

**HILLSBOROUGH TOWNSHIP BOARD OF ADJUSTMENT**  
**PUBLIC MEETING MINUTES**  
**September 18, 2013**

Chairman Fenwick called the Board of Adjustment meeting of September 18, 2013 to order at 7:30 p.m. All stood for the Pledge of Allegiance. The meeting took place in the courtroom of the Municipal Complex.

Chairman Fenwick announced we are having some technical difficulties with our recording system that we have not been able to resolve.

Chairman Fenwick announced that the meeting had been duly advertised according to Section 5 of the Open Public Meetings Act, Chapter 231, Public Law 1975 ("Sunshine Law").

**ROLL CALL**

Michael Volpe – Absent  
John Stamler – Absent  
Helen Haines, Vice Chairman – Present  
Marian Fenwick, Chairman – Present  
Walter Dietz, III – Present

Frank Valcheck – Present  
Shawn Lipani – Present  
Frank Herbert (Alt. #1) – Present  
Curtis Suraci (Alt. #2) – Present  
Kenneth Hesthag (Alt. #3) – Present  
Michele Boronkas (Alt. #4) – Absent

Also in attendance: David Kois, Deputy Director of Planning/Zoning Official and Board of Adjustment Administrative Officer/Secretary; Mark Anderson, Esq., Board Attorney, (Woolson Sutphen Anderson, P.C); William H. R. White, III, P.E. P.P., C.M.E., Board Engineer, Maser Consulting; and Susan Baber, CCR.

**ACCEPTANCE OF MINUTES**

January 16, 2013

A motion to approve was made by Mr. Lipani, seconded by Mr. Dietz.

**Roll Call:** Mr. Dietz – yes; Mr. Valcheck – yes; Mr. Lipani – yes; Mr. Herbert – yes; Mr. Suraci – yes; Mr. Hesthag – yes; Vice Chairman Haines – yes; Chairman Fenwick – yes. Motion carries.

February 06, 2013

A motion to approve was made by **Mr. Herbert**, seconded by Mr. Lipani.

**Roll Call:** Mr. Valcheck – yes; Mr. Lipani – yes; Mr. Hesthag – yes; Mr. Dietz – yes; Vice Chairman Haines – yes; Chairman Fenwick – yes. Motion carries.

March 06, 2013

A motion to approve was made by **Mr. Dietz**, seconded by Mr. Valcheck.

**Roll Call:** Mr. Valcheck – yes; Mr. Lipani – yes; Mr. Herbert – yes; Mr. Suraci – yes; Vice Chairman Haines – yes; Chairman Fenwick – yes. Motion carries.

April 03, 2013

A motion to approve was made by Mr. Dietz, seconded by Mr. Valcheck.

**Roll Call:** Mr. Dietz – yes; Mr. Valcheck – yes; Mr. Lipani – yes; Mr. Herbert – yes; Mr. Suraci – yes; Mr. Hesthag – yes; Vice Chairman Haines – yes; Chairman Fenwick – yes. Motion carries.

June 05, 2013

A motion to approve was made by Vice Chairman Haines, seconded by Mr. Valcheck.

**Roll Call:** Mr. Valcheck – yes; Mr. Lipani – I will abstain since I arrived late; Mr. Herbert – yes; Mr. Suraci – yes; Mr. Hesthag – yes; Vice Chairman Haines – yes; Chairman Fenwick – yes. Motion carries.

June 19, 2013

A motion to approve was made by **Mr. Dietz**, seconded by Mr. Suraci.

**Roll Call:** Mr. Valcheck – yes; Mr. Lipani – yes; Mr. Herbert – yes; Mr. Suraci – yes; Mr. Hesthag – yes; Vice Chairman Haines – yes; Chairman Fenwick – yes. Motion carries.

July 17, 2013

A motion to approve was made by Mr. Hesthag, seconded by Mr. Suraci.

**Roll Call:** Mr. Valcheck – yes; Mr. Herbert – yes; Mr. Suraci – yes; Mr. Hesthag – yes; Vice Chairman Haines – yes; Chairman Fenwick – yes. Motion carries.

**ACCEPTANCE OF RESOLUTIONS**

Belle Mead Tire (LaRue) - BA-12-13

A motion to approve Resolution BA-12-13 was made by Mr. Lipani, seconded by Mr. Valcheck.

**Roll Call:** Mr. Valcheck – yes; Mr. Lipani – yes; Mr. Herbert – yes; Mr. Suraci – yes; Mr. Hesthag – yes; Chairman Fenwick – yes. Motion carries.

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**BOARD OF ADJUSTMENT BUSINESS**

None

**BUSINESS FROM THE FLOOR**

None

**PUBLIC HEARING - APPLICATIONS**

***High Branch Land, Inc.*** – File #BA-13-13 – Block 48, Lot 11.05 – River Road. Applicant seeking ‘c’ Bulk Variance for relief from Minimum Lot Size, and such other variances, waivers and approvals as are necessary to permit construction of a single family dwelling on property in the AG District. ***ADJOURNED to November 06, 2013.***

Mr. Kois noted the matter of notice will be left up to the Board for this application.

The Board discussed the matter.

Mr. Anderson said the notices I have been provided with are acceptable. The Board has the discretion to choose without further notice.

Chairman Fenwick announced the application has been carried to November 06, 2013 without further notice.

All were in favor; none were opposed. Motion carries.

***Luiz PEREIRA*** – File #BA-13-08 – Block 8, Lot 11 – 717 Amwell Road. Applicant requesting Certificate of Nonconformity to recognize the existing use of the property as a legal prior existing nonconforming use as a two-family house on property in the AG District. ***Adjourned from July 17, 2013 without further notice.***

Mr. Kois introduced the application.

Chairman Fenwick stated I am going to step down for this application. Vice Chairman Haines will run the hearing for this application.

Alexander Fisher, Esq. of Mauro, Savo, Camerino, Grant & Schalk, stated, I am representing Mr. Pereira in this application for a Certificate of Nonconforming Use. The property owned by Mr. Pereira has been a 2-family dwelling for well over 70 years, but the zoning ordinance does not permit 2-family dwellings in that zone. A Certificate of Nonconformity is needed to continue that use.

As stated in the memorandum prepared by Mr. Kois, Hillsborough passed its first zoning ordinance on May 22, 1946. It is due to that ordinance that many of those lots and uses became nonconforming. However, many of those uses continue. Those are preexisting nonconforming uses and are entitled to a Certificate of Nonconformity. The standard of proof is by preponderance of the evidence which means we only need to show that it is more likely than not that prior to May 22, 1946, the house existed as a 2-family dwelling on the lot as it is today.

Mr. Anderson said you have opened an important fact. You said you have to prove it was existing at that point.

Mr. Fisher said it is my understanding that it was existing lawfully prior to 1946 because there was no ordinance as to zoning.

Mr. Anderson responded, the requirement is that you must demonstrate lawfully previous existing use.

Mr. Fisher said I have 3 witnesses who will provide testimony showing that 717 Amwell Road has been continuously used as a 2-family dwelling since before May 22, 1946. I will present Larry Lane, whose family has been involved in one way or another with this property prior to 1946 through 2010; Daniel Dunzik, an architect who will testify that his review of the property shows it was built as a 2-family dwelling prior to 1946; and Mr. Pereira will testify about his purchase of the property in 2010 and all of his research done.

Lawrence Lane was sworn in and gave the following testimony in response to questions asked by Mr. Fisher:

All of my life we have been involved with this property. As the facts were explained to me by my father, my grandparents and great grandparents...

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Mr. Anderson interrupted, are we going into hearsay?

Mr. Fisher said for this specific statement, yes.

Mr. Anderson said my comment to the Board is that the law does not preclude the Board from considering hearsay since this is not a court of law where the hearsay would not be considered unless it's subject to a specific exception. The Board can consider hearsay if it believes it is reliable, but the Board does need to keep in mind that hearsay remains hearsay. You need to weigh it in your own minds whether it is sufficiently reliable.

Mr. Lane said I am not an expert on what constitutes "hearsay".

Mr. Anderson said in a very general sense, hearsay is that which you may believe to be true, have heard it is true, but you did not observe yourself through your own faculties. You accept that you are relying on something that came from someone else. That is not a complete description of hearsay but for our purposes, that is probably the difference we need to deal with.

Mr. Lane continued. My earliest recollections of the house would have been in 1946 or 1947. My grandfather passed away in 1933. My grandmother continued to live in the house until the last few months of her life when she lived with my parents. She passed away in 1952. My earliest recollections of being in the house were that my grandmother lived in the apartment on the south side of the house that goes towards Clover Hill. I recall the rooms but in my experience, there was never a passage from the south side to the north side of the house. I do not know who the tenants were on the north side prior to the early 1950's. I recall that time because those tenants had a son I was friends with.

My father told me a number of times that his parents never owned the house. My grandfather owned the general store which was immediately next door, which he ran until it burned down in 1920. He then reopened the store in the basement of the house until he passed away in 1933.

I do not know the circumstances of why my grandparents never owned the house. In 1946 my parents purchased the house from Elizabeth Connor who I know. I believe the house was a 2-family house when purchased by my parents, not only because of my experiences as a child there but I would have recalled had my father ever discussed converting it from a single family house into a 2-family. The house probably existed as a 2-family house prior to his birth.

Mr. Dietz asked, do you have a ballpark on what year the house was originally built?

Mr. Lane said I would say the original part of the house dates to the middle or later part of the 1800's; 1850's, 1870's perhaps but I cannot establish that.

Vice Chairman Haines said one of the papers in our packets said 1890. It looks like it might be older than that.

Mr. Lane said I tend to agree. I have seen photographs from around 1900 in the area where the house is depicted; that I am sure of.

Vice Chairman Haines said I own a house that also goes back to that time period. I am surprised there was not a connecting hallway or doorway at some point.

Mr. Fischer said we have an architect to testify to that.

Mr. Lane said I know from experience that it did not exist. In my experience, the house has continuously been used as a 2-family dwelling right up until 2010. I believe my earliest memories are from around the age of 3 or 4. I clearly remember my grandmother's apartment on the south side and that she did not live in the whole house, only half. As I said previously, I have vivid memories of being in both sides starting in 1951 or so since I was friends with the son of the tenant on the north side, Hayes was their name.

Vice Chairman Haines asked who owned the house at that point.

Mr. Lane said Elizabeth Connor or her predecessor. I do not know who.

Vice Chairman Haines said then it was not a family member?

Mr. Lane said no, not to my knowledge. As I said, my parents bought the house in 1946 and my grandmother was living there at that time. She lived there until a few months prior to October of 1952. She spent the last 2 or 3 months of her life at my parent's house while she was ill.

A Board member asked if there have been any major structural changes.

Mr. Lane said no, I have no recollection of changes other than my father enclosing the porch on the south side that exists that way today.

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Mr. Lipani said we do not have a plot plan for this house. Is this the house directly across the street from the church at the 3-way stop?  
Mr. Lane said yes, the one very close to the street.

Open to the Public  
No questions.

Daniel Dunzik, AIA, was sworn in, reviewed his professional background, was accepted by the Board and gave the following testimony in response to questions asked by Mr. Fisher:

I have reviewed the property at 717 Amwell Road. My history with this house goes back several years when Mr. Pereira bought the house. At that time he needed to get permits to do several things to the house. He updated the plumbing and electrical wiring because of the shape it was in. He was replacing all of the mechanical systems, well systems and other various systems within the building. He did minor wall construction within each unit, just to create things like a little bathroom and a little laundry room.

My first introduction was when he had just purchased it. I went through and measured extensively through the house and one of the things I observed was that there was a distinct difference between the way the one side of the house was framed to the other.

**Exhibit A-1A through A-1E – Photos**  
**Exhibit A-2 Floor Plan**  
**Exhibit A-3 *History of Yard Lumber Size Standards*, dated September 1964**

Mr. Dunzik reviewed the photos. The south side is the original portion of the building; the north side is the addition. From the information I collected, you can see that the house was built at two distinctive separate times. There are several ways of telling that including wood species and sizes of the lumber used. *The History of Yard Lumber Size Standards* provides such information. I believe the south side of the building was built in the late 1800's when the dimensional lumber sizes were true 2 in. x 8 in. and 3 in. x 8 in. They were true to size and were not smooth on any of the sides. Just after the Turn of the Century in 1909, they started standardizing lumber, mostly for shipping and distribution. The Panama Canal opening up was a significant event which allowed western woods to come in. Lumber was standardized from the true 2 in. x 8 in. to a 1 7/8 in. by 7 7/8 in. dimension which was used post 1909 until the 1920's when it was shaved down again to a 2 5/8 in. x 7 5/8 in. for a nominal 3 in. x 8 in. The south side is framed with the true-sized 3 in. x 8 in. lumber. The north part of the building was framed with 2 7/8 in. x 7 7/8 in. lumber which only started to be used after 1909. All of the changes in lumber sizes are documented here.

The second thing that was noticeable throughout the house and basement were areas that were opened up. They showed evidence of knob-and-tube wiring which was phased out between 1910 and 1920. and then made illegal. Both portions of the building were knob-and-tube. If the house was built any later than the 1920's, they would not have been able to use that type of wiring. I believe the northern part of the building to be framed and constructed around the 19-teens to the very early 1920's at the latest. When Mr. Pereira was renovating, several of the old plaster walls were taken down, new pipes were put in and the walls were replaced with new sheetrock. You could see that no doors connected one side to the other.

Exhibit A-2 is the floor plans of the building I drew when we did the renovations to the building for obtaining permits. There is a straight line between the south and north side of the building. When the demolition work was done, this wall was exposed. There were no windows, doors or connections between one side of the building to the other. The stairs were built at distinctly different times. There really is no evidence at all that the two sides of the building were ever connected on any floor.

Mr. Herbert asked, were there studs running down the wall? If so, from what time period?

Mr. Dunzik said yes, from the late 1800's. That wall was constructed in the late 1800's and the new northern part which I refer to as "Unit B" was constructed in the early 1900's; somewhere between 1910 but no later than 1924.

Mr. Herbert asked if there was any way someone could have built in a door with studs using lumber that existed.

Mr. Dunzik said the studs were evenly spaced; it was all uniform. We did find one window opening that there used to be that they closed up but aside from that, there were no doorways.

Mr. Dietz said so in your expert opinion, you are saying that both sides of the house were built before 1946.

Mr. Dunzik said that is correct.

The witness was asked, in your opinion, the way this house is built, does it permit any use other than a 2-family dwelling?

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Mr. Dunzik said no, it does not.

Mr. Kois said, just for clarification, I do not believe we received the standards prior to seeing it today.

Mr. Fischer asked that it be marked as Exhibit A-3.

Mr. Dunzik explained that Exhibit A-3 is a United States Department of Agriculture publication, published in the 1960's. It gives the history of dimensional yard lumber in the United States and how it evolved.

Board members confirmed it had not been provided within the application packets.

Mr. Dunzik said these photographs show the lumber sizes in accessible areas throughout the building which you can see are different throughout. The 5 photographs were marked in as exhibits. Even more telling is the knob-and tube wiring. As I said earlier, it was made illegal after 1914 but stock was allowed to be used up until the 1920's.

Vice Chairman Haines asked if there are any photos of the wiring.

Mr. Dunzik said no, the wiring was all ripped out by the time we took these photographs.

Mr. Herbert asked, but the electrical wiring was still working in 2010?

Mr. Dunzik said I believe it was but the wiring I saw wasn't. You would see the insulators and pieces of cut-off wire, but it was in both sides of the house. If the house was built any later than the 1920's, it would not have been in both sides of the house.

Vice Chairman Haines asked, so when would electricity have been brought to that house?

Mr. Dunzik said prior to 1900 or around the Turn of the Century.

Luiz Pereira, Owner of the Property and Applicant was sworn in and gave the following testimony in response to questions asked by Mr. Fisher:

**Exhibit A-4 Property Deed – signed June 11, 2010 (filed June 15, 2010)**  
**Exhibit A-5 Plan of Survey, Block 8, Lot 11, dated 01-11-10**

Mr. Pereira requested that the most recent Deed for the property at 717 Amwell Road, dated 06-11-10 be entered in as an exhibit. This Deed refers to the property description from a previous Deed dated January, 1946. I obtained the Deed from the transfer from Eleanor O'Connor-Conway to Larry Lane from January, 1946. The 2010 Deed does not show any difference in description of the lot from January 30, 1946 to the present.

Mr. Fisher asked that the Survey dated 01-11-10 be marked as an exhibit.

Mr. Pereira continued. This survey was done by a licensed surveyor in 2010 when I purchased the property.

Mr. Fisher asked Mr. Pereira questions regarding the survey.

Mr. Anderson interrupted saying the witness if not testifying from his recollection. It is important for the Board to know when the witness is testifying based on his knowledge and when he is simply reading from a document.

After discussion with Mr. Anderson on the phrasing of the question, Mr. Fisher asked, did you have this survey commissioned based on the 1946 Deed?

Mr. Pereira said yes. I compared the two deeds and the chain links numbering. I lined it up to what the survey is saying to try to then identify if there was a difference between the Deed and the structure in 1946 to the 2010 Deed. I came to the conclusion that it was exactly the same.

Mr. Anderson said to Mr. Fisher, this witness has not been qualified to do so. However, I am not sure I understand why that is relevant at all.

Mr. Fisher said it is being introduced to show that the lot and the building are the same currently as they were in describing the Deed of January 30, 1946.

Mr. Anderson said I do not know if there is any question about it but it seems to me such testimony would be required from someone who has expertise in the matter. It is not that you cannot introduce the Deed; it is that you are drawing conclusions from it. The conclusions drawn require expertise.

Mr. Fisher continued with his questions for Mr. Pereira.

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Mr. Pereira again stated I have been the owner since 2010. The house has continued to be used as a 2-family house since I began ownership until present.

Vice Chairman Haines said according to the survey, it looks as though almost 7 ft. of the south, southeast corner, most of the area that you have marked as "parking" on both sides and part of the porch are actually in the Amwell Road right-of-way.

There was discussion as to what part of the house was actually being referred to, finally agreed to as "southeast".

Vice Chairman Haines continued, I do not know how historically that area ended up in the right-of-way but that creates something of a problem, particularly for parking.

Mr. Fisher said that was actually subject to an authorized limited continuance of encroachment of the existing structure which was a Resolution authorized by the County of Somerset on May 11, 2010 and referred to in the June 11, 2010 Deed.

Vice Chairman Haines asked for a copy and said that refers to the building itself, not necessarily the parking.

Mr. Fisher said I think it said a continuation of the "as is".

Mr. Anderson pointed out that this is not a variance application. The question asked does not seem relative since this application is simply for a Certification of a Nonconforming Use. If the County has an issue with that, the County can deal with it. I understand the Board's concern but I do not think it is relevant.

Vice Chairman Haines asked if it would be relevant to the number of parking spaces.

Mr. Anderson said it may be but again this application is for a Certification of a Nonconforming Use. If they are entitled to that, they are entitled to it regardless of whether there is parking or anything else. Again, this is not a variance application where you set conditions. Mr. Fisher and I have spoken about this application in the past and he has chosen to pursue it as a Certification of a Nonconforming Use.

Mr. Kois pointed out a copy of the Resolution on behalf of Somerset County authorizing limited continuance of encroachment of existing structure in County right-of-way had been submitted and is in the file.

No questions from the Public

Mr. Fisher said that is my final witness. I believe we presented more than sufficient evidence to show that the property has been a 2-family dwelling from before the passage of the first zoning ordinance in the Township of Hillsborough and has continued to be used as such and therefore entitled to a Certificate of Nonconforming Use.

Mr. Anderson remarked, this is an unusual application for the Board but certainly one that is permitted under the Municipal Land Use Law. I would like to speak to this because as long as I have been representing the Board, I do not recall seeing this particular kind of application. The question here is very different than it would be if the request was for a variance. If for a variance, it would be appropriate for the Board to consider whether this is something which would be desirable, meaning whether it is laid out in a way that it would serve the public good or perhaps to the contrary, for which all of those issues would be relevant. This is strictly a question of a request for a Certification of nonconforming Use.

I believe there are only 2 important questions that the Board needs to answer. The first being whether the house was in use as a 2-family house as of May 22, 1946 which to the best of our knowledge dates back to the first zoning ordinance in Hillsborough. Frankly, I do not know if May 22<sup>nd</sup> is the date it was passed or the date it became effective but there is nothing in the testimony to suggest to me that a few days or even months would be relevant. The second question is has the house continuously been used as a 2-family house since that time. If you answered both of those questions in the affirmative, then the Applicant would be entitled to a Certification of Nonconforming Use from the Board. If you are not satisfied from the testimony that you can answer both question in the affirmative, than the Board should appropriately deny this application.

Vice Chairman Haines asked what is the pleasure of the Board.

Mr. Dietz said I believe this has always been a 2-family house since as long as I have been alive and before the zoning took effect in town.

A motion to approve the issuance of a Certification of a Nonconforming Use as a 2-family house was made by Mr. Dietz, seconded by Mr. Herbert.

**Roll Call:** Mr. Dietz – yes; Mr. Valcheck – yes; Mr. Lipani – yes; Mr. Herbert – yes; Mr. Suraci – yes; Mr. Hesthag – yes; Vice Chairman Haines – yes. Motion carries.

Break

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***Stacy GRAB*** – File #BA-13-07 – Block 174.04, Lot 59 (formerly known as Block 174A, Lot 6) – 9 Starview Drive. Applicant seeking ‘c’ Bulk Variance from Minimum Lot Size, and such other variances, waivers and approvals as are necessary to permit construction of a single family dwelling on property in the R District. – *Revised Plans submitted 09-06-13. Adjourned from July 17, 2013 with re-notice.*

Mr. Kois introduced the application.

**Exhibit A-1 through A-6 – Photographs**  
**Exhibit A-7 – Plot Plan**  
**Exhibit A-8 – Impervious Coverage Sheet**

Stacy Grab, Applicant, and Michael Degeranamo, potential buyer of the property, were both sworn in.

Ms. Grab began the testimony by saying I would like to give you some background on Block 174.04, Lot 59 and our application for a ‘c’ variance. This was a vacant lot that we purchased in 2008. At the time, we were unaware of the zoning requirements for the R Zone. Our intention was to build a single family home there. However, over the last 5 years, we have been unable to financially move forward with the building plans so we had to put it up for sale. It is now for sale which brought us to the realization that this lot is indeed nonconforming. The potential buyer questioned the buildable lot status. He came down to the Municipal Building looking for some certification or documentation and learned there was none.

The issue is that the lot size does not conform. The lot is .9183 acres or 40,000 sf. where the required zoning is 1-acre or 43,560 sf. We have not been successful at our attempt to buy or sell land to or from our four surrounding neighbors. That is the reason why we are here today. Without approval, the land would be worthless, unbuildable and unsellable.

The first benefit I would like to offer to the Board is that the proposed single family home fits in the building envelope and within the setback as currently stated. It would also advance the purposes of the MLUL by granting a hardship variance under the flexible “c”. I will outline 4 of the criteria from the MLUL that I believe would satisfy the criteria, the first being letter “A”. This would be an appropriate use of land in a manner which will promote the public health, safety, morals and general welfare. If left unbuildable, 9 Starview Drive would remain an empty hole in a beautiful, developed neighborhood. In addition, no one would be able to take care of it which would promote the potential for trash to accumulate on the property. Also, trees, bushes and anything overgrown could fall onto the neighbors’ properties. Criteria “B” is relevant since it would promote appropriate density of development consistent with other lots in the subdivision and contribute to the well being of the neighborhood. The proposed single family dwelling matches the dwellings already in existence in the neighborhood.

In reference to the aerial view provided with the application, I would like to point out that there are lots that are also 160 ft. x 250 ft. Both 11 Starview and 13 Starview are on the same side of the street and both the same size as 9 Starview Drive. Across the street, both 8 Starview and 10 Starview are also 160 ft. x 250 ft.

The next criteria I would like to address is “i”. Development of this lot in a manner that fits in and is consistent with the existing development would promote a desirable visual environment through good civic design. The single family home we are proposing is roughly a 3,300 sf. 2-story home. Some of the houses such as 8 Starview and 13 Starview have recently had a second story addition put on. 17 Starview is a 2-story home with roughly 4,200 sf. Other houses in the neighborhood are split levels and ranches. The house we are proposing would not stand out in the neighborhood.

The last criteria, “k” is relevant because it would incorporate the best features of design and relate the type, design and layout of this lot to the particular site and neighborhood. Mike will comment on the design, materials, setbacks and building envelope.

Vice Chairman Haines asked, the house that you quoted that is 4,200 sf., how close is that to this lot?

Ms. Grab said 17 Starview Drive is at the top of the street.

Vice Chairman Haines mentioned, so it is pretty far away.

Mr. Degeranamo said it is probably 5 or 6 houses away.

Ms. Grab made the correction that it is 4 houses away.

Vice Chairman Haines asked about the types and sizes of other houses closer to the lot.

Mr. Degeranamo said one is a raised ranch, the other a 2-story colonial. One could be approximately 2,200 sf., the other 2,400 sf.

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Vice Chairman Haines said that means they would be quite a bit smaller.

Mr. Degeranamo agreed. He presented photos of houses on the same block that were marked in as exhibits.

Mr. Dietz asked Ms. Grab which 4 property owners were asked to purchase or sell property.

Mr. Anderson commented that Mr. Dietz is looking at the aerial with the lot lines marked. It appears to have two contiguous lots.

Ms. Grab said that is correct. I provided the letters according to the list provided to me from the Zoning Department.

Mr. Dietz said normally if you have a corner where four properties come together, the diagonal properties are not considered touching so according to the plot plan I have here, you would only actually have 3 properties touching.

Ms. Grab confirmed no one wanted to buy parts of the property or sell parts of their property to make it conforming.

Mr. Degeranamo reviewed the photo exhibits. Exhibit A-1 is the house directly across the street; A-3 is on the same side of the street at the corner past the house; A-4 is the same house from a different angle to give you an idea of the size of the house; A-5 is on the left-hand side within 3 or 4 houses of the lot; and A-6 is on the corner on the opposite side of the street 3 or 4 houses from the lot.

Vice Chairman Haines asked are any of these houses on either side of the lot?

Mr. Degeranamo replied no, they are not.

Vice Chairman Haines said since you do not have any photos of what is directly adjacent to the property, do you have an estimate of the sizes of those houses?

Mr. Degeranamo said as I mentioned before, I believe those houses could be anywhere from 2,400 to 2,700 sf., maybe a little larger; that is a conservative estimate. Continuing on, he said you should have a handout of the 2-story colonial home we are proposing which gives the description, front elevation, and floor layout. We feel it fits into the neighborhood.

In reference to your engineer's letter dated September 12, 2013, his general comment is that the lot is undersized by about 8%. The lot survey is an indication of the position of the lot currently. Item #3 addresses the structure. The structure itself meets all of the zoning requirement, the impervious...

Mr. Anderson interrupted saying the testimony is now geared into professional testimony. You need to provide the witness' qualification on the record and ask whether the Board accepts his qualification as a professional so that he can give a professional opinion. The witness knows exactly how to do it so he can help you.

Mr. Degeranamo stated his qualifications as a licensed contractor in the State of New Jersey who has been building single family homes for 35 years.

Chairman Fenwick asked if the Board can accept his qualifications.

Mr. Anderson responded, this is not typical. I think we need to be explicit as to what the Board sees him to be qualified in because the testimony he was last talking about was zoning. Normally, that kind of testimony would come from a licensed engineer or licensed architect or licensed planner. It does not mean the Board cannot find him qualified but to do that, you need a bit more background.

Mr. Degeranamo said I was merely reading from the engineer's letter.

Mr. Anderson clarified, you were not reciting what is in the engineer's memo, you were drawing conclusions about the zoning. It is up to the Board to determine whether or not you are qualified. You need to convince the Board that you have sufficient education and/or experience to draw conclusions. Hearing the fact that you are not a licensed professional, I think the Board needs to cite specifically what area you are qualified in. This is not because you are not donning a professional license; it is because if you have a professional license, there is an assumed area of qualifications. If you are an architect, you are qualified to be an architect. If you are a contractor, presumably you are qualified in contracting but that does not necessarily mean you are qualified to talk about zoning.

Mr. White commented, since my letter, a subsequent plan was submitted along with an impervious coverage calculation. My concern within Item #3 was the fact that they did not exceed the 15% impervious coverage and that they have actually been able to demonstrate that they are in compliance.

Mr. Anderson asked Mr. White, you are satisfied with that?

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Mr. White said I am. It is not mentioned in the report because it was just recently submitted.

Mr. Degeranamo presented the plot plan and impervious coverage sheet as exhibits.

Mr. White said an issue in Item #3 is that I wanted to make sure there was a driveway big enough for site entry. You need at least 28 to 32 ft. to swing a car into a side entry garage. The plan provided demonstrates that he has the depth. The driveway looks nice and conforming and set at least 5 ft. off of the property line. This is the criteria I basically laid out for him. He still complies and is under the impervious coverage.

Mr. Kois confirmed the plan shows the driveway, walkway and a depth. An impervious coverage form was also provided.

Mr. Degeranamo said I think the revised calculations demonstrate that what we are proposing does not exceed the impervious coverage. For a 40,000 sf. lot, 15% amounts to 6,000 sf. Everything we are proposing, including the driveway, etc., comes to 4,414 sf., leaving approximately 1,900 sf. left.

Mr. Anderson again questioned Mr. Degeranamo's qualification to draw such conclusions. I am hoping Mr. White will be able to confirm this, which would presumably resolve the Board's question.

Mr. White said basically, the Applicant has submitted a subsequent submission so it is not in a letter. We both reviewed this beforehand and I am satisfied that the plan is clearly under the 15% impervious coverage so an impervious coverage variance would not be needed.

Vice Chairman Haines asked if this development now has public water and public sewer.

Mr. Degeranamo said it has both.

Vice Chairman Haines said I find it strange that that lot was left vacant. Did you do any research on it with the Planning Board to see if it was left vacant for any reason?

Ms. Grab replied, no.

Vice Chairman Haines asked, could it have been intentionally left vacant as a stipulation of the development?

Mr. Degeranamo said I would imagine that would have been in the Deed if that were the case.

Mr. Anderson told Mr. Degeranamo this is clearly beyond anything that you are qualified to testify on.

Vice Chairman Haines asked if the Applicant has any paperwork from the Planning Board hearings, perhaps spreading some light on why this lot was left vacant.

Mr. Kois said for my April 16, 2013 report, I did extensive research on this property. Ms. Grab came to us about this lot and we did everything we could in terms of looking at plans and documents to come to a determination which ultimately was the reason why she ended up before this Board. My report gives a little bit of information about the history of the subject property. The lot has both sewer and public water connections. It is located in the R Zone within the Frankfurt Point Heights - Section 1 Development approved circa 1963.

I have looked at nearly every single plan that was approved. There were several sections that were done and that is how I determined this as being part of Section 1. The lot is shown as a lot, nothing jumped out at me. There is nothing different about this lot from the lots that are next to it. This lot was numbered Lot 6, formally Block 174A and has nothing unique on it. The property next to it, which is closer to Amwell Road, has the pipeline going through it and it has a house on it. I do not show that this lot was to be used for anything else.

I gave Ms. Grab my determination based on the lot now being undersized. I felt the original approval from 1963 did not continue today.

Ms. Grab said we purchased the property from the owners of 5 Starview Drive which is the property to the north of it. They held onto it for about 30 years or so.

Mr. Herbert said in the development there are a number of properties up the hill developed over time. That is not unusual.

Mr. Anderson asked, the lot you purchased from the previous owner, it is contiguous to your, the lots are touching?

Ms. Grab said that is correct.

Mr. Anderson indicated that is a problem.

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The Board reviewed 5 Starview to the subject property on the map.

Mr. Dietz asked Ms. Grab to identify it on the plot plan. She indicated it was the lot to the north, directly above her property.

Mr. Anderson asked Ms. Grab to come forward. He said I believe the 2 maps we have were upside down and do not have the lot numbers indicated.

Mr. Dietz asked when you said 5 do you mean lot number of house number.

Ms. Grab said that is their street number as well.

Mr. Dietz asked in what year did you buy this property.

Mr. Anderson said we have to take a break.

Chairman Fenwick called for a 5-minute break.

After returning, Chairman Fenwick stated we are back on the record and called Ms. Grab back up.

Mr. Anderson said Ms. Grab, if I may, let me try to explain what concerns me. You gave testimony that you purchased the lot from the people next door who owned it. You may or may not be able to cure all of this immediately, but I am hoping that at least on reflection and I hope with some advice, which I believe you need, you will understand what I am about to explain.

This is a question of the Doctrine of Merger. Two lots, even though they may have been created separately, become one by the operation of the law under certain circumstances and without getting into all of the circumstances, these circumstances would be that they are in common ownership. That means they are in fact, owned by the same people in the same way. Mr. Kois has gone back to the Tax Office and has confirmed that that appears to be true. Secondly, at least one of the lots is nonconforming under the zoning ordinance. That seems to be the situation and if that is true, then the lots became one lot in spite of the fact that they may appear on the Tax Map as two. They are in fact one lot. If they are one lot, then you cannot give a variance because you cannot give a variance for building 2 houses on the same lot. What you need is a subdivision where one of the lots is nonconforming by size.

The fundamental problem that we have with this if that is the application you need, is that this Board does not have the jurisdiction over that and has no power to do so. The Planning Board is the only board that has the power to do so.

I am not saying that these facts are all correct. I do not know this of my personal knowledge but it may stop everything that has been put on the record so far and the information that Mr. Kois has been able to get during the break from the Tax Office does appear to be true. So even if this Board were to grant you a variance, if it has no jurisdiction to do so, you do not really have terms. It would be like me personally saying you have a variance. I do not have the power to do that for you. So this raises a very serious question even if the Board would move forward with this.

My recommendation of the Board is that they should carry this case to give you the opportunity to investigate this more thoroughly. Again, I urge you to get professional advice on this. You are not obligated to but I strongly recommend it. You will need to make a decision to either come back to show this Board that we do have jurisdiction and can go forward with this application or if your confusion as I discussed it appears to be the case. If so, then you would need to withdraw the application from this Board and make an application for subdivision from the Planning Board. You may not understand all of that at once, but I hope I am reflecting that is my recommendation to the Board.

Ms. Grab asked for the name of the doctrine.

Mr. Anderson stated the Doctrine of Merger.

Mr. Dietz said I agree with Mr. Anderson's recommendations. He said this is a very difficult situation. I have seen the Doctrine of Merger in front of this Board a few times in all of my years here. We do not have the jurisdiction to act on this if it is really one lot. The facts came out as you told us and that is good because it would have been found out sooner or later. If you continued on with it, anytime in the future somebody would have the right to say you do not own that property; it belongs to the previous owners. In reality, we are protecting you. It does not seem that it is right now but it is very difficult.

Vice Chairman Haines said I assume you would have to go to an attorney or some professional to make your argument about whether the lots are merged. If it turns out it does not apply, then you would come back to us and continue your hearing.

Mr. Herbert asked how the title insurance company factors into this.

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Mr. Anderson said that is not for us to consider. Ms. Grab would have to discuss that with her title company and probably with an attorney before that.

Chairman Fenwick said we may just as well carry this now to a future date.

Mr. Degeranamo suggested to be scheduled to the next meeting.

Mr. Anderson said although the Board certainly can do that, I am concerned that is not going to give the Applicant enough time to straighten this out. The other reason to carry it is for the other choice; for the Board to dismiss it based on the testimony. In that case, if the Applicant feels she can indicate it is not a merger, do you strike the application?

After discussion, all agreed to carry the application to November 6<sup>th</sup>.

A motion to carry application BA-13-07 to November 06, 2013 without further notice was made by Mr. Dietz, seconded by Mr. Lipani. All were in favor; none were opposed. Motion carries.

***NY SMSA Limited Partnership – VERIZON – (Hillsborough 7)*** – File #BA-13-14 – Block 183, Lot 38.01 and Block 183.01, Lot 1 - 201 Hamilton Road. Applicant seeking Major Site Plan approval; 'd' Use Variance; and such other variances, waivers and approvals as are necessary to permit the Applicant to construct a wireless communications facility on the Royce Brook Golf Course, consisting of a +/- 120 ft. high monopole disguised as a flagpole with three panel antennas. Also proposed is an 11 ft. 6 in. x 30 ft. equipment shelter to house supporting equipment, located within a 50 ft. x 35 ft. fenced wireless communications compound on property in the CDZ District. (EC review 07-22-13).

Mr. Kois introduced the application.

David Soloway, Esq. of Vogel, Chait, Collins & Schneider, P.C., said I am representing the Applicant, NY SMSA Limited Partnership which does business as Verizon Wireless.

Mr. Lipani stated he had to recuse himself.

Mr. Suraci also recused himself.

Mr. Soloway asked if there would only be 6 members then for the entirety of the application or if that is just for tonight.

Mr. Anderson said that is just for tonight. Mr. Anderson informed Mr. Soloway that as may have been observed earlier, the recording system is not working properly tonight. The Board has chosen to go forward because the recording is not required and the Board has an official court reporter present. The only means for other members to look at the record will be for you to order the transcript.

Mr. Soloway said I intended to anyway. He indicated the application would not finish up tonight and his hope was to be carried to October 2<sup>nd</sup>.

Both attorneys discussed the need for the transcript and for it to be available prior to the next meeting. Mr. Soloway made the decision to begin the application, knowing the transcript would be the only source for the 7<sup>th</sup> Board member to review.

Mr. Soloway began his opening saying, this is an application for a wireless communications facility at the Royce Brook Golf Course. Verizon Wireless has determined that it has a gap in coverage in that area of the Township and that the golf course site is a suitable site to fill the gap.

The proposal is for a 120 ft. monopole which will be disguised or stealthed as a flagpole. I should note that your wireless ordinance encourages you to stealth technology rather than have conventional monopoles. There will be 3 panel antennas but unlike the monopoles you are used to, the antennas are inside the flagpole and they are not visible. Similarly, with any co-locators everything is inside the pole and the flag. We are proposing an 11 1/2 ft. x 30 ft. equipment shelter at the base which will be inside a 50 ft. x 35 ft. compound which will be enclosed within an 8 ft. high chain link fence. The entire installation is proposed for an area surrounded by trees. The shelter should not be visible from off the property.

The property is located in the Commercial Development Zoning District. Under your ordinance, new towers are permitted as conditional uses in certain zones including some of the industrial zones, one office zone, and mining and quarry zone. They are not permitted in this zone so we need a use variance.

We have tried to design the tower and facility to the extent feasible in a manner where it complies with the standard you have in your ordinance for towers where permitted. We comply with all bulk requirements that are applicable to the towers and to the zone, other than height. The facility will be about 1,650 ft. from Millstone River Road; almost 500 ft. from the nearest property line; and about 1,250 ft. from the nearest residence.

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The proposal for the tower is 120 ft. where 110 ft. is the height permitted under your ordinance. This tower is being designed to accommodate 3 carriers, although there is only one applying in this application. 120 ft. is the height we would like for our coverage but also unlike the conventional monopole with the flagpole type design, they are not extendable because cables cannot be run past the antennas. Everything is tightly packed inside.

We also designed it in a way to try to comply with all of the design standards in the ordinance. The only areas of technical non-compliance are for the lighting and for a landscape buffer surrounding the compound since essentially one already exists. My rider also states we do not comply with the tree replacement requirements. Since that time, I submitted a revised plan. The golf course agreed upon a location so we are now proposing the required amount of replacement trees. The Maser report noted they are not the desired caliper but we will comply with the ordinance. We are also seeking preliminary and final site plan approval. You will have to weigh the positive and negative criteria offered to determine if the use would cause substantial detriment to the public good.

I have three witnesses with me tonight: our Radio Frequency Engineer; the Project Engineer; and a Professional Planner. I would like to bring up the RF engineer whose testimony should take about 25 minutes or we can begin with the project engineer due to the hour.

There was more discussion about the transcript and amount of time in which it could be provided. The Court Reporter said an expedited transcript can be made available in 5 days.

Mr. Anderson and Mr. Soloway had a quick conversation off the record.

Mr. Soloway decided to proceed with the RF Engineer.

John Ferrante, P.E., was sworn in, reviewed his qualification, was accepted by the Board and gave the following testimony in response to questions asked by Mr. Soloway:

The site plans for this application were prepared under my supervision. The display shows the same plans submitted, last revised August 28, 2012. I am familiar with the ordinance.

Mr. Ferrante reviewed the plans for the Board. Just to orient the Board, we are located on the Royce Brook Golf Course located between the 13<sup>th</sup> and 16<sup>th</sup> hole. To the north of us is a cemetery and further north of the cemetery is the airport. The property is bounded on the west side by the railroad, Hamilton Road is on the south side. There are residential properties on the southeast side with Franklin Drive being the nearest residential area. We located the compound within a well densely wooded lot. Millstone River Road which provides limited access.

To further orient the Board, this is referring to Sheet SB-1 which is primarily the entire property which is about 345 acres, no correction, 435 acres. It is obviously a large piece of property. We worked very closely with the property owner as to where to locate the compound. You can get a closer view of the compound on Sheet SB-2. As you can see, it is a well wooded area located near an existing pump house. The compound will be to the side wooded area, well hidden from view and will not disrupt the operations of the golf course. It is important to note that it is over 1,200 ft. to the nearest residence on Franklin Drive.

This site is particularly well suited not only for Verizon's needs but for the needs of the golf course as well. There is an existing driveway paved road off of Millstone River Road where we are proposing to bring our cell phone utility to the compound. We already have power at the pump house so the power we need will be taken from the existing transformer. As for utility, telephone is the only underground cable that we will be bringing to the site.

We have the airport runway to the southeast. We are not within the flight path of the airport. We are fortunate to have found a site that causes minimal impacts to the golf course, the Township and local residents. Sheet SB-3 focuses on the details of the actual compound as well as the elevation that shows our proposal of a 120 ft. flagpole with flag. The compound we are proposing is a 50 ft. x 35 ft. compound to house a shelter that was indicated as roughly 11 ft. x 6 ft. x 30 ft. The shelter will house all of the radio equipment that Verizon needs. A cable bridge brings the cable, the coaxial cable to the flagpole. We will tie our driveway to the compound into the existing paved road. We will have a turnaround area for a vehicle to access the compound for normal maintenance. The facility is unmanned. A Verizon technician will visit the site for maintenance every 4 to 5 weeks. Utility wise, it is really only power and telephone; there is no water and no sewer so from that perspective, it is a very minimal use that this facility provides.

The tree details are shown on Plan SB-3 which shows the existing trees. We have to remove trees where the compound will be located. Those trees will be replaced in accordance with the Township ordinance working with the golf course owners where to locate the trees as well as the additional trees we are not. My understanding is that we will be working with the Township to locate those trees elsewhere. The landscaping plan shows which trees we are protecting along with the 12 trees we are removing. Even though we are removing 12 trees, you can see from the aerial view that the area is well wooded. Within the patch of woods within the proposed compound average 40 ft. in height. However, other trees to the southeast are more mature and average 80 ft. in height, further screening the compound from the residential areas. It is

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fair to say that 1,200 ft. from the nearest residence, the compound will not be visible to the residential areas. There are 3 residences along Millstone River Road but they are further of a distance than 1,200 ft. that the Franklin Road residential area is.

We are proposing a round monopole 120 ft. in height. Typically, for a 120 ft. monopole, the diameter is about 36 in., which is substantial. As I am sure the Radio Frequency Engineer will review, the more technologies and frequencies, the more cable is needed. In Drawing C-2, I show a cross section of our proposed antennas. The inner circle is typically where all of the cabling has to come up to the tower.

The Verizon center line is at 115 ft. and each of the carriers roughly will take up 10 ft. of space inside the flagpole. We are proposing 3 carriers, 2 will be in the future but they will be located below Verizon. Verizon will bring up the cables. The next carrier would have to bring their cables to the 2<sup>nd</sup> tier and the 3<sup>rd</sup> to the bottom level. Based on my experience, the 10 ft. separation between the center line of the different carrier's antennas is standard. This pole will be designed to handle 3 levels of antennas and as indicated, the pole really will not be extendable. For this pole to be extendable, it would have to be designed and ordered that way. However, I cannot recall doing any more than 3 carriers in one of these poles. If someone wanted to go on top of us, cables would have to be run, but cables cannot be run past the antennas.

As for signage, there is typically only a very small sign that states this is a Verizon Telecommunications Facility. There are no lighted signs from that perspective at all. There is a generator located inside the shelter which is standard for all wireless communication facilities. Our generator is about 10 ft. in size and is located in a separate room inside the shelter. The generator is a 50 kilowatt diesel-powered generator with a self-contained, double-contained tank inside the shelter for the diesel. The shelter itself has a curve so it essentially has triple containment for the diesel in the shelter. It complies with all noise regulations and is a good 500 ft. to the nearest property line.

We are asking for a variance for the height of the monopole and are also asking for some waivers from the standards previously indicated. The compound will have an 8 ft. metal slat fence around it. We typically propose a green fence so that it blends in with the existing vegetation. We are proposing additional screening, plantings to replace the trees that are being cut to provide further screening to the north. We are not proposing additional plantings to the south or southeast because there is a considerable amount of existing vegetation.

Mr. Dietz said you went over the part about the FAA rather fast so I would like to talk more about that part of the application. Are you a pilot? Do you know anything about flying?

Mr. Ferrante said no I am not a pilot and do not know about flying.

Mr. Dietz asked do you know what a downwind leg and an upwind leg is?

Mr. Ferrante answered, no, I do not.

Mr. Dietz suggested the Applicant provide a witness who does.

Mr. Ferrante offered, just to provide clarification, all telecommunication sites, whenever you have a monopole or not, have to be cleared by the FAA.

Mr. Dietz said there are still problems with the NJ Department of Transportation and Safety as far as different types of aircraft using the area. The fact is that small aircraft are flying a lot lower when coming in for landings. They circle around the airport first and that is what concerns me more than anything else. I want to hear some expert testimony from someone who is a pilot and knows what the safety requirements are.

Vice Chairman Haines added, we have a letter dated September 18, 2013 from Ronald Harbist, Aeronautical Operations Specialist with the NJDOT. I think some of his concerns would have to be addressed.

Chairman Fenwick asked about lighting.

Mr. Soloway said we will get to that with the engineer's report.

Mr. Dietz said you mentioned the antennas. Are they all in when you erect the monopole or does someone put the antennas in afterwards?

Mr. Ferrante said the antennas are inside the shroud. The Verizon antennas will be in when the monopole goes up. The other carriers will not be in. They will have to be put in separately at a later date.

Mr. Dietz asked what size flag the pole can handle.

Mr. Ferrante said the pole is designed for flying. The flag size is covered by Title 4 of the United States Code, colloquially

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known as the "Flag Act". We have shown a 20 ft. x 30 ft. flag but it really needs to be 20 ft. x 38 ft. because the proportion of the flag, the vertical to the horizontal ration is 1 : 1.9. So again, the flag would be 20 ft. x 38 ft. or 760 sf. The Flag Act has no requirements as far as what size flag you can have based on the pole height. The size of the flag is really based on proportional and visual aesthetics.

Mr. Dietz said it is going to look like a used car lot.

Mr. Herbert said you said this is going to be a non-attended site. Who is going to be responsible for flag protocols like lowering for half-mast or taking it down during bad weather?

Mr. Ferrante replied, that is a good question. As far as the flag, obviously Verizon will be responsible for taking the flag down. That is the only way I can answer that question.

Mr. Herbert asked, when the flags are ordered to be at half-mast, are you going to get somebody up there?

Mr. Ferrante said absolutely.

Vice Chairman Haines asked how frequently the flag would be replaced.

Mr. Ferrante answered, typically a technician visits the site and has his own checklist to do. When he sees the flag is becoming tattered and damaged, he would typically recommend replacing it. I am not aware of any set schedule of when the flag has to be changed.

Mr. Dietz again questioned the size of the flag.

Mr. Soloway said we are not married to a particular size.

Mr. Herbert asked why a flagpole was chosen in the first place.

Mr. Soloway said it is my understanding that that is what the property owner wanted.

Mr. Dietz asked if there will be a red light on top.

Mr. Ferrente said no. The FAA would dictate if a light is required. They have just indicated that it is not required at this height and at this location.

Mr. Herbert asked what do you know about Lots 40 and 39. It looks like they are undeveloped properties right now. They are up in the northwest corner of the RA Zone.

Mr. Ferrente said Lot 39 is the orthodox cemetery, the Polish cemetery, and Lot 40 is undeveloped. Based on the Tax Map, it is owned by Somerset. I think it is called Somerset Express Lane. As far as zoning, it is part of the O5, Office Research Zone, not a residential district.

Mr. Anderson said to Mr. Ferrente, earlier it seemed to me you are implying the flag can be raised and lowered on this pole. Also, how will the flag be lit?

Mr. Ferrente said that is correct. The lighting will be from the ground up.

Mr. Anderson asked why is it intended to be lighted?

Mr. Ferrente said the Flag Act has specific requirements. It says if you are going to fly the flag at night, it has to have a flood light but does not give any criteria.

Mr. Anderson said I am familiar with the Flag Act too.

Mr. Soloway said the proposal is to fly it full-time in effect.

Mr. Anderson said my question then is if the flag can be raised and lowered, is the lighting necessary? I do not know if you can answer this question, but why shouldn't the flag be lowered?

Mr. Ferrente said it is a good question. I would have to go back to my client and the golf course for the answer.

Mr. Anderson addressed the note on page SB-3 regarding the generator being a "50 kw diesel generator".

Both Mr. Soloway and Mr. Ferrente confirmed that is a typo.

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Mr. Anderson asked what the maximum voltage is going to be in the shelter.

Mr. Ferrente replied typically 208 kilowatts.

Mr. Anderson said so the shelter is not storing any voltage higher than what would be in the average home?

Mr. Ferrente said that is correct.

Chairman Fenwick said we are going to look to carry this application to October 2<sup>nd</sup> without further notice.

Mr. Kois confirmed the application time of decision runs until November 25<sup>th</sup>.

A motion to carry application BA-13-14 to October 02, 2013 without further notice was made by Mr. Dietz, seconded by Mr. Herbert. All were in favor; none were opposed. Motion carries.

There was a question raised from the audience about providing no notice. Since half of the members from our community left, shouldn't they be notified?

Mr. Dietz said it is up to them to stay.

Mr. Anderson said you are of course welcome to tell them.

With no further business, a motion to adjourn was made by Vice Chairman Haines, seconded by Mr. Dietz. All were in favor; none opposed. Motion carries.

**ADJOURNMENT**

The meeting adjourned at 10:35 p.m.

Submitted by:  
Debora Padgett  
Administrative Assistant  
Planning Board/Board of Adjustment

**Note:** *The minutes of September 18, 2013 were prepared using transcripts provided by the Court Reporter.*