Offerd: Vignola
2nd: Glackin
date: July 11, 2013

Minutes of MAY 16, 2013

The Regular Meeting of the Hazlet Township Planning Board of Adjustment scheduled for May 16, 2013 was called to order at 7:30 PM with a Salute to the Flag followed by a Moment of Silent Prayer and a Reading of the Letter of Compliance.

ROLL CALL:
Present: Mr. Glackin, Mr. Vignola, Mr. DeMatteo, Mr. Bace, Mr. Solomeno, Mr. Tyler, Deputy Mayor DiNardo,

Absent: Mr. Pobega, Mr Mann, Mayor Belasco, Mr. Lavan

Professionals: Mr. Vella, Esq., Mr. Kittner, Jr. P.E. in attendance

MOTION: To approve the Minutes of the Regular Meeting of April 18, 2013

Offered by: Mr. Vignola 2nd Mr. DeMatteo

Roll Call:	Yes	Absent:
Mr. Glackin	☒	☐
Mr. Pobega	☐	☒
Mr. Vignola	☒	☐
Mr. DeMatteo	☒	☐
Mr. Mann	☐	☒
Mr. Bace	☒	☐
Chairman Mr. Tyler	☒	☐
Deputy Mayor DiNardo	☒	☐
Mayor Belasco	☐	☒
Alt #1 Mr. Lavan	☐	☒
Alt #2 Mr. Solomeno	☒	☐

Items for Discussion:

Pursuant to 40:550D-26, Referral Powers/Consistency Determination: Prior to the adoption of a development regulation, revision, or amendment thereto, the planning board shall make and transmit to the governing body, within 35 days after the referral, a report including identification of any provisions in the proposed development regulations, revision or amendments which are inconsistent with the master plan and recommendations concerning these inconsistencies and any other matters as the board deems appropriate.

The Township had entered in a Settlement Agreement with the applicant in 2009, as such a Court Order was issued instructing the Township to include this property in the Township's Housing Element and Fair Share Plan as well as enact zoning consistent with the Settlement Agreement, to which the township compiled. At this time the Township has agreed with the applicant to modify the Settlement Agreement to reduce the overall number of units in the project from 48 to 44 units. This modification has been done with the review and consent of Phillip Caton, P.P AICP the court appointed Special Master. As such the proposed ordinance amendment remains consistent with the Court Order and the Township's Housing Element and Fair Share Plan.

Planning Board Planner Jennifer Beahm, PP, AICP states that Hazlet Township ordinance 1520-13, amending article III, the Builders Remedy Zone (BRZ) and amending Article IV of the Development Standards for the BRZ Zone, is consistent with the Housing Element and Fair Share Element of the Township's Master Plan.

Jeffrey Tyler- We have before us Jennifer Beahm Planner for the planning board who will walk us through what we just heard.

Jennifer Beahm- Good evening I am the Director of Planning for CME Associates and I am the Planner for the Township. I think the Chairman summarized the facts of what we are doing here very well. What happens when any ordinance is introduced at the governing body level it then comes down to the planning board for a section 26 review. It is to see if said plan is consistent with Master Plan of Township. If it is determined to be consistent I prepare a memo to governing body identifying that fact and that would determine how the vote needs to go at the committee level whether it is a simple majority or super majority. I am sure you are all aware of this project that has been before you with the 48 units for a while now. Township had entered into negotiations with developer to reduce the overall density of the project and try to reduce the units as much as possible. It is important to note that the zoning before you now with the 48 units is per court order. This is a reduction in the overall density and the overall units. If this is something that is unsuccessful the applicant still has the right to rely upon the court order which allows for the 48 units to move forward. In negotiating, the members of the governing body felt that the reduction in the overall unit count was significant and in addition to that the court master has allowed for a reduction in the set aside of affordable units. Because it was initially owner occupied units the satisfied is required to be 20% which as was the 10 units that was discussed with the application previously. Now because they are going to be rental units a court master has allowed for the set aside to go from the 20% to the 15% which reduces the affordable units from 10 to 6. Overall there is reduction in units and then there is a reduction in affordable units as well. When we looked at the court order and the requirement to include this in the housing element and fair share plan which I know is in flux the latest version because the rules had been thrown out and no new rules had been put forward but there was reexamination report completed in 2008 which included a housing element and the overall goal here is to provide for affordable housing opportunities. That is what this does it is Builders Remedy Lawsuit litigation so I think that the board can determine the ordinance is consistent with the Master Plan.

Attorney Vella- This is probably a result of the numerous hearings they had with this board getting the developer to agree to reduce the number of units from something after 4 or five meetings they had here. While the members of the planning board wanted it reduced more during those hearings we cannot control that. The Court Order did have 48 the township with negotiations and probably the help through comments of the board was able to get them to agree to at least a reduction of 4 units. All this board is doing is a determination that the reduction of the units is consistent and the ordinance amendment is consistent and with the previous court order and housing element. That is all this discussion is really about. The practical result of it is and I believe, if you agree with the testimony of the planner, this board will adopt a resolution finding it consistent. If we agree tonight this goes before the township committee for a vote at the next meeting and if it passes Elegant Properties will withdraw their present lawsuit and redo their plans and have to resubmit.

Mr. Tyler- After we had our last planning board you got together had a meeting of the minds presented it to the Special Master and everybody is on board with it. This is step one in bringing resolution. We will have actually review the ordinance itself.

Ms. Beahm- This is actually step 2 of the process. Step one was when the governing body introduced the ordinance. This is step 2 which is a consistency determination. Step 3 is the public hearing at the governing body. There will be no public hearing on the ordinance here that is a governing body function. This is consistency and the public hearing I believe will be Tuesday night if this board agrees.

Mr. Bace- You used the word rentals?

Ms. Beahm- Yes.

Mr. Bace- So they are for sale they are now rentals?

Ms. Beahm- Not all of them just the affordable units are rentals.

Attorney Vella- At the end of the day they are getting 44 units but the township is getting the same numerical credits. Even though there is 4 physically less.

Mr. Glackin- Basically the developer got remove four of the affordable units which he is not going to make any money on so he is saving the cost of building four units.

Attorney Vella- Yes.

Mr. Tyler- So the financial burden is taken off the developer and the Township gets what they want.

Ms. Beahm- We are getting more credit because the rental units are two for one so before you were getting nine or ten credits and now we will get 12 credits. Less units more credit.

Mr. Solomeno- Does the amendment to the BRZ wipe away the variances that they are previously requesting with the site plan that they provided?

Ms. Beahm- That is the intent but we will not know until the submit.

Mr. Solomeno- I understand the terms of the settlement but are we now allowing no grass and front parking in their driveways or no trees?

Mr. Tyler- The settlement is at the Township Committee level and so we have a very limited oversight.

Ms. Beahm – You are determining if this document is consistent with the documents you have already approved. You are just reviewing the zone as introduced by the governing body against the documents that you already approved to determine whether or not they are consistent.

Mr. DeMatteo- If this is for giving variances that we have pointed out to make this property more palatable. To me that is changing the intent of the Master Plan.

Ms. Beahm- I respectfully disagree and I would also submit to you that it should have been done the first time. The intent when you have litigation in a Builders Remedy and a Court Order or for that matter if you include any project in your housing element you are required under DCA Regulation to rezone it so that the application comes in and the intent is to be variance and waiver free. That is the goal and that is the directive from the DCA whether it is through the COAH entity or through the court. With respect to the relief that they had required I would submit that building lanes and spacing of lightening are what the court would determine to be demonism and the intent of the court order to make a compliant plan. That is what we did at the direction of the Master was to make a compliant plan.

Attorney Vella – The only real variance that is really being removed is the parking in the front area.

Ms. Beahm- The most recent set of plans did not require that.

Mrs. Keegan- There was never a height variance.

Attorney Vella- If you read the ordinance that is in front of you there is no exception for meeting additional height for that zone. The only real deviation that it previously has that is being removed is the parking in the front yard.

Mr. Tyler- Ms. Beahm do you feel this is the best resolution possible?

Ms. Beahm- This is it he is not going any lower so it is either reduce the number to 44 or he is going to proceed with the 48. The Court Master has made it abundantly clear that this is a settlement that there was concessions made on the developers side and conceptions made on the town side, the Court Master had overseen all the negotiations.

Mr. Glackin- We can't consider all that.

Ms. Beahm- To be honest you are not here to vote on the ordinance. You are here to vote whether it is consistent.

Mr. Glackin- As a planner how do you advise this board to comprehend adjusting the zone that didn't belong in the Master Plan in the first place?

Ms. Beahm- Whether or not this particular site is appropriate or not that was determined long before I came around. The Housing Element and Fair Share Plan identifies locations for affordable housing and this site was determined by the court to be appropriate for affordable housing. It was ordered to be included in the plan. The only reason this specific block and lot is not physically in the plan is because the Third Round Rules were invalidated and we have been waiting for new rules to come out. There was a housing element adopted with your 2008 re-exam and the overall goal of providing for households of low to moderate income is (indiscernible).

Mr. Tyler- There is one other way to look at this and that is if we don't vote for this it will be thrust upon us.

Ms. Beahm- That is the thing you are not voting on this ordinance. If you like it or not is irrelevant. Quite honestly, it is whether or not it is consistent with your planning documents.

Mr. Glackin- If we decide it is inconsistent the town can still decide.

Ms. Beahm- Yes.

Mr. Glackin- That is what I am saying so take ourselves out of litigation. I would like to address the height issue.

Attorney Vella- This ordinance does not address height at all.

Mr. DeMatteo- What happens when this plan comes back before us?

Ms. Beahm- You are certainly within your rights to have a public hearing to go back and forth with the applicant as if it was any other site plan application. Any issues you have at that point can be discussed.

Mr. Tyler – Are we voting on something tonight?

Attorney Vella – Yes.

Mr. Tyler- Just to follow up on Mr. Glackins question Mr. Vella what difference does it make how we vote?

Attorney Vella- Your issue is very easy to vote on. It is not whether you like the plan, or if you like the ordinance or not or litigation not any of those issues, they are not relevant. You are voting on is this ordinance which reduces the number of units but provides more credits to the town is that consistent with the housing element of the Master Plan that promotes satisfying or affordable housing requirement? The Planner has testified that of course it does.

Mr. DeMatteo- We are looking affordable housing units and I understand that but what aspects of the Master Plan might this be in contradiction with? Is there anything about density in the Master Plan that would make this contradictory to the Master Plan?

Ms. Beahm- I don't think I understand the question. The bottom line is that it does not have to be Consistent with every sentence of every element of the Master Plan.

Mr. Tyler- We are voting on whether this is consistent so if we both know as a board then what happens?

Attorney VellaIt is - If you vote no which you would have to have reasons other than what the Planner testified. All the means that at the second reading at the township meeting is that they would require 4 out of 5 votes rather than 3 out of 5 votes. Us saying no just changes how many no's they need up top. If you say no you have to put it on the record as to why you find it not consistent.

Mr. Solomeno- We are wiping away the variances that were in the previous requests but at the same time you are telling me it is only about the affordable housing.

Ms. Beahm- It is an inclusionary development. Whether there are 6 or 10 affordable units it is an affordable housing development that is the result of a Court Order and Settlement Agreement through Builders Remedy Litigation all having to do with affordable housing. The other elements that we are talking about with respect to Facade treatment, landscaping and driveways those other design elements those are elements that are included to make a better product for the town. There is a balance of what you can and cannot require in an affordable housing development. It is a balancing act of how to make sure the esthetics work in a particular location and a particular community but not overburden a developer.

Mr. Solomeno- When you speak of the Affordable Housing does that include 48 units?

Ms. Beahm- That is why it is called inclusionary because there are different types of affordable housing. Traditional conclusionary development is a development that has 20% of the units affordable and 80% market rate. That has been determined overtime as to where the value of the market rate units subsidizes the affordable unit.

Mr. Tyler- The BRZ is in affect now so we already have the zone. We are basically voting on whether this amended zone is consistent with the Master Plan of the town.

Ms. Beahm- Correct.

Mr. Tyler- In that light this is an improvement and it still provides the affordable that we are required to have.

Ms. Beahm- Right.

Mr. Solomeno- How do we avoid this situation in the future? What are we missing?

Ms. Beahm- Participation in COAH is voluntary however, there is a risk by not participating as you are well aware you can get sued under Builders Remedy. In order to protect the town from future litigation you have to prepare a Housing Element and Fair Share Plan in accordance with the DCA Regulations which addresses an obligation that is determined by the State. The Third Round was supposed to start in 1999 but they have been invalidated by the Court and the court has not ruled on what they should do. When that eventually happens every municipality in the State gets an obligation. Whether it is through growth share or through some ridiculous formula they have done in the past. It is the town's obligation to satisfy that. In order to protect yourself moving forward a Housing Element Fair Share Plan in accordance with those rules which will describe how you are going to accommodate your obligation needs to be adopted by this board. It is the only element of the Master Plan that goes to the Governing Body for an endorsement. Once that is done and submitted I am assuming we are going to stay at the court because we are before the court now. Normally I would not advocate that but I would now because at least they are somewhat rational and reasonable.

Attorney Vella- Not to cut you off but as of right if I am correct because we have this litigation going on and Ms. Beahm is working with the Special Master creating this overall plan for our First & Second Round Obligations that there is an Order preventing any other property owner from suing us.

Ms. Beahm- We have Judgment of Repose right now. We are sitting in a safe zone. If we don't get all these items reconciled at some point that Judgment of Repose will expire and then we are open to litigation.

Mr. DeMatteo- So tonight we are saying a reduction in the number of housing units would be consistent with the housing plan as setforth in the Master Plan. We are also saying that the the parking piece of this is consistent?

Ms. Beahm- No. You are upset about the parking that is for the public hearing Tuesday night at the Township Committee meeting.

Mr. Tyler- We asked our professionals to work something out. It is an improvement on what we have. They have to come in with an application so we will have another bite at the apple. I think we will be doing a disservice to the town if we do not vote in the affirmative on this. I feel very strongly we need to put this whole matter behind us and not lose sight of the end game here.

Open for citizen hearing. Seeing no one hearing is closed.

Attorney Vella- We do need a motion as a result of this meeting do you consider the pros ordinance and Amend the DRO Section 181-43.06 and find the proposed ordinance to be consistent with the Master Plan or inconsistent with the Master Plan.

Motion to be consistent with the Master Plan

Offered: Andy Bace 2nd Vincent Solomeno

	Yes	No
Mr. Glackin	☒	☐
Mr. Pobega (absent)	☐	☐
Mr. Vignola	☒	☐
Mr. DeMatteo	☒	☐
Mr. Mann (absent)	☐	☐
Mr. Bace	☒	☐
Chairman Mr. Tyler	☒	☐
Deputy Mayor DiNardo	☒	☐
Mayor Belasco	☐	☒
Alt #1 Mr. Lavan (absent)	☐	☐
Alt #2 Mr. Solomeno	☒	☐

Ms. Beahm- Mr. Chair with your permission I will prepare a memo to the Township Committee to let them know of the vote

Carry Over Case 13-O1P Costco Wholesale Corp, LLC Block 192 Lot(s) 1, 1.01 & 3 2835-2847 Highway 35. Application is requesting an Amended Preliminary and Final Site Plan to permit deliveries to the existing wholesale warehouse between the hours of 5 am and 10 pm, where the previous approval associated with the site permitted 6am and 6pm.

Attorney Vella- This application was carried without further notice. We finished up the public and we had our engineer go out to eh site and discuss certain things.

Mr. Kittner- At the board's direction our firm went to the site and prepared a sound study. The board directed us to survey the property for the sound between the times of April 22-May 3, 2013 from 6pm-10pm. As outlined in our report dated May 15, 2013 we sampled the site 3 times, April 23 7pm-830pm, April 24, 9am-10:15am and April 30 7:30pm-9:15pm. We also took a tour of the warehouse with the assistance warehouse manager. We outlined some site featured that we measured such as the freezer/refrigeration unit towards the rear of the site. That measured around 85-95 decibels. We gave other examples as such the loading docks which were around 80 decibel's. We measured the rear fence along the Berm that was between 65-70 decibels. We also walked Fleetwood Drive and Stanford Drive and took various measurements. Typically the background noise is around 55 bb based on our findings we found decibel readings in the neighborhood of 55 to the low 60's along those drives.

Mr. Tyler- When you say background noise what does that mean?

Mr. Kittner- That would be areas of the site that are not influenced by the Costco Site. It is the background noise that you would normally hear if Costco did not exist this is the background noise would read. The birds and bees, traffic on Route 35, planes flying over.

Mr. DeMatteo- It is not contributing above that is what I hear you saying.

Mr. Kittner- I am not saying that I am saying the readings we found at the property levels were below the township requirements under the performance standards. They reference the DEP

Standards and I included that in the appendix of our report. DEP standards require property lines constant sound to be less than or equal too sixty five decibels. They also require burst of sounds, short range sound to be 80 decibels or less and what we observed in the field was less than that. Walking both drives I certainly did here the Costco operations. We heard the refrigeration unit in the back, we heard the refrigeration units of the individual trucks and an occasional banging noise from the fork lift operation. Squealing noises almost a belt slipping on a pully. We measured those and we found deviations of plus or minus five decibels at the property lines and we actually outlined recommendations in our report for the board to consider.

Mr. DeMatteo- With those recommendations you think that would alleviate the plus or minus five?

Mr. Kittner- No you are not going to alleviate the deviation but what you are going to do is mitigate some of the background buzzing noise. If you elect to insulate the refrigerator unit and provide additional sound measures the people that are closest to that corner of the building may not hear it as loudly. They will still hear something the way sound travels but it may mitigate it if you provide additional fencing and landscaping elements and they are placed properly in the field then you can certainly mitigate this and help the residents. Essentially that is what we found in our report we gave some examples in our report. Those findings together with the option of trailers possibly shutting off the refrigeration units while they are at the dock that is something for board to consider. We looked at the loading and unloading of the facility and included pictures in our report. There are five bays and four forklifts and various pallet jacks that are available to cart the merchandize. I believe they can add another fork lift and driver in the store.

Mr. Glackin- When Andy talked to them they did not seem like they were going to go in that direction as far as adding another forklift driver?

Attorney Vella- We can't even add that as an addition in the approval we can't do that.

Mr. Kittner- Lastly, I did observer the stacked pallets and the materials they were talking about. I have a picture of stacked pallets they are pretty high. There is some merchandize that is stacked. The applicant can also possibly entertain looking at some improvements in that area too.

Matthew Schiller, Esq. – Representing Costco Wholesale Corporation- Refreshing on what Mr. Kittner was talking about the primary purpose here for the extended hours we had the testimony from one of Costco's managers at the last hearing. Unlike other retail and grocery operations Costco can't physically move products from its storage area to the shelves during customers are in the store. While merchandize can be delivered to the Costco at any point in time it would have to be stacked and stored during hours of operation and then during off hours of operation the product would be off loaded and put on to the shelves because it is a safety hazard for customers. Costco at the last hearing agreed to extend their hours for the evening from Monday-Friday 6-pm to 10PM. The primary benefit of these hours is to allow truck deliveries to go affectively from the trucks directly to the shelves without having to go into the storage areas. I have with me tonight John Paul Andrews of Costco and Keith Cahill of Bohler Engineering who can talk a little more about Mr. Kittner's other recommendations.

Attorney Vella- Maybe then can discuss as to why there were no trucks showing up at the time Mr. Kittner testified he was at Costco.

Mr. Kittner- When I performed my studies there were always two trailers in the bays and they were actively unloading but unfortunately when I paid my visit to the facility they had already backed up. I think the whole idea was to not tell them in advance that we were coming to sample it but it just so happened I was not there when a trailer was backing up.

Attorney Vella swearing in John Paul Andrews

Attorney Schiller- Can you briefly describe to the board your role at Costco

Mr. Andrews- I technically work for Architechure we are their corporate architect. Costco has me acting as their Real Estate Development Manager I am authorized agent for Costco.

Attorney Schiller- Have you reviewed Mr. Kittner's recommendations in connection with this application?

Mr. Andrews-Yes I have.

Attorney Schiller- Mr. Kittner made four recommendations and the first 2 pertain to landscaping improvements, one being extension of fence along the Berm and number adding additional Evergreen plantings on site. Mr. Cahill you testified last time maybe you should show the board existing fencing and how our plantings are on the property.

Attorney Vella- Mr. Cahill you have previously been sworn please be advised you are still under oath.

Mr. Cahill- I am referring back to A-1 Exhibit which we presented at the last meeting which is just the Ariel of the site. The outlined area is what is controlled by Costco. For reference as well Route 35 trails the East/West direction on the right hand side of property. The rear of the building which I will refer to as the North side is where the loading operations exist. The evergreen buffer that was in the original approved plan is intact there have been some damaged trees due to the hurricane some may have just died over time. In speaking to your engineer we have discussed possibly walking the site to see if there is an area that was damaged trees that maybe we infill or replace an evergreen tree. The applicant is not opposed to that. What I can see during my additional site visits the rear of the site behind the loading zone in regards to the north face is in relatively good condition. There are maybe 1 or 2 locations that maybe a replacement can be looked at. I think the focus that there were a few more along the west face of the building that again would be an area that we would look at. The primary focus would be along this west side in and around the area in the back of the building.

Mr. Kittner – When I walked the site I noticed some gaps and openings along the side of the berm that was parallel to Stanford. Many of the trees look like they were deciduous trees that during winter deciduous trees don't really provide much of a buffer that is why we opt for Evergreen because they are green all year long they provide that buffer. One of our observations or recommendations was to also supplement that.

Mr. Cahill- One of the things that I did notice it is the farthest distance from anywhere in the residence and again I am more than willing to walk with you and see what we thought would be appropriate. In regards to the fence item they had mentioned there is multiple fences that are on site. There is one that is behind the berm which you truly don't even see when you are in the parking lot. It is between the residence or property line and our berm. It essentially starts close to the Route 35 frontage of the parking stalls and extends all the way around the property. The part that you can visually see is a fence that is along the berm and it ends in the north west corner of the berm. One of the items that you talked about was possibly extending that and one item was the area of the loading area of the property providing that additional buffer that he was indicating.

Mr. Glackin- Does the fence actually provide any sound buffering?

Mr. Cahill- I am not a sound expert but from my general engineering experience do you get benefits from it yes but it is not truly a sound mitigation. The key element here is we are in compliance with the DEP standards and your ordinance under current operational conditions. These items are beneficial no doubt because it does provide additional buffering and it will have a benefit to the general public I think to have that type of improvement.

Mr. Bace- How high is that fence?

Mr. Cahill- It is a 6 foot stockade fence.

Mr. Bace- For the folks on Stanford could a higher fence be put in?

Mr. Cahill- In my professional opinion to say that a higher fence is going to do anything more than a six foot high fence is I have a hard time saying. Today it is a mature vegetated berm and buffer that is in excess of 20 feet. The distance from the north side of the building to Stanford you can see is close to 300 feet.

Mr. Bace- That is the same situation for Fleetwood?

Mr. Cahill-Same type of fence and arrangement it is per the approved site plan. I am sorry I want to correct that we are at 600 feet from our curb line to the property section.

Mr. Kittner- I would agree with Mr. Cahill it is tough to put a number on what would the fence drop the decibel level. It is generally accepted though that fences are one way to lessen sound impacts as well as landscaping. It is not intended to eliminate it, it is intended to lessen it. I would be happy to walk the site with Mr. Cahill and determine how to extend the fence and/or supplement the buffer as well.

Attorney Vella- Mr. Cahill I know Mr. Kittner did not observe any truck backing up and beepers are obviously a concern especially at those later hours. The trucks when they come backing in when do they first go in reverse to start the beeping?

Mr. Cahill- The trucks enter from the east side of the loading area pull through past the loading zone and then back into it. They are backing in an easterly direction and then a southerly direction into the loading dock. He is not backing in at 10PM he is backing in at 9pm.

Attorney Vella- Is it fair to say that your recommendation that the last back in is at 9 pm because it takes an hour to do that?

Mr. Cahill- Yes. As long as we have the ability to get that truck in so that they can work til that 10 pm hour.

Attorney Schiller- No new trucks are entering the loading dock after 9pm.

Mr. Bace- Trucks that come in after hours and have to stay overnight they were parking over by Stanford we discussed they were not going to do that. Has that been addressed?

Attorney Schiller- I believe that was agreed to at the last hearing that any trucks staying overnight would park in front of the Costco building. With respect to recommendation d which was consider the possibility of not running additional freezers, refrigerators or trucks when they are in the loading/unloading areas. Effectively turning them off during that hour while they are unloading Mr. Andrews maybe you can testify a little bit as to why this recommendation is outside the control of Costco?

Mr. Andrews-Some of the trucks that make deliveries to us have other products that are not Costco on board. I do not know for a fact that there could be some liability issues there with the trucking companies to turn off their refrigeration. I would opt not to pursue that option, I don't know that I could.

Attorney Schiller- Recommendation C- consider enclosing or adding additional sound insulation for the refrigeration unit. Obviously the refrigeration unit per say is not a part of this application. However, can you speak a little bit in terms of your thoughts on that recommendation?

Mr. Andrews- The sounds are a pre-existing condition but we are willing to work with the engineer for any solutions. We have noted the recommendations. If we are going to do it I think The landscaping and the fence sort of addresses the refrigeration and trucks all in one shot. The insulation would just be specific to the refrigeration so I think it is a question if we want to set forth an application that addresses everything that is going on out there more or less.

Mr. Tyler- The refrigeration unit is on all the time so residents are asked to hear a little more noise for a little bit longer how about hear a little bit less noise all the rest of the time. What is the reduction that can be accomplished by insulting that more.

Mr. Kittner- Again, it would depend on the insulation and the type of enclosure you recommend. The applicant is going to have to come with some options I think but certainly placing insulation on the inside wall perhaps partially enclosing that refrigeration unit may confine some of the sound. Anything would certainly help. Behind our recommendations that is what we are trying to

achieve here. Provide them with some recommendations that are going to soften some of the sound from the operations and specifically some of the larger generators such as the refrigerator.

Attorney Schiller- In speaking with Costco an enclosure over the refrigeration unit Mr. Andrews that might be cost prohibited at this point and time.

Mr. Andrews- It is not even that it is cost prohibited these are condenser units which need to have open air access. Normally it would be on a roof top which that is not an issue.

Attorney Schiller- Internal sound installation is that something you may be willing to work with Mr. Kittner as we would proceed on working with Mr. Kittner for Landscaping buffers as well?

Mr. Andrews- Yes. Obviously we do not know the specific type of insulation at this point in time that would be used but Costco would be willing to work with Mr. Kittner to come up with an appropriate additional insulation within the unit.

Mr. Tyler- Those were all the recommendations that were requested?

Mr. Kittner- Yes.

Mr. Tyler- Last time you stated that at this point you would be willing to consider an extension in the evening hours.

Attorney Schiller- That is correct and trucks would be allowed within the loading areas between the hours of 6pm-10pm. However, all new deliveries into the loading area would seize as of 9pm.

Mr. Glackin- With reference to the buffers say they don't meet what Mr. Kittner wants them to do they then no longer operate those hours is that how it works?

Attorney Vella- Yes it is upon condition of approval. I think they should work at the same time. I will put a condition in that from the adoption of the resolution if it is in the affirmative a certain time frame to meet with engineer to come up with a plan and a time frame to install the additional landscaping screening and the refrigeration interior insulation of approval. It is up to the board when we get to the resolution.

Mr. Tyler- Regarding the fence we have been talking a lot about sound insulation but if we are now looking at evening hours it is going to be dark out so we now have to look at the headlights. The idea of the fence continuing along to me would be very important. Perhaps the fence needs to go further than the loading dock.

Mr. Cahill- You have an excess of 8 feet of earth so even the tractor trailer headlights even with the high beams on are not going to be exceeding that. It is a double row and the north east corner off the building that is where the curve in the berm is and you actually have a solid line that is a lot longer you have 15-20 trees deep in that area. The fence in my mind is not necessary. I think if your concern I where the trucks will be backing up relative to the distance to here. Often this angle you have a whole solid berm that is going to be much longer and deeper. Plus you have another berm towards the back.

Mr. Tyler- Trucks have lights on the top of them. If we are allowing night hours this is not just about sound.

Mr. Solomeno- Please show me where the trucks are entering.

Mr. Cahill- It is the eastside of the building and then turning in. The bigger focus would be the time the truck is leaving.

Mr. Kittner- Mr. Cahill when the truck leaves the unloading area can you show the board the arc the truck is going to make to get out of loading area.

Mr. Cahill- It would be facing in a northerly direction and making a right turn essentially. It would be turning to the right heading east and then heading back out.

Mr. Kittner- The truck is not going to be entering the opposite direction. One of the studies we held in our sound study was that the houses between 40 and the high 60's on Fleetwood had the most sound. One of the things I would like to do if we walk the site is to make sure the fence extends to those houses at a minimum to buffer some of that sound.

Mr. Cahill- O.K.

Mr. Tyler- Anymore questions? Is there anymore testimony?

Attorney Schiller- I think this is all of our testimony thank you.

Mr. Tyler- I would like to open up for any questions from the citizens, please step forward.

Attorney Vella swearing in Tony Bernard, 27 Stanford Drive.

Mr. Bernard-Unfortunately I am just outside the perimeter so as you can see it is a clear shot to the front. Thank you not letting those trucks come in at 5am. At 5:30 am I hear the trucks which is key low but I still hear the sound. At 6am I begin to hear the doors to the loading docks I am used to it.

Mr. Glackin- Tony there was an issue with the trucks idling back there?

Mr. Bernard- Yes on April 21 a truck pulled in and parked and then backed up to where the area is off limits.

Mr. Glackin- Costco will continue to make sure the trucks don't park there anymore.

Sharon Keegan- I have been in touch with the movie theater and they are going to be putting signs out there. They are the ones who have to address it not Costco.

Mr. Tyler- The town is taking other steps with the movie theater to make sure they are not parking there anymore.

Attorney Vella swearing in Joel McKeever 52 Fleetwood Drive.

Mr. McKeever- I am on deaf and my family is not deaf we hear this all the time they are loud. I am begging for the quality of life. The 5am time frame is it off the board?

Attorney Vella- Yes and the conditions are from Monday thru Friday only.

Attorney Vella swearing in Steve Dalton 51 Fleetwood Drive.

Mr. Dalton- I am on the opposite side of Fleetwood as I have stated last time. There is noise and it has continued throughout this process. It is an existing factor and an existing problem for the residents that are in this community. Costco got an approval with a limit of 6am-6pm and they accepted that condition and there had to be a reason for it. I believe the reason for that condition was to address concerns of people at that time and the residents at that time. I do not know what has changed from 10-15 years ago whenever Costco go the approval and I don't know what has changed to eliminate that concern and to cause the board to extend the hours to then increase the amount of noise that we have to live with on an everyday basis.

Mr. Solomeno- What has changed?

Mr. Andrews- I cannot speak to that but I believe our warehouse manager did give testimony. The store is more popular we have more sales so we get more delivery which created more pile up on the palettes in the store. Second reason the warehouse manager came on board about 3 years ago and one of his first concerns when he came here was safety factors. We are still trying to respect the community and get little more hours to make our operation safe and smooth.

Mr. Glackin- Mr. Dalton do you object to the additional hours?

Mr. Dalton- As I said the first time my chief concern is with the noise but after talking with some of my neighbors and the people on this side of Fleetwood dealing with the noise more than I am I have concerns for my community as a whole. Yes I do have concerns about it.

Mr. Glackin– Do you object to these additional hours?

Mr. Dalton- Yes.

Mr. Solomeno- Sir how many accidents occurred within the past 12 months?

Mr. Andrews- That was testimony given at the last hearing by our warehouse manager and I believe he said there were none but he feels it is just a matter of time.

Attorney Schiller- Most other Costco have much greater delivery hours then this Costco.

Mr. Tyler- Any other questions or comments?

Mr. Dalton – With all do respect, I think this is really an economic request/concern from Costco. I don't buy the safety issue because they have not presented anything on safety.

Mr. Kittner- During our study when I walked Stanford the noise was substantially reduced I almost never heard the Costco operations along Stanford Drive. On Fleetwood it was very present.

Mr. Tyler- It is a tough question here what is fair for the commercial viability to of the town because you don't want to push a ratable in town to where they say this is not worth doing business in Hazlet. In my mind I would have to agree with Mr. Dalton that Costco came in as part of the approval of the original application as a given. We are not here to tell you how to run your business.

Close the citizens hearing.

Attorney Vella- For the record the applicant has made numerous modifications to time request. Presently now we are asking for additional deliveries Monday thru Friday only extended it from 6pm-10pm with caviot that there will be no new delivery trucks after 9pm. The Bays will be vacant by 10pm Monday-Friday. No morning hours or Saturdays or Sundays. With respect to the conditions I have from my notes from this hearing and last hearing. We talked about the applicant is required to advise all deliveries to be of no idling or parking in the rear area. Applicant will install additional Evergreens as recommended by the Planning Board Engineer after a walk of the site. Replace new and also where required as directed by the Planning Board Engineer. Also extend the fence area behind the building to the loading area continue at 6foot fence to be reviewed and approved by the Planning Board Engineer.

Mr. Kittner- Counsel I think the fence also extended along Fleetwood as well.

Attorney Vella- All overnight trucks will be required to park at the east of the building. The applicant is required to post signs and instruct all trucks not to park overnight anyplace else. Add additional sound insulation around the refrigeration unit specifically internal sound installation for the refrigeration that must be reviewed and approved by the planning board engineer. No tractor trailer shall be driven on the west side of the building of Costco and Fleetwood side and post sign accordingly. Those are the conditions that are in my notes. Applicant will order all trucks for delivery that arrive before 6am on east side of the building not to Que. No dock doors open before 6am.

Mr. Tyler- Based upon those conditions do I hear a motion to approve upon conditions.

Offered: Mr. Bace 2nd Mr. DeMatteo

Roll Call:	Yes	No	Absent
Mr. Glackin	☐	☒	
Mr. Pobega	☐	☐	☒

Mr. Vignola	☐	☒	
Mr. DeMatteo	☒	☐	
Mr. Mann	☐	☐	☒
Mr. Bace	☒	☐	
Chairman Mr. Tyler	☒	☐	
Deputy Mayor DiNardo	☒	☐	
Mayor Belasco	☐	☐	☒
Alt #1 Mr. Lavan	☐	☐	☒
Alt #2 Mr. Solomeno	☐	☒	

Motion carries 4-3 Attorney Vella to draft resolution.

Conceptual Review- 13-06P Dream Team Storage, 1 Phyllis Street, Block 195.03 Lot 2, I-A1 Industrial Assembly District. Applicant proposes to amend their previously approved site 09-05P for a 3-story structure and associated site improvements, to request a 4-story structure.

Attorney Vella- We have done numerous of these conceptual and this is just for discussion to get some input from the board witnesses not under oath nothing will be held against them no matter what they say does not mean approval/denial.

Frank Accisano, Esq. I represent Dream Team and last resolution that was adopted was 3 years ago. We got all our approvals and were satisfying all our conditions and just about ready to pull building permit when the market changed. There was no financing and no one interested in developing the 3 story structure that we had approved. We are back before you asking your consideration to add a 4th story. It is the same foot print it is the same amount of drainage and same system of drainage management with the exception of a pump being installed to accommodate some runoff from roof. All the concerns voices last time have all been addressed.

Kirk Conlon - The way the market changed the lenders don't have the tolerance for the amount of revenue 3 stories would generate to justify the amount of expense we would have to put in to develop this site. The lenders are not lending and the site will not move forward if we do not have 4 stories on that site. The same exact foot print will be used just adding another level.

John Ploskonka, Engineer, The plan off facility on the board shows the property and the concrete pad. One is the amended site plan and one is the (indiscernible) and stream location. This is a state of the art climate control self-storage facility on 2.19 acres on a corner. We here to make sure it is just below 10% with this board. The square footage of the building is 93,000, height will be less than 10% more than is allowed by ordinance.

Attorney Vella-35 is required and 38.5 is proposed that is exactly 10%.

Attorney Accisano- We are going to be at 38.4.

Attorney Vella- It is 9.6 feet per floor.

Attorney Accisano- For our type of facility this will work with the fourth floor.

Mr. Kittner- The floor area ratio that is represented on your plan that does not exist as far you know?

Mr. Ploskonka- We checked the ordinance and Sharon checked the ordinance and there is no (indiscernible) requirements for the zone. The parking we have is 13 spaces the parking for the 4 story structure remains the same.

Tom Thomas, planner –There is a restriction in the statute about the height of buildings and if we were to exceed the height of 35 feet we would obviously have to go to the Board of Adjustments. As a result of the modification on the roof orientation you actually won't see the difference anyway.

Mr. Glackin- What is the distance between the house on the corner of Phyllis and Clark and the building?

Mr. Ploskonka- The street is about 30 feet so between the house and the building about 70-80 feet.

Mr. Bace- There are only 2 houses impacted?

Mr. Ploskonka- Yes.

Mr. Glackin- The other house looks on the far side down the hill. How many parking spots?

Mr. Ploskonka- 13.

Mr. DeMatteo- What is the requirement?

Mr. Glackin- If more than 2% of the people in the units show up you have no parking.

Mr. Conlon – We have similar sized facilities that generally have 6-8 parking spaces for this size. Thirteen was actually a little more than we thought we would need. It is a very low impact use. Once the units are leased up there will not be a lot of traffic.

Mr. Glackin- I was not here for the last application why isn't any of this area back here not being used?

Attorney Vella- Wetlands.

Mr. Glackin- You are maxed out.

Attorney Accisano- It is a tough site. We will produce experts, Kirk can testify we will bring owners of other facilities in as Mr. Vella suggested just to give you an idea of how this really works.

Mr. Tyler- If you can do an elevation across Clark Street just to get a feel for the height in relation to the buildings in the vicinity.

Citizen Hearing:

No one spoke.

Motion to Close Citizens hearing:

Offered: Frank Vignola 2nd Mike Glackin

Voice Vote: Yes

Motion to Adjourn:

Offered: Frank Vignola 2nd Mike Glackin

Voice Vote: Yes

Next Meeting June 6, 2013

Sharon A. Keegan
Administrative Officer
Typed by ML