the conditions stated by the professionals, second by Ms. Jass.

Mr. Ouellette, yes; Mr. Templeton, yes;

Ms. Mader voted yes and stated that she didn't think that it would make the house different from anything else in the neighborhood and that there is clearly a need for it and a first floor bedroom is an upgrade to the house;

Mr. Martin, yes;

Mr. Matulewicz voted yes because of the hardship and stated that he sees no detriment to the zone plan;

Ms. Moore, yes; Ms. vanGenderen, yes; Mr. Denlinger, yes; Ms. Jass, yes.

The secretary advised the Board that there was an error in the notification. The applicant addressed one notice to a Randy T. Robertson rather than a Randy T. Robinson. They didn't get the green card or letter back. Mr. Robinson was present and he identified himself and showed the secretary identification and advised her that he did receive the notice.

Mr. Germano stated that the documents concerning public notification were reviewed and that everything was in order and timely and the Board had jurisdiction. Mr. Robinson's notice was sent to the right address and he received it.

Powerhouse Equipment and Engineering Co., Inc.

Block 2000 Lot 6.02

240 Creek Rd.

I-2 General Industrial Zone

Preliminary Major Site Plan, Site Plan Waiver & Bulk Variance

Ms. vanGenderen stated that the application will be heard at the 04/01/08 meeting.

Mr. Germano stated that the Delanco Sewerage Authority sent the applicant a notice that he owes \$140,000.00 for their share of the cost for an extension of the sewer line. The amount was assessed in 2004 and there was some back and forth on what the proper amount should be. At the last meeting of the Sewerage Authority their engineer and solicitor were authorized to send letters out to all the people that owe money. The amount was corrected by the Sewerage Authority and is now \$46,000.00. The Board can hear and should hear these applications and condition any approval on payment of things like this. We are not authorized to not hear the application because of things like this. However the applicant's attorney agreed to work on the issue with the Sewerage Authority prior to the Board hearing the application.

Ms. vanGenderen announced to the public that the application will be heard at the 04/01/08 meeting at 7:30PM and that notice will not be given again and that anyone that would like to hear and comment on the application needs to be present at the meeting.

Robert T. Winzinger, Inc.

Block 1900, Lot 7

900 Coopertown Rd.

I-2 General Industrial Zone

Site Plan Waiver

Completeness Determination & Hearing

(Began at 9:44:10PM and ended at 11:50:30PM)

Ms. vanGenderen stated that she had stepped down when the application came before the Board because of a potential conflict. Since the Vice-Chairperson was not present she asked Mr. Germano who would take over.

Mr. Germano stated that the Board can elect another member to serve as the temporary chairperson. He suggested that the member that is chosen be a Class IV member.

Mr. Matulewicz, Ms. Moore and Ms. vanGenderen stepped down from the dais due to a potential conflict.

Mr. Martin became the temporary chairperson.

Mr. Germano left the meeting due to a conflict and David Serlin represented the Board for the application.

Mr. Serlin advised the Board that the Township had sited Winzinger for a lack of landscaping and also for improper storage. They were directed to come before the Board. Mr. Heinold the prior Township Solicitor, Mr. Serlin and Mr. Kearns the current Township Solicitor came to an agreement on how to present this to the Board. They were before the Board in September or October and there have been a series of discussions about submitting a waiver of site plan rather than a formal site plan submission because of the nature of the application. They began to present testimony about the historic use of the property so that the Board can get a sense of what the traffic was and those types of things. There is a submission to the Department of Environmental Protection for a recycling plant and the attorneys agree that because of the DEP jurisdiction the portion pertaining to the recycling operation would be subject to DEP approval. Hunter Taylor is supposed to address the status of where the application is. The issue back in October was the adequacy of the buffer. We were going to wait until the leaves fell so that we would have a clear view of everything. Scott Taylor has made some recommendations and Mr. Dougherty has prepared a report. The applicant is here primarily to address what the uses are. Mr. Serlin believed the attorney applied for a finding of a non-conforming use. Something needs to be put on the record about the historic nature of the use particularly for Mr. Taraschi and the Mayor that were not here before.

Hunter Taylor stated that it was a fair description of the background. On May 3, 2007 the Township Code Enforcement Official issued two citations. One was a zoning violation and that was a violation of 110-15 failure to have a landscape buffer and have an approved site plan for property where construction supplies and materials were being stored. There was a companion charge for failure to have a side yard buffer along Enterprise Drive under the property maintenance code. An appeal from the Code Enforcement Official's citations was filed. The Township Solicitor at that time ruled that the zoning violation was properly appealable to the Planning Board. The property maintenance code violation was not. He also took the position that since the same issues were involved in both the Municipal Court action involving the property maintenance violation should be stayed until the Board decides the zoning issue. There was a meeting and in the course of the meeting it was suggested that a waiver of site plan be requested since a failure to have a site plan was part of the violation and to offer up a buffering plan. Mr. Taylor will address the issues that Mr. Serlin talked about. He will address the points in Mr. Dougherty's letter where he indicates that additional testimony is needed.

Mr. Dougherty stated that according to his letter dated November 2, 2007 he didn't think that the application was ever declared complete.

Hunter Taylor stated that according to the current letter he thought it was complete.

Mr. Serlin stated that technically there has to be a finding that it is complete. It was determined in October when we met that they would submit a bare bones plan and they would present testimony to supplement it and if the Board felt that it was sufficient that would be the application. A completeness determination will almost be at the end of this because we are waiving most of the site plan requirements.

Scott Taylor stated that the Board could grant a temporary waiver of the completeness checklist and if at some point it feels that some of the information might become necessary it could always be revisited.

Mr. Serlin stated that the Board may want more information. They have to provide whatever the Board says because they are basically asking to come in bare bones because of the nature of the application and the enforcement process. The completeness will be part of the approval because the Board may request additional information. They should talk about traffic, signage, buffering and the height of the stockpiles tonight and the agreements about them will be memorialized in the resolution.

Mr. Dougherty stated that if the Board grants the requested waivers and deferrals the application can be declared complete first. We can then go through the issues of waivers point by point. He stated that he has no objection to the waivers or deferring some of the items until testimony. He recommended that the Board declare the application complete and then proceed with the application.

Mr. Martin stated that he would like to have the application declared complete first.

Mr. Dougherty stated that he went through the completeness checklist items in his letter dated November 2, 2007. He indicated in bold the items that he wanted the applicant to provide testimony on. The items that are not bold can be deferred or waived by the Board. He recommended that the application be deemed complete and then we can go through the bolded items.

Motion by Ms. Jass, second by Ms. Mader.

Mr. Ouellette stated he would like to go through the report first.

Mr. Templeton asked what items are missing.

Mr. Dougherty stated that a site plan check list was not submitted and that a plan was submitted that does not include all of the information that is required by site plan. That's why the applicant is seeking a site plan waiver. There is sufficient information on the plan to be able to discuss their operation. We need testimony on what they are currently doing and the type of vehicular traffic and those types of things that would be required. They asked for a waiver of a Letter Of Interpretation for the site but it had been submitted under a previous application. There are minor things on the plat detail that they have requested waivers for. The representation of the applicant is that it is an existing use to the existing site so therefore the zoning issues are not applicable. Technically under a site plan waiver nothing would be submitted. The applicant submitted a plan that wasn't adequate for a site plan.

Mr. Templeton stated that he thought that the issue is that the past use is not the same as the proposed future use.

Hunter Taylor stated that they are before the Board because they were sited for having construction material on the property and for not having a buffer. We will show the Board aerial photos going back to 1975 that show construction material stored on the site. The current use is the historical use. This is an undeveloped piece of property that the applicant has only been able to use for purposes of storage and the were sited for what they have been doing since 1973 or 1974. They are not asking to change the use at all. They are not asking to build anything. The testimony tonight is going to show that the buffer on Enterprise Drive was lost when NVR bought the property and cut down the trees with the approval of the Township.

Mr. Templeton stated that the applicant sold the land and needed to replace the buffer.

Hunt Taylor stated that they are here to compromise on the buffer and have a plan for the Board although they don't feel that it is something that should have been required.

At 10:05:40PM the Board took a break to go over the November 2, 2007 letter from Mr. Dougherty.

At 10:12:45PM the Board continued the discussion.

Mr. Serlin stated that Mr. Taraschi asked why the applicant is before the Board. He advised the Board that there were citations issued by the Zoning Officer for failure to have a landscape buffer. The applicant's attorney Hunter Taylor has taken the position that the requirement cannot be imposed because there is no new development and that everything that is being done today is what has been done for the last 20 or some odd years. There has been some testimony about it that should be given again because there are some new members on the Board. There was a second citation issued for outside storage being prohibited. Mr. Heinold the former Township Attorney took the position that the Board doesn't have jurisdiction because it is a Township Code enforcement issue. The concerns about the outside storage can be addressed through a site plan application with conditions for some buffering and height limitations for storage. The applicant has agreed to do those things and also to address traffic questions as to what the historic nature of traffic is and what the nature of the traffic will be into the future. They want to sell the property and redevelop it. When that happens they will come before the Board with a full site plan. They represented that the recycling facility is under DEP jurisdiction and that they were going to get a permit for six months at some point in time. They should provide information on the status of the permit. The plan the Board has before them is an offshoot from the application that was submitted to the DEP. There was a discussion in October at Scott Taylor's office with all the professionals. They discussed the nature of the buffer that should be provided and we wanted to be sure that the buffer determination is made after the foliage is gone. There was a site meeting in December and there was an agreement reached as to what will be done on that part of the site plan application. For various reasons the application has not been before the Board since then.

Mr. Martin stated that there is a motion to approve the waiver of site plan submission requirements.

Mr. Serlin asked if the professionals would like to provide any additional information on the background.

Scott Taylor stated that there was a significant wooded area and as part of the NVR application 60.01 feet was subdivided off of this parcel to create Enterprise Drive. This was part of a redevelopment area that had been moved forward by a previous administration. We recommended that there should be one driveway that would service Price, NVR and this property. It was approved with a 30 foot wide cart way that also preserved a number of trees along the property line between Enterprise Drive and the Winzinger parcel. While Enterprise Drive was under construction the previous Township Engineer's site inspector approved a field change to allow the road to increase in width from 30 feet to 45 feet believing that an increase in the width would be better for the truck traffic. NVR came back before the Board for an amended site plan approval. The Board reluctantly agreed. Enterprise Drive may not have been accepted by the Township yet. There were issues concerning the maintenance of the road. The buffering that was located on the Winzinger property is no longer there and we now have visibility of things that were not visible before.

Mr. Martin asked if the additional 15 feet was taken off of the Winzinger property.

Scott Taylor stated that he would have to research his files because there were three different applications at the time.

Mr. Dougherty stated that the road widening is contained within the right of way.

Scott Taylor stated that part of the existing vegetation was to remain as part of the buffer.

Mr. Dougherty stated that in September when they appeared before the Board there was no application. We agreed that there would be a site plan waiver. The November letter was in response to a site plan waiver request to get before the Board. There is no new development on the property therefore a site plan waiver is an appropriate mechanism. Because there is no new development I agreed to the waivers and deferrals.

Scott Taylor stated that we wanted to get a snapshot of how they are using the property and what is the intensity of the use. If there is a significant intensification that has never been occurring before or some change in use we have a snapshot at a point in time of what has been going on over the last thirty years. We will know from this point forward what their operation is independent of the applicant's application for a limited Class "B" Recycling Facility before the DEP which is for a temporary six month permit for rock crushing. There has been some testimony on it as well as some disruption permit issues relative to the other history of the site.

Mr. Serlin stated that he thought the applicant agreed that one of the other purposes of the waiver of site plan was that if from the testimony it is determined that there are issues that should be addressed by a site plan or traffic control or those type of issues that aren't major the applicant would agree to those type of conditions that were addressed in Mr. Dougherty's letter. There has been a level of cooperation by the applicant to try to give you existing conditions plus some improvements based upon what has been represented to us to be a very minimal historic use.

Mr. Martin stated that the first motion by the Board would be to accept the application as being complete. Some of that means that we're accepting the waiver of site plan requirements. That does not make a commitment to any Board member to grant the waivers.

Mr. Serlin stated that Mr. Dougherty is comfortable granting a completion determination pending on the Board making a determination on what items should be waived. The applicant accepts that just so that it is complete and so that they can move forward subject to having the Board add items that may be a result of the presentation of evidence to the Board.

Mr. Martin stated that there is a motion and second.

The secretary advised everyone that there was a motion by Ms. Jass and a second by Ms Mader.

Mr. Ouellette, yes;

Mr. Templeton stated that he is confused about what this is for.

Mr. Martin stated that it is his understanding that the Board is accepting the application as complete because we have site plan requirements. They haven't provided all the items in the site plan checklist and they requested a waiver. Mr. Dougherty has looked at it and has no objection to requesting a waiver of site plan requirements such as environmental impact study, traffic impact study but they will provide testimony on the bolded items in the November 2, 2007 letter.

Mr. Templeton stated that the current and proposed use is clearly changing and that he would like to see everything possible on it. Given the history of inaccurate and incomplete information being submitted a full site plan should be submitted by the company therefore his vote was no;

Ms. Mader voted yes and stated that it is procedural so that we can begin the discussion;

Mr. Martin, yes; Mr. Denlinger, yes;

Ms. Jass voted yes and stated that it is procedural and that if they need more information on the items the information would be forthcoming;

Mr. Taraschi, yes

Hunter Taylor commented that Mr. Serlin indicated that the Winzinger's were sited for storing material on the site. They were storing material on the site without a side yard buffer. The buffer is the key to both citations. Currently there is a minor disruption permit pending before DEP. The property is the old Delanco landfill site. Anytime you start digging or doing anything on a closed landfill site you have to get a permit. The DEP application has been pending for twelve months and has not been granted. The next step is a Major Disruption Permit. You can't get the major

until you get the minor. The Class “B” temporary recycling permit has caused some controversy in the Township. You can’t get that ruled on until you get the Minor and Major Disruption Permits. There is a contemplated new use that is three permits away and there is no way to talk about it until DEP grants it. DEP tells the applicant what you can do, where you can do it, and when you can do it. There is nothing that can be testified to regarding recycling. What is currently going on with this property is the same thing that has been going on since the mid 1970’s. There is fill dirt, top soil, construction material, and occasionally a piece of related construction equipment there. The lack of the buffer, dirt and construction material has brought the applicant before the Board.

Scott Taylor stated that this application has nothing to do with the limited Class “B” Facility and that they would come back before the Board.

Hunter Taylor stated that DEP has exclusive jurisdiction.

Mr. Martin stated that they wouldn’t be coming back before the Board.

Mr. Serlin stated that the Township may be able to comment on the application. Even though the DEP has exclusive jurisdiction they will ask municipalities and other agencies to offer comments about areas of local concern.

Hunter Taylor stated that it is his understanding that that is routinely done.

Mr. Serlin stated that they might not before the Board for a formal application but that would not preclude the Township from offering comments.

Scott Taylor stated that the Delanco Township Committee and Edgewater Park Township Committee in 2007 had sent several pieces of correspondence to the DEP noting concern over this facility and the potential impacts of that type of facility.

Hunter Taylor stated that that is one reason why the minor disruption permit has taken twelve months. DEP is looking very carefully at what is going on.

Mr. Templeton asked what the status is on it and if they are doing any digging at the site.

Hunter Taylor stated that it is pending and that they are not digging at the site because they are not allowed to.

Mr. Templeton stated that it was already completed and under review by the DEP.

Hunter Taylor stated that all three of the applications have been completed and sent in. Nothing gets reviewed until the first application is out of the way. It has been pending for twelve months.

Mr. Templeton asked if field work has been done on the site to comply with the Minor Disruption Permit.

Hunter Taylor stated that they did a delineation of the actual landfill site several months ago and the results are in Trenton.

Mr. Serlin stated that one citation noted that a landscape buffer is required and that it needs to be provided through site plan. Outside storage is prohibited and an approved screening buffer is required.

Mr. Serlin swore in William Challender Vice President of Construction of Winzinger Inc. and Joanne Winzinger President.

Mr. Challender stated that he assisted Audrey Winzinger with the project and has worked for the company since 1990. He believed that they purchased the property in 1971.

Hunter Taylor stated that it was purchased in 1973. He asked about the circumstances that led to the purchase of the property.

Mr. Challender stated that they were purchasing fill dirt from the pit portion and were using it on a project and when they came back the gates were closed and locked. They purchased the property because the previous owner went bankrupt and they needed a source of fill dirt.

The following exhibits showing the evolution of the property were marked and identified by Hunter Taylor and Mr. Challender:

A-1 – An aerial photograph of the property dated 11-29-61.

A-2 – An aerial photograph of the property dated 04-04-65. The landfill section has increased and the internal roadways are the same as the ones shown on exhibit A-1.

A-3 – An aerial photograph of the property dated 04-12-70. The landfill section has increased to more than half of the site, the roads are the same and there is a pond on the site created by the removal of dirt.

A-4 – An aerial photograph of the property dated 03-11-74. It depicts the property after it was purchased by the applicant. The pond is larger, the roads still remain, there are some roads cutting laterally across the site. There appears to be piles of fill material and there has been activity on the site. The buffer is on the site.

A-5 – An aerial photograph of the property dated 03-09-75. The roads are throughout the site; the pond is similar to what is on exhibit A-4. The buffer is established on all sides of the site, there are a lot more piles of material stockpiled on the site. There is also construction material on the site. The roads are mostly gravel and there were times that there were some paved roads.

A-6 – An aerial photograph of the property dated 11-10-95. There is a wooded buffer throughout the site, an internal road system, and piles of stored materials such as fill dirt, pipe and other construction material. The pond is still on the property but has decreased in size.

A-7 – An aerial photograph of the property dated 03-22-05. The photo shows Enterprise Drive on the side of the property and the buffer is removed along it. The rest of the buffers are in tact. The pond is still there and the road system is still there. There are piles of stored materials.

A- 8 – An aerial photograph of the property dated 02-29-07. The pond is still there and the road system is still there. There are piles of stored materials and some equipment.

Mr. Serlin asked if there are any materials stored in the area where the proposed recycling operation is to be conducted.

Hunter Taylor stated that DEP chooses the area that will be used.

Mr. Challender stated that there are no stored materials in that area.

Mr. Denlinger asked when the property ceased being a landfill.

Hunter Taylor stated that was when the prior owner closed the doors and went bankrupt.

Mr. Serlin stated that the applicant never operated it as a landfill.

Hunter Taylor agreed.

Mr. Denlinger asked if the debris that was there was covered over.

Hunter Taylor stated that it was covered over and has been a problem for the development of the property.

Mr. Dougherty stated that in about 1980 it was presumed that if a landfill had two feet of cover that it was closed.

The Board went over the review letter from Mr. Dougherty dated November 2, 2007.

Mr. Dougherty stated that items 6 and 7 on page 2 of his review were addressed.

Ms. Winzinger stated that she has been affiliated with the company since 1955 and that she was involved with the acquisition of the property. She also stated that the testimony of Mr.

Challender was true and accurate.

Mr. Serlin asked if the road network is historic in nature and if it has shifted around.

Ms. Winzinger stated that the road was there when they bought the property and it was there for access by DEP and their well testing people to test the wells.

Mr. Serlin asked how often trucks were there to move or remove fill.

Ms. Winzinger stated that it depended on the project that they had and that on average it would have been five to seven trucks a day since they purchased it in 1973.

Mr. Martin asked when they started utilizing material from the site.

Ms. Winzinger stated that they started digging there six to eight months before the owner closed it.

Hunter Taylor asked Mr. Challender what types of trucks are used.

Mr. Challender stated that they have a tri-axle dump truck and a tractor trailer with a dump body on the back.

Mr. Templeton asked what the gross weight of the dump trucks is.

Mr. Challender stated that they are all under 80,000.

Mr. Templeton stated that it would be 40 tons per truck.

Mr. Taraschi commented that the letter from Hunter Taylor dated November 26, 2007 states that the number of trips per day is 7.5 and that 50% of the truck traffic to and from the site is for the purpose of unloading fill dirt and construction materials. He asked if that means that there are 15 trips per day.

Hunter Taylor stated that half of the loads bring stuff in and half of the loads take stuff out. The 7.5 is the average number.

Mr. Challender stated that the number will be 7.5 not 15.

Hunter Taylor stated that when they drop something off they are usually not loading up again and that would be counted as one trip.

Mr. Challender stated that most of the stuff that is taken to the storage yard is just dumped there. When we sell the material it goes out.

Hunter Taylor stated that it is rare that they would take something there the same time that they would be taking something out.

Scott Taylor stated that when trips are referred to an in and an out would be considered two trips.

Mr. Dougherty stated that a document submitted by the applicant dated October 22, 2007 indicates that historically the truck traffic entering and leaving the site has been a monthly rate of 12 to 15 truck trips per day. When you're saying 5 to 7 it is really double that.

Mr. Serlin stated that what they are saying is the number of round trips made by the same truck going in and going out.

Hunter Taylor asked Mr. Challender to address storm water management and drainage.

Mr. Challender stated that the area drains to the retention pond that is on the site.

Hunter Taylor asked Mr. Challender to address soil erosion and sediment control.

Mr. Challender stated that the County has their plan and that they have verbal confirmation that the permit has been renewed.

Ms. Jass asked if there were any studies done with runoff because of the fact that a lot of the trees are gone and the area looks more stripped than it did before. Is there a drainage issue.

Mr. Martin asked if there is an outlet to the sedimentation basin.

Mr. Challender stated that he is not aware of one and that it doesn't leave the site.

Mr. Dougherty asked if they are using soil erosion sediment control such as a silt fence in the stock piling areas.

Mr. Challender stated that the driveway in is either stone or asphalt. It is a combination throughout to contain any kind of tracking out onto the street. At one time there was some silt fence up. In order to comply with the permit we have to maintain it. We will have to address the comments made by the County concerning the plan. Previously we have been enclosed with a wooded buffer. Everything inside the buffer has stayed inside the buffer on the property.

Scott Taylor stated that the comment concerns the sedimentation of the pond itself which is a designated wetland area. Is there a vegetative strip? Is it graveled right up to the edge of the basin? What is the condition?

Mr. Challender stated that he believes that there is vegetation around the pond.

Mr. Dougherty stated that the entire site drains to the sediment pond.

Mr. Challender agreed and stated that everything is contained internally with no outfall. Most of the site is already stabilized. We don't tear the whole place up to create a big mud hole so that it would run off. Most of the areas have natural growth on them.

Scott Taylor asked Mr. Challender if it would be correct to say that there is no disturbance or activities occurring within 50 feet of the pond.

Mr. Challender agreed and stated that it might even be more than that. When we store materials they are usually stored in the lane to the right, in the far back right corner or far left corner.

Mr. Taylor stated that it looks like the area around the pond has been left to re-vegetate itself.

Mr. Challender stated that they generally don't go over there. We have areas out front that have been stone and gravel for years. They are hard and we can get to the material without tracking a lot of mud.

Mr. Serlin asked if a note should be put on the plan with a restriction.

Scott Taylor stated that a previous applicant had a letter of interpretation from the DEP that identified it as a wetland. The applicant should acknowledge that there has not been any work in that area and that they will keep any of their activities concentrated out of the wetlands and any transition area associated with it.

Mr. Challender stated that he did not have a problem with it.

Scott Taylor stated that it should be subject to DEP Fresh Water Wetlands Permits and or any further Board action.

Mr. Serlin stated that the applicant should address fire protection and asked if there is a fire protection plan.

Mr. Challender stated that there is a pond on the property that can be used to pump water from. The materials that are stored are not flammable. It is top soil, fill dirt, concrete pipe and that sort of thing.

Mr. Serlin advised the new members that there are no buildings on the property and that there is nothing that would catch on fire other than their trucks.

Mr. Challender stated that each truck has a fire extinguisher on it.

Mr. Dougherty asked if trucks are stored on the property overnight.

Mr. Challender stated that they do not store trucks there. They come back to Hainesport to their yard.

Mr. Serlin stated that they occasionally leave equipment there overnight.

Mr. Challender stated that they may leave a front end loader there but a tri-axle dump truck would not be left there and a tractor pulling a demolition trailer would not be left there.

Scott Taylor asked if excavation type equipment could be left there.

Mr. Challender stated that construction equipment such as a hydraulic excavator, a back hoe, a track hoe, a bucket with a big arm on it and a front end loader could be left there but everything that they would drive on the road would not be stored there.

Scott Taylor asked how many pieces of construction equipment could be left there.

Mr. Challender stated that historically the number would be less than five. He also explained how the equipment would be kept secure from unauthorized use. He stated that their equipment does get vandalized and that people trespass on the property.

Ms. Winzinger stated that the vandalism has decreased since Dietz and Watson has occupied the building next door.

Mr. Challender stated that they don't use the site as much as they did years ago.

Mr. Taraschi stated that the equipment shouldn't be left outside unprotected.

Mr. Challender stated that their equipment is usually left outside on the job site.

Scott Taylor asked about their hours of operation.

Hunter Taylor stated that one of the written submissions indicated that there will be no activity earlier than 7:00AM and no later than 6:00PM at night.

Mr. Challender stated that their typical work hours are 7:00AM until 3:30PM.

Ms. Mader asked how many days a week they work.

Mr. Challender stated that they work five days a week, occasionally on Saturday and rarely on Sunday. He also stated that the truck driver that moves machinery back and forth typically would be there after 3:30PM. There are also times when they would work overtime.

Hunter Taylor asked what would be the latest that the driver would be there.

Mr. Challender stated that he might be there until 5:00PM or 6:00PM.

Mr. Serlin stated that Hunter Taylor stated that the hours are irregular. They would not start before 7:00AM or not be there after 5:00PM from Monday through Friday.

Mr. Challender stated that it is pretty consistent.

Hunter Taylor asked how trash from the site will be disposed of.

Mr. Challender stated that they don't generate trash but if there is trash they put it in a dumpster and haul it away. The drivers put their trash in their trucks and take it away.

Mr. Templeton asked if there are restroom facilities there.

Mr. Challender stated that if they are there a lot they would put a portable toilet there otherwise they will leave the site.

Hunter Taylor asked how long a worker would stay on the site.

Mr. Challender stated that they work an eight hour day and that they take breaks and go to lunch.

Scott Taylor stated that the trucks come and go and that you could have one guy that is there loading the trucks.

Mr. Challender agreed and stated that they are usually not there every day of the week for months at a time and restroom facilities not being available on the site is not a problem.

Hunter Taylor asked for testimony concerning outdoor lighting.

Mr. Challender stated that there currently is no outdoor lighting and there is none planned because they do not work through the night. He didn't recall ever having people on the site at night.

Mr. Serlin stated that the only people that use the site are the employees and that there are no customers that pick things up.

Mr. Challender agreed.

Mr. Taraschi asked if they have generators and portable lights that can be set up.

Mr. Challender stated that they do.

Ms. Winzinger stated that some of the equipment has big lights on them and the trucks have lights on them and they don't bring in auxiliary light to other job sites.

Scott Taylor stated that they are restricted to 5:00PM and would not need lighting.

Mr. Serlin stated that they only have employees coming there and there would be no need for the outdoor lighting for safety purposes.

Hunter Taylor asked for testimony concerning signs and pavement markings. Mr. Dougherty's review letter called for a plan at the gate that would direct the drivers to make a left and exit to Route 130.

Mr. Challender stated that they would be willing to put the sign up but they would need some specifications for the sign.

Mr. Dougherty stated that the sign should indicate that the drivers should turn left when exiting the site to Coopertown Road and that they should obey the posted speed limits.

Mr. Challender stated that they need to know the size of the sign and that they can have the sign made and put up.

Ms. Mader asked about the circulation plan.

Mr. Dougherty stated that they testified that the road in has been the road ever since they owned the property and that he didn't have an issue with the road being used for circulation.

Hunter Taylor asked for testimony concerning the existing condition of the site and measures being taken to preserve the natural environment of the site. He stated that it was discussed when they discussed the aerial photos and the pond.

Mr. Challender stated that they did not want to disturb most of the vegetation.

Mr. Serlin asked Scott Taylor if there are trees on the site that need to be preserved.

Scott Taylor stated that we want to get a snapshot of the site as it has existed. They have indicated that it is their goal for the disruption permits to move forward and ultimately their goal is to develop the site. There is woodland around the perimeter of the site. He suggested that all the stuff that is brown as shown on the aerial should be left as is. No additional trees should be removed and the grass lands should be left as they exist with the exception of what might be necessary for the disruption permits.

Hunter Taylor stated that the aerials show that the storage has moved all around the property and storage has not been in the area of the pond.

Scott Taylor went over the aerials that show how the use of the site has progressed. According to the aerials it appears that only a small portion of the site is currently used. We would like to see as much of the site that can be left in a natural state be left that way for as long as possible. The areas for your use can be isolated.

Mr. Martin asked if they would continue their current operation of stockpiling fill dirt and other materials if they receive approval for the Class "B" Temporary Permit.

Hunter Taylor stated that they would and that the recycling facility would only involve three acres and if DEP agreed with the application it would be in the back corner of the property on the same side as the pond. There would be thirty-one acres left to be used for the current operation. Scott Taylor asked if the recycling facility would be on what appears to be an asphalt pad. He asked if the shadow that is fifteen or twenty feet high on the aerial is the crushing facility and if it is currently on the site.

Ms. Winzinger and Mr. Challender stated that it is not.

Scott Taylor asked if it was out there for a period of time.

Ms. Winzinger stated that she was not sure.

Mr. Challender stated that he didn't know if it ever landed there or not.

Mr. Serlin asked Scott Taylor to go over his recommendation again.

Scott Taylor stated that in the aerial dated 02-09-07 there is a clear delineation of dark brown areas that depict areas of existing vegetation. There are also clear areas that are exposed gravel at the surface. We recommend that the applicant consider confining their storage and transport operations to those areas that are disturbed as depicted on the aerial.

Hunter Taylor asked for clarification and used the aerial to show the applicant the locations. He asked the applicant if it is acceptable.

Ms. Winzinger agreed that it is acceptable.

Mr. Serlin stated that it is consistent with Mr. Challender's testimony.

Mr. Challender stated that the whole right side has been part of their operation and that their work load varies. The need to use a facility like this is random. It is hard to not be able to use something that you have and that you have already used it for.

Ms. Winzinger stated that they have been trying to generate some cash because the taxes have increased. There hasn't been much income coming out of the property. Our main goal is to sell a good portion of the property if not all of it. We have a general recycling facility on top of a landfill in Atlantic County. The permit for the Limited Class "B" facility for recycling is a long way off. There is no General Class "B" recycling facility in Burlington County. None have ever been permitted. She stated that they tried twice and that several others have tried and that she didn't think that it will happen until the laws change and that she is pursuing that avenue.

Hunter Taylor asked Ms. Winzinger if they have any intent to pursue a permanent recycling facility on the property.

Ms. Winzinger stated that she wants to sell the property and that she can't afford to go through the County again.

Hunter Taylor stated that if she thought the County would grant it she would make the application. She's telling you that she has been there and done that and spent the money and is

not inclined to throw away anymore money. The County is not going to let anyone go into the recycling business competing with them.

Ms. Winzinger stated that they have applied for a six month temporary permit which is in limbo.

Mr. Serlin asked if she is okay with the recommendation concerning the trees and the vegetation.

Ms. Winzinger stated that she is.

Scott Taylor stated that he would like a delineation of the line from the 2007 aerial transposed onto the site plan itself.

Mr. Templeton stated that he thought that they were going to present a buffer plan.

Hunter Taylor stated that they haven't gotten to that issue yet.

Mr. Martin asked the Board how much longer they wish to hear testimony.

The Board decided to stop by midnight.

Hunter Taylor stated that the next item is the landscape plan.

Mr. Serlin asked if it can be done in fifteen minutes.

The Board decided to go over the remaining items in Mr. Dougherty's letter and begin with the landscape plan at the next meeting.

Mr. Dougherty asked for testimony on the following nuisances: fumes, smoke, odor, dust and noise. He stated that many of the items were already discussed and that the site is watered when it gets too dusty.

Mr. Challender stated that during the summer they have run the water truck up and down the lane where the trucks travel to keep the dust down.

Mr. Martin asked if it is in their Erosion and Sedimentation Control Plan.

Mr. Challender stated that it is part of the plan and that it has been submitted to the County.

Mr. Taylor asked for a copy of it.

Hunter Taylor suggested that a list be made of the information the Board still needs.

They discussed the various items that will be needed.

Mr. Martin recommended that the site plan not be changed yet because there might be other things that may be brought up at the next meeting.

The Board members requested permission to visit the site.

Hunter Taylor stated that they could.

Mr. Martin stated that the Board will continue with the application at its April 1, 2008 meeting.

Mr. Templeton asked for a copy of the Disruption Permit results.

Mr. Martin stated that it hasn't been issued yet. He asked if the information that was submitted to the DEP with their Disruption Permit was provided to the Township.

Hunter Taylor stated that he didn't think it was and that it will be provided.

Meeting opened to the Public:

The meeting was opened to the public and since there were no public comments the public portion of the meeting was closed.

Comments from the Board:

There were no comments from the Board.

Adjournment:

A motion to adjourn the meeting was made by Ms. Jass and seconded by Ms. Mader.

All members present voted in the affirmative.

Roseann M. Lameiras

Board Secretary

Approved: