

Offered: Bace  
 Second: DeMatteo  
 date: 8/19/13

**AGENDA**

**Regular Meeting** of the Hazlet Township Planning Board of Adjustment scheduled for August 8, 2013 was called to order at 7:30PM 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. Vignola, Mr. Bace, Mayor Belasco, Mr. Lavan, Mr. DeMatteo, Chairman Mr. Tyler  
 Professionals- Mr. Kittner, Mr. Vella

**Absent:** Mr. Glackin, Mr. Pobega, Mr. Mann, Deputy Mayor DiNardo, Mr. Solomeno

**Approval of Minutes of the Regular Meeting of July 25, 2013**

**Offered By:** Mr. DeMatteo

**Seconded By:** Mr. Vignola

<u>ROLL CALL</u>	<u>YES</u>	<u>NO</u>
Mr. Glackin (absent)	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Pobega (absent)	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Vignola	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mr. DeMatteo (abstain)	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Mann (absent)	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Bace	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Chairman Mr. Tyler	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Deputy Mayor DiNardo (absent)	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Belasco	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Alt #1</b> Mr. Lavan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Alt #2</b> Mr. Solomeno (absent)	<input type="checkbox"/>	<input type="checkbox"/>

**Memorialize Resolution of Approval - Case: 13-09P- IFF Solar Panel Project; 600 Highway 36; Block120; Lot(s) 2, 3, 5 & 6. Applicant Obtained Preliminary and Final site plan approval to construct ground- mounted solar panels for power generation with conditions.**

**Motion to approve the previously provided resolution:**

Offered By: Mr. Lavan

Seconded By: Mr. Tyler

ROLL CALL

YES

NO

Mr. Glackin (absent)

Mr. Pobega (absent)

Mr. Vignola

Mr. DeMatteo (abstain)

Mr. Mann (absent)

Mr. Bace

Chairman Mr. Tyler

Deputy Mayor DiNardo (absent)

Mayor Belasco

Alt #1 Mr. Lavan

Alt #2 Mr. Solomeno (absent)

**Carry Over- 13-07P Brookdale Community College, Crown Plaza, Block 194.01 Lot 76.01;  
N.J.S.A. 40:55 D-31 Reviews and Recommendation**

No representatives for Brookdale Community College were present. This application will be carried without further notice.

**Carry Over Case - 13-02P - Capital Telecom Acquisition, LLC**

**2873 Highway 35, Block 183 Lot 1.01. Applicant seeking Preliminary and Final Site Plan Approval to construct a 90 foot high "monopine" telecommunications tower within a 50 foot x 50 foot equipment compound in the rear of the Red Oak diner.**

Mr. Stanzione- Good evening Mr. Chairman and members of the board, Richard Stanzione attorney for the applicant Capital Telecom. The exhibits that we left the last time are they here?

Ms. Cullen- They are downstairs.

Mr. Stanzione- We will need them. I emailed the smaller versions but for the general public I think we will need them.

Mr. Vella- Mr. Stanzione A-11 was the last exhibit according to my notes do you agree with that?

Mr. Stanzione- Check the transcript.

Mr. Vella- Mr. Stanzione I do believe you have the CME report of August 7, 2013.

Mr. Stanzione- Yes. Will we're waiting I'd like to call Mr. Scott Von Rein. He was sworn in the last time he as testifying.

Mr. Vella- Ok Mr. Von Rein before testify please be advised you've been previously sworn and are still under oath. Members of the board we have five board members here, has all the board members been at all the hearings or missed some of the meetings but have listened to the tapes and signed the certification?

(All board members answer yes)

Mr. Stanzione- There is some debate is there a quorum?

Mr. Vella- You don't get to modify the quorum.

(Searching for exhibits meeting takes a break)

Mr. Tyler- I believe we are ready to resume.

Mr. Vella-Ladies and gentlemen sorry the delay but we had an exhibit location issue but we have found them so we can proceed. Ok Mr. Stanzione, Mr. Von Rein has been previously sworn in and he's still under oath and you may proceed.

Mr. Stanzione- Scott when we left the last hearing we were asked to email and forward the exhibits that were marked as A-9 the mounted areal site locations and A-7 which is the residential zone setback map which is the top one is that correct?

Mr. Von Rein- That's correct.

Mr. Stanzione- I know you forwarded them to me and I emailed them to the board you also prepared a summary in regard to summarize your testimony which was sent to the board regarding these issues is that correct?

Mr. Von Rein- That's correct.

Mr. Stanzione- Have you had the opportunity to review the report of CME Associates dated August 7, 2013. That was prepared by Mr. Paul Kittner the professional engineer and planner for the Planning Board.

Mr. Von Rein- Yes.

Mr. Stanzione- I'd like to if you would go to the second page of that report and ask you to go to item four. Mr. Kittner raises a number of sites that we either looked at or was a comment (inaudible) not looked at. We are going to start with 4A which is 16 Brookside Avenue which is the police station. Did you look at the police station and if not why not?

Mr. Von Rein- It was one of the township properties we looked at, yes.

Mr. Stanzione- And what was the determination concerning that property?

Mr. Von Rein- I believe Mr. Stern testified that it was outside of the search ring.

Mr. Stanzione- Now under 4B Cromin Court it's the site that's identified as being located one tenth of a mile the proposed site. Have you had an opportunity to look at that site?

Mr. Von Rein-Yes

Mr. Kittner- Mr. Stanzione can I just interrupt for one second, the police station, if the tower were to be mounted in the front of the parcel would that still be outside your search area?

Mr. Von Rein- It's Mr. Stern's testimony if that is the case yes it would be outside the search area.

Mr. DeMatteo- Do you have an opinion on that or is it just Mr. Stern's testimony?

Mr. Von Rein- Yes it's Mr. Stern's testimony.

Mr. Stanzione- Mr. Stern is the radiofrequency expert.

Mr. DeMatteo- Ok I'm just curious because he's testifying to what Mr. Stern testified. He's answering the question. Is he qualified to answer the question?

Mr. Stanzione- What he's answering is already on the record the site is outside the search area and will not serve the needs. So yes he's qualified to take that testimony and apply it but it wouldn't work.

Mr. DeMatteo- Ok well I took it to be a technical question.

Mr. Stanzione- We can call Mr. Stern back if you like. Going to Cromin Court can you identify that site and whether that was considered?

Mr. Von Rein- Yes the two township properties north of the Red Oak Diner were looked at in the original review.

Mr. Stanzione- And why was it not chosen?

Mr. Von Rein- One property is entirely encumbered by wetlands and the other property is surrounded by residential houses.

Mr. Stanzione- Would you be able to locate on that property and meet the required 500ft setback from the residential properties?

Mr. Von Rein- No.

Mr. Stanzione- Now in regard to other sites mentioned we'll go to 5A. There's a request that the applicant provide evidence of this to the satisfaction of the board. Did you testify as the sites you inquired and swear under sworn testimony that the owners were not interested?

Mr. Von Rein- Yes I did.

Mr. Stanzione- Is there any written correspondence to back that up?

Mr. Von Rein- No.

Mr. Stanzione- Now in regard to B the McDonalds/ Staples/ Shoprite area there's a (inaudible) of your testimony there's no viable placement in the parking field and Shoprite will not consent. Could you please expand on that as to why that site was not considered?

Mr. Von Rein- That site was not considered for one it did not meet the residential setback requirements of 500 ft. The additional tree area to the southeast corner of the property appears to be a detention area and is much closer to residential properties such as the south and finally the owner would not consent to a tower on the property regardless of the location.

Mr. Vella- When you say that the tower would violate the setbacks is that assuming the tower would be behind the commercial structure or any place on that lot would it violate? If it's out towards McDonald's which is more towards route 35 would that violate the set back as compared to if it was behind the shopping center?

Mr. Von Rein- As I recall the entire property would be outside of the 500ft. setback. There would be no legitimate location for a tower.

Mr. Tyler- Would any portion of the property provides a setback greater than your current application of 386ft.?

Mr. Von Rein- No I do not believe so.

Mr. Stanzione- In regards to item C which is the Cinema Mark Movie Theater there was previous testimony regarding Costco. Can you reiterate with that testimony?

Mr. Von Rein- Testimony was Costco would not consent to a tower.

Mr. Stanzione- Did you have an opportunity to contact Costco?

Mr. Von Rein- Yes

Mr. Stanzione- And how did you contact them?

Mr. Von Rein- Via e-mail.

Mr. Stanzione- Do you have a copy of that email?

Mr. Von Rein- I do.

Mr. Stanzione- May we mark this as A-12. Can you advise who the e-mail was sent to by whom and their response.

Mr. Von Rein- The email was sent to a Frank E. Lazarus. His title is the executive vice president administration of Costco Wholesale Corporation.

Mr. Stanzione- And what was the inquiry of the e-mail?

Mr. Von Rein- The email asks whether Costco would consent to a tower on this property or on a property that it would require consent from and it clearly states "No thanks we are not interested in a tower on our properties".

Mr. Stanzione- When you say on a property that it would require Costco's consent was there an adjacent property that Costco has a restrictive covenant on regarding use of the property?

Mr. Von Rein- Yes the Cinema Mark Movie Theater has a REA with Costco.

Mr. Stanzione- Do you have a copy of the first couple of pages as a recorded document?

Mr. Von Rein- I do.

Mr. Stanzione- May we mark that as A-13.

Mr. Vella- Just for the record we'll mark as A-12 as the email from F. Lazarus at Costco dated August 7 saying "no thanks we are not interested in towers on our properties".

Mr. Stanzione- Reference this document notes that is recorded August 27, 1991 as D book 5088 page 0638 and its titled construction operating and reciprocal easement agreement. In regard to this property does it limit use of the properties without consent of certain parties?

Mr. Von Rein- It does.

Mr. Stanzione- It's a full document 47 pages I can produce a copy if you want.

Mr. Vella- Have you reviewed the agreement does that reflect every inch of the cinema property? What about areas that are not covered by pavement?

Mr. Von Rein- It's specifically says except as otherwise provided in this RA national parcel and priced parcel may be used for any lawful purpose provided however neither the shopping center nor part there of shall be constructed, maintained or used except for movie theaters and the retail and or whole sale of goods, wares, merchandise, property, and services.

Mr. Kittner- Is it your testimony that that would also include lot 18 which is the lot in questions?

Mr. Von Rein- Lot 18 being the northern-

Mr. Vella- This exhibit does reference certain lots and blocks and parcels but there are not provided in this exhibit because obviously Mr. Stanzione didn't want to include all 47 pages.

Mr. Von Rein- To further clarify there is a property just to the East of the theater between the Hazlet Township owned property the soccer fields, I believe that property has a stream or waterway that runs through it and it's mostly encumbered by wetlands.

Mr. Kittner- I would agree with most but it is conceivable that a portion of it is uplands and it's conceivable that that area is large enough to build a tower and your equipment shelter.

Mr. Von Rein- I would say it is part of the covenant.

Mr. Stanzione- Under number D the Village Court Office Park. Are you familiar with that property?

Mr. Von Rein- Yes.

Mr. Stanzione- Did you consider that and if not why not?

Mr. Von Rein- We considered it as a recommendation of Mr. Kittner.

Mr. Stanzione- Would you be able to use that property?

Mr. Von Rein- No.

Mr. Stanzione- Why not?

Mr. Von Rein- Because the only location to place a tower would be in parking and circulation.

Mr. Stanzione- Item 6 in addition Mr. Kittner has come up with some additional properties. Under A it seems to indicate that this was Green Acres funded and is confirmed to be on the (inaudible) that would not be available in a sense is that correct?

Mr. Von Rein- That's correct.

Mr. Stanzione- Item B talks about the Holiday Inn site. Are you familiar with the Holiday Inn site?

Mr. Von Rein- I am.

Mr. Stanzione- Did you review it after you received Mr. Kittner's report?

Mr. Von Rein- I did.

Mr. Stanzione- What did you determine about the Holiday Inn site?

Mr. Von Rein- That there was no location on that property that allowed for a further set back than 368ft from the residents.

Mr. Stanzione- Turning to the next page Item C block 242.01 Lot 3.01 2880 Highway 35. There was a question raised whether or not there would potentially be more than 386ft buffer to the nearest resident. Did you review that?

Mr. Von Rein- I did.

Mr. Stanzione- What was your determination?

Mr. Von Rein- The same as the Holiday Inn property.

Mr. Stanzione- That you could not meet a better buffer area that 386ft is that correct?

Mr. Von Rein- That's correct.

Mr. Stanzione- Block 242.01 lot 3.02 100 Village Court are you familiar with that property?

Mr. Von Rein- Yes.

Mr. Stanzione- Was there more than the 386ft. buffer to the nearest resident. Were you able to review that property and what did you determine?

Mr. Von Rein- The same as the Holiday Inn property the setback further than 386ft was not possible.

Mr. Stanzione- Block 242 lot 1 Mr. Kittner indicates the site appears to be large encumbered by wetlands. Did you review that property?

Mr. Von Rein- I did review the sites there are wetlands on the adjacent property however the property owner indicated that they are not interested in a tower.

Mr. Stanzione- Block 239 lot 2.01 2996 Highway 35 Mr. Kittner indicates that the site is small and the applicant may not be able to reduce parking. Did you review this site?

Mr. Von Rein- I did. I concurred with Mr. Kittner that was that not sufficient space available.

Mr. Stanzione- And the last one Block 166.09 lot 12.01 3215 Highway 35 Best Western. Mr. Kittner indicates the property may be too close to the school located on block 166.09 lot 16. Where is this property in relationship to the school property?

Mr. Von Rein- It's adjacent to it just to the north.

Mr. Stanzione- So it would definitely be within 500ft of the school?

Mr. Von Rein- Yes.

Mr. Stanzione- Based upon properties you've reviewed, based upon your determination of properties suggested by Mr. Kittner are you satisfied that you've done an exhaustive search of this area to look for conforming property that would conform to the ordinance?

Mr. Von Rein- Yes.

Mr. Stanzione- I have no further questions.

Mr. Bace- On that Village Court section you said to put a tower up there would have to be in the parking lot basically?

Mr. Von Rein- I confused this site a few minutes earlier. We did look at this site the only location on this property that would meet the 500ft setback is in a retention/detention area just to the north of the paved parking area. Adjacent to that to the west are significant wetlands. I do not feel this is a constructible location based on those facts.

Mr. Stanzione- I'd like to call my last witness Mr. James Kyle.

Mr. Vella-Sir please raise your right hand do you swear upon the following testimony that your about to give is the whole truth nothing but truth?

Mr. Kyle- I do

Mr. Vella- Please state your name for the record spelling your last name sir

Mr. Kyle- First name is James last name Kyle. I'm a principal from Kyle Planning and Design the address is P.O. Box 236 Hopewell NJ 08525.

Mr. Stanzione- Mr. Kyle for the benefit of the board can you give me your educational back ground, your work experience, and any licenses you might hold.

Mr. Kyle- I have a Bachelor of Science in Environmental Planning and Design which I received in 1996 from Rutgers. I've been practicing public and private sector planning for the last 17 or 18 years advising board such as this. I'm currently township planner in two towns Warren County and I also testify for a variety of real estate and telecommunication clients. I've been qualified as an expert in planning by over 110 boards across the state.

Mr. Tyler- We'll accept the witness thank you.

Mr. Stanzione- Mr. Kyle, in preparation for this hearing have you had the opportunity to review the zoning ordinance as it applies to wireless telecommunication facilities of the Township of Hazlet?

Mr. Tyler- I have.

Mr. Stanzione-Have you also have the opportunity to review this application and plans that are here before the board?

Mr. Kyle- I have.

Mr. Stanzione- In regards to the zoning ordinance have you reviewed the application and determined how it complies or fails to comply with the zoning ordinance?

Mr. Kyle- I have

Mr. Stanzione- And what was your determination?

Mr. Kyle- For the board there was a professional planning report that I prepared that was submitted with this application. The report was dated April 20, 2013. It represents all the testimony that I'll present here. What I'll do is paraphrase somewhat from this report for the record. The subject property is known as block 183 lot 101 it's located in the townships business highway district otherwise known as 2973 Route35 north. In the township wireless telecommunications facilities including antennae's, towers, and equipment are permitted as conditional uses in all zones except for residential zones. So the ordinance is broken down into conditional use standards of which there are three and there are also some bulk standards that come with that. So the setback that we are talking about here the residential setback and also the setback of the facility from the property lines are governed as bulk standards so they are required C variances. There are three variances that were identified with the initial submission that we made one of which we can eliminate by moving the tower 4ft to the east. We've spoken with the property owner and they are ok with that. In terms of the setback the currently on the plans it shows 86ft we can eliminate that variance by moving it and we are willing to do that.

Mr. Vella- So you are withdrawing your request for variance and will comply with that ordinance requirement?

Mr. Kyle- That's correct. When the ordinance talks about setbacks it talks about setbacks related to the height of the tower. It requires that all the equipment be setback from the property line of the distance equal to the height of the tower. So currently on the site plans we show a 44.6ft setback for the fence line from the western property line and a 50ft setback from the equipment itself. Those would require variances as a setback now but if we moved the whole compound those could change a bit but we will be no closer than the relief we are seeking in the application. The second bulk variance is related to the setback from the residential zone line to the north so we're required to have 500ft and we're requesting a variance for 386.4ft. So the conditional use requires are sort of a narrative to the ordinance and it talks about the property locations of which there are four first being on lands of structures owned by the township, the second lands or structures located in the industrial assembly districts, third co locations on existing on PWTFS (personal wireless telecommunication facilities) or existing water tanks provided that it doesn't increase the height of the installation by more than ten percent, and fourth priority locations are such locations excluding residential zones as the applicant proves are essential to provide required service to the township of Hazlet. This issue has been evaded significantly the boards heard testimony both from Mr. Stern and Mr. Von Rein about the locations that we've looked at here and why

we can't meet them. When we talk about the actual conditional use standards themselves this comes from section 409.09.05. The board making determination here as to whether or not we meet these three standards.

First are sites for PWTFs and PWTEFs must demonstrate that they provide the least visual impact of residential areas and public ways. All potential visual impacts must be analyzed to illustrate that the selected site provides the best opportunity to minimize the visual impact of the proposed facility. We've talked about a flag pole and also a flush mounted antenna so the heights that we've discussed are 134ft for the flag pole and the flush mounted would be a slightly lower height about 120ft. From the applications prospective that preference would be for the mono pine that's applied for.

Mr. Vella- A-14 Areal view of subject property.

Mr. Kyle- The aerial view shows the back half that is essentially tree and forested area and the height of the trees were the pole would go is about 55ft. The mono pine is roughly 90ft so it will stick up above the trees a little bit. (Original photo simulations) The existing vegetation really blends the facility well. These were taken during the six months in the year that the leaves are not on the trees.

Mr. Vella- Mr. Kyle you indicated that the residential property falls back and then you're looking up as it goes out. The present pole is 386ft there are plenty of testimony before that there is significant amount of property to move that pole further than the Red Oak absent that the property owner doesn't want to do it. If your able to move that another 120/130ft forward which would be farther away from the residential, reduce the height from the residential wouldn't that have less impact on the residential properties and even reduce significantly the amount of visual impact to the residential because your moving 130ft farther away from them.

Mr. Kyle-It drops down and moves down towards Route 35 not significant. At the rear along the zone line you've got 36/37/38 so it rises as you move west slightly. The tree behind that area is roughly 46ft so you have about 8ft of elevation difference between the rear of the property and where the mono pole is. If you moved it into the 500ft setback your probably only talking about a elevation difference of a couple of feet I don't think it would significantly reduce that impact.

Mr. Bace- Question please, I'm looking at the 409.09.05 number one where it says demonstrations that provide the least visual impact on residential areas and public ways. Under view #8 and I see this big tree sticking up above the building. Does that comply with what number one is saying that it's supposed to have least visual impact in those types of areas?

Mr. Kyle- We will talk about that.

Mr. Bace- I took a look at that and view 10 that looks like a gathering place or something. Your own paper states that it doesn't really comply with the first item on the site.

Mr. Stanzione- Where was view 8 taking from?

Mr. Bace- Across the street from the Chase bank right by the Verizon store on Poole and 35 directly at an angle.

Mr. Stanzione- Jim based upon Mr. Bace's comment is that a commercial zone?

Mr. Kyle- It is.

Mr. Bace- I'm asking if it complies with the first statement on the residential public way of vision pact on residential and public ways.

Mr. Kyle- So Route 35 is a public way?

Mr. Bace- That is correct. That looks good there?

Mr. Kyle- Again, what this provides is the tree is in the back of the property it does provide some sort of a back drop; does it stick up above the tree line? Yes it does. Wireless telecommunication facilities don't function unless they are above the tree line. So here we have two competing interests; the mono pine achieves in terms of impact of the residential zone it provides a significant reduction of impact because it blends that facility in from that side. It doesn't do as good as a job on the route 35 side but what you have here is you do have somewhat of a back drop from that facility. That's why we presented the alternative photo simulations for your consideration and like I said the applicant is willing to- The question really becomes does the flag pole better address visual impact from both sides?

Mr. Vella- What is your application then? The concern that I have sometimes is that it's a question of what does the board want rather than it's the application of the applicant. The board has asked previously that we are very concerned about the setback issue and said "hey why can't you get out of the setback?" and a lot of the response was that the owner did not want it so we have to put it here. The next question is the application that the board has to vote on is it an application for the flag pole so what's the height and where or is it an application for the tree and we know where it is and the height.

Mr. Stanzione- The application is for the tree 90ft high. If the board approved this application with the condition to a structure such as a flag pole at the present height we would accept that condition.

Mr. Vella- Ok so the application is for the tree. I just want to make it every clear to the board that they will accept as a condition of approval and make it a flag pole at an increase of height of 134. I just want to make it clear and on the record that's what the application is.

Mr. Stanzione- Now regarding the conditional use standards the first one the visual impacts you have to balance the commercial areas as well as the residential areas. Is that correct?

Mr. Kyle- Yes and again the visual impact here is really a subjective thing. One person may see it as a big impact another might not it's kind of a judgment call in this area and the way it's set up is that it's asking you to make a decision on whether we meet it or not.

Mr. Stanzione-You previously testified that from the view from the residential area there's certain buffering. Can you reiterate what that buffering is?

Mr. Kyle- The buffering is the existing tree line and I feel that if we remove the existing vegetation on the property the location that goes from here does a good job in addressing the visual impact on the residential. There was talk early on in this process of taking that pole and moving it to a location where it would conform to the 500ft. The taller trees on this property are located on the western side as you move east is where the tree line moves back a little further and the nature of this vegetation gets a little lower so I think if you move this facility east you have to move it farther up to a location that it would be conforming in terms of setback. It won't do as good of a job addressing the visual impact as it will on this location.

Mr. DeMatteo- Is that back lot developable?

Mr. Kyle- Maybe not cleared but I think some further development can be put in there.

Mr. Vella- As a condition of approval will the applicant agrees that if the application was proposed that the remaining parcel would put in a complete conservation easement for no further use?

Mr. Stanzione- No what the applicant would agree to is that any further application on the property would be subjected to site plan review and approval by this board.

Mr. Vella- But if that application comes before the board and there are no variances or waivers the board will have to grant that approval and thus potentially remove all the trees from the site if there are no variances or without any trees at all. The conservation easement would eliminate that potential and keep a permanent buffer zone that the applicant has indicated is very essential to their application would protect it forever.

Mr. Stanzione- We cannot agree to a conservation easement.

Mr. Kyle- Obviously the trees that are in the setback areas wouldn't be cleared you would still have an area of vegetation or could be left rather 20ft is what is required.

Mr. Vella- So you can technically- from 25ft from the proposed tower is 386 minus 25 you could probably cut 340 and only have a 25ft tree buffer and a 340ft of pavement or buildings instead of trees.

Mr. Kyle- We are not presenting information visual simulations that show what all this would look like if all the trees were gone.

Mr. Vella- As a planner would your testimony be different on this application if all the trees would be removed other than the 25ft buffer?

Mr. Kyle- It would really depend but it may be. If you're trying to buffer something from far away the best thing way to do it is with something close to where the viewer is looking at so if you left those trees at the rear line setback they would probably do a fairly good job of addressing the visual impact there.

Mr. DeMatteo- The property is sloping down and the further you get to the back of the property those trees get lower and lower.

Mr. Kyle- It's hard for me to render an opinion about that because I don't have the information in front of me it may change how I looked at it but not having that to look at certainly puts me at a disadvantage in terms of giving my opinion on address what that would do. For the time being based on what's there again I don't know if this application lives or dies with all the trees that are on this property with an alternative support structure a flag pole it's a fairly slim profile we're talking about a different level of impact than we are with a tree pole. There are two other standards that are contained in the ordinance and I'll just quickly go through those.

Number two says that the PWTEF should be located to avoid being visual solitary or prominent when viewed from residential areas in the public ways. In my mind if you look at this standard this provides a lot of support for not doing something like that because it expresses a preference for taking facilities such as this and putting them behind existing buildings so that you don't see them. The trees behind the pole will help blend the facility from Route 35. Third is PWTFs and PWTEFs shall be placed to ensure that historically significant views, streetscapes, and landscapes are protected. There are no historical landscapes, views, streetscapes and streetscapes in the area of the proposed facility.

Mr. Stanzione- Once you've determined the conditions are there bulk variances that are being set with this application?

Mr. Kyle- There is. As we've talked about there are two and they are related to setbacks so the approach that I'm taking here with to these variances is what's called a flexible C which is the C2 variance. In this case I feel strongly that the granting of the bulk variances here permits construction, the PWTF that allows Verizon Wireless to address what could be deemed a significant gap in coverage in this area of the township as there were no other viable higher priority alternatives that we were able to find in accordance with the ordinance. The overall benefit in granting the variances here and the construction of the facility filling that gap and coverage is that there are a lot of benefits public welfare benefits to the facility most of which is an emergency situation. The FCC has noted that roughly 70% of all 911 calls come from wireless telephones so it's important that we have the coverage in place particularly in an area here. The issue providing reliable coverage has come critical also how close the residential quarters are. The coverage areas will extend to a lot of those residential areas and the CDC has identified what they term a phenomenon where a lot of people are getting rid of their landlines in favor of just using their wireless phones in their homes. 38.2% of households in America have gotten rid of their landlines all together. So were talking about emergency situations where people might have to call 911 if they have to use their phones inside the homes it's critical for them to have coverage.

In terms of addressing the statutory criteria from the MLUL from the two variances that we seek with respect to the setback, the Verizon is licensed by the FCC to provide wireless service in this market. If you have an FCC license that was sufficient in their mind to demonstrate that there is a public welfare benefit to the application. I think that there are two purposes of the land use law that would be promoted by the granted of the variances here. The first is purpose G to provide sufficient space in appropriate locations for a variety of uses. The nature of the facilities that we are talking about is an accessory use to the diner it makes more sense to relegate them to an area of the property where they won't be in the way of the activity on the site and anything that may happen in the future

Mr. Vella- You said may happen in the future, are you talking about further development of that rear parcel and the removal of all those trees?

Mr. Kyle- Potentially.

Mr. Vella- Assuming the applicant does develop something in the back how would this location effect this property?

Mr. Kyle- The physical improvement will be there so it will limit location where improvements can be constructed. There are no requirements in the ordinance for setback other than to the property line so theoretically something could be built in close proximities to the facility.

Mr. Tyler- If the application is approved is there a lease or some other kind of agreement and what would the term of that be in years?

Mr. Stanzione- Five years with four/five year extension terms with the option of the lease.

Mr. Kyle- The second purpose of the land use law is to encourage coordination of the various public and private procedures and activities shaping land development with the view of lessening the cost such development into the more efficient use of the land.

Mr. Stanzione- I'd like to correct something this is an initial ten year term with the options to renew

Mr. Tyler- How many options to renew?

Mr. Stanzione- Four or Five years.

Mr. Tyler- So ten years plus four options at five years a piece.

Mr. Vella- Yes thirty year lease.

Mr. Tyler- Thank you

Mr. Kyle- So moving onto the negative criteria the first problem of the night talks about the impact of the public good that refers specifically to the impact of the surrounding properties. These two facilities function as accessory uses on this property. We are more than doubling the required side yard setback for principal structure. The proposed facility will comply with all DEP noise regulations at the property line. We have an 8 foot fence that we are placing the 6ft fence that surrounds the property will remain there will also be landscaping that will be installed. There will be 8 to 10 foot evergreen trees that will be placed between the property line and the 8ft fence. The general intent of setbacks is to address any potential visual concerns or noise concerns. There will be no greater impact in locating this facility any closer than it would be from a principal structure being located that close.

Mr. DeMatteo- I have to ask if the Red Oak said no what would you have done?

Mr. Stanzione- The Red Oak didn't say no so I don't think it's an appropriate question.

Mr. Vella- I don't think the planner could answer that question.

Mr. Bace- You talk about a gap and at the Keyport water tower there are cell phone tower attached around the water tank. On Union Avenue there is Shore Lands Water, I used to have AT&T and I now have Verizon so I fail to find out where this gap is that you're talking about.

Mr. Stanzione- Mr. Stern has already testified at length to that at the last two hearings.

Mr. Kyle- Again I feel strongly that the location that we've chosen here takes advantage of the existing vegetation on site but really helps to litigate the potential visual impact concerns from the residential area. If we moved it farther East it would be of a greater impact because the trees wouldn't work in our favor since we've located an area on the property where the trees are the tallest.

Mr. Vella- You indicate that if you move the trees to the East that's a negative impact because there are less trees there but before you said if all the trees were gone it's not a big deal. I don't see how the two jive.

Mr. Stanzione- I don't think he said that at all. I think he said he couldn't address that and wasn't prepared to testify to that.

Mr. Vella- My point is that if the idea is that and you say it again that the existing vegetation is important if you don't plan on protecting the vegetation then how are the neighbors really protected?

Mr. Kyle- I don't have the visual information here I can't offer an opinion as to what the impact would be if all the trees were removed. If you look at the ordinance requirements here the 500ft setback doesn't have any other requirements other than distance so theoretically if there were no trees there even if we moved the facility to the 500ft line, there's nothing there that-

Mr. Kittner- You still have to satisfy the visual impact as part of the conditional use.

Mr. Kyle- Distance is the primary consideration in terms of visual impact.

Mr. Kittner- And that's listed first right? Under A?

Mr. Kyle- Yes

Mr. Vella- I would agree with you if you were over 500ft then us telling you make the 500ft a buffer area, your saying what I'm doing is required by law. Now you're not doing what is required and you're having a deviation to it your putting it closer to the residents. You're saying if putting it to the East is less trees so that's a problem. We are not protecting any of the trees.

Mr. Stanzione- We are not protecting the entire conservation easement. You have a tree removal ordinance, you have setback ordinances, you have development ordinances that restrict the way a property can be developed and as I previously stated we will accept the condition that would make any further development of this property subject to your site plan review and your ordinances.

Mr. Vella- A tree removal ordinance is not you're not allowed to take that tree. Tree removal ordinance is you can take down that tree but you have to pay money for that.

Mr. Stanzione- I had Mr. Tardy testify to that and I interpreted slightly different than you. Now you have to do a survey of the trees 20 inch caliber trees, you have to identify those that you're removing, you're only allowed to eliminate so much percentage of the treed area as I read the ordinance.

Mr. Vella- If there is no more concern about no further development in the rear of the property while the lease is viable.

Mr. Stanzione- No we will not agree to restriction of development. In fact you're telling us "tell the landlord that he can't use his large piece of property if he comes in here with a site plan to bring in a nice development for commercial use" and we are not going to agree to that. It's an unreasonable condition.

Mr. Vella- Ok well you may consider it unreasonable but from my perspective –

Mr. Stanzione- I'm not going to argue about it I'm just going to simply say we won't accept it so if you want to put it in your condition or resolution of denial or of approval we will deal with it at that time.

Mr. Kyle- Again I don't think that the visual impact of this facility lives or dies with all the trees that are on this property. If the board felt that a flag pole better addressed the visual impact we would accept that as a condition that be the support structure.

Mr. Stanzione- I have one or two additional questions, how high in this zone can the building be built?

Mr. Kyle- 25ft.

Mr. Stanzione- And how close to the rear property line can a building be built?

Mr. Kyle- 25ft.

Mr. Stanzione- So if a building was constructed along the rear property line 25ft off of that would that serve as a visual barrier to assist this proposed facility?

Mr. Kyle- It would to a certain extent.

Mr. Stanzione- I have no more further questions. Any further questions for Mr. Kyle?

Mr. Tyler- No Thank you. Any discussion before I open it for public comment? My preference is to hear from the public first.

Mr. Stanzione- I do have one inquiry. Mr. Kittner has presented a number of reports to the board. He has not been sworn nor has he testified so therefore unless he is sworn and testifies and until I have an opportunity to cross examine him on his reports I object to his findings on the report.

Mr. Vella- We will open to the public first.

Mr. Tyler- At this time we are going to open the floor to the public. The way this works is if you'd like to make a statement we invite you to step forward one at a time. We will ask you for your name so we can have you on record. Your welcome to sit down, speak into the microphone, you can ask questions regarding the application or you can make a statement. There are a lot of you here and I will assume you are all here for this so it would be help if you try to keep it brief.

Mr. Vella-Sir please raise your right hand do you swear upon the following testimony that your about to give is the whole truth nothing but truth?

David Corbisiero - I do

Mr. Vella- Please state your name for the record spelling your last name sir

David Corbisiero- David Corbisiero. 47 Cromin Court.

Mr. Vella- You can ask questions to any witnesses just not their lawyer or just make a statement.

David Corbisiero- To the gentleman in the back, the first night I was here they had asked you why you don't put it in the 500ft buffer zone and under testimony you said that's impossible it would be in the middle of the diner.

Mr. Tardy- Peter J. Tardy. I did make that statement but I believe it's been clarified by then.

David Corbisiero- So you were wrong?

Mr. Tardy- At that point we clarified it and-

David Corbisiero- What else have you been wrong about?

Mr. Tardy- I'm objecting to that question.

David Corbisiero- When you take into consideration of this approval I'd like for you to take into consideration of 25ft of trees because I really think that's what it will come down to and I really think he's actively trying to lease out that land. I strongly ask that this variance be denied for various reasons. Studies show that an outbreak of cancer-

Mr. Vella- I am going to stop you right here. Members of the public I know you do not want to hear this but the federal law prohibit local zoning/planning boards to consider health risks as a result as cell towers as an application. It's not that we don't want to its illegal for the board to say you know what we will deny this because it can cause cancer. What we are considering are the bulk variances, the impact of the adjoining property owner, the visual impacts so we have to stick to the municipal land use law.

David Corbisiero- The proposal is not close to the code. Previous testimonies they said that the height of the trees are 40ft and now they are saying it's 50ft. The township requires the setback of 500ft and 386ft is proposed. That's 114ft close than the township requires it's really not close. The planning board can deny this request while this project is going to affect property value. There is a 200 gallon generator that they run once a week from 10-2. I work nights I need to sleep that's going to affect my quality of

life. Enclosing I'd like you to take into consider my daughter and my son and the rest of the residents of Cromin Court.

Mr. Stanzione- The generator is a 50kw generator are you familiar with that?

David Corbisiero- No

Mr. Stanzione- Are you also aware that I will be ran once a week for about a half hour to forty five minutes.

David Corbisiero- No

Mr. Tyler- Would anyone else like to step forward?

Mr. Vella-Sir please raise your right hand do you swear upon the following testimony that your about to give is the whole truth nothing but truth?

Paul Techliken - I do

Mr. Vella- Please state your name for the record spelling your last name sir

Paul Techliken - Paul Techliken, 65 Cromin Court. I just want to make a statement. I brought here all my residents from Cromin Court and we are here for human life. Kill the trees because this tower is just so important right now. Cromin Court is all residential and families. It's all for money it's all business. Put it on the parkway put it on the front of Route 35 let the Red Oak diner but it on top of its roof. Gentlemen this is community this is your town.

Mr. Tyler- Thank you sir. Anyone else?

Mr. Vella-Sir please raise your right hand do you swear upon the following testimony that your about to give is the whole truth nothing but truth?

Tim Walsh - I do

Mr. Vella- Please state your name for the record spelling your last name sir

Tim Walsh- Tim Walsh. I've got one question what do we do in the winter time when there's not leaves on the trees? We don't live in the pine barren.

Mr. Stanzione- The pictures there were taking during that time. That's what it will look like.

Tim Walsh- They belong on the parkway. Ever see the generator's there all fenced in? Pretty site.

Mr. Tyler- Would anyone else like to speak?

Mr. Vella-Mam please raise your right hand do you swear upon the following testimony that your about to give is the whole truth nothing but truth?

Lenlita Lim-Sulit – I do

Mr. Vella- Please state your name for the record spelling your last name sir

Lenlita Lim-Sulit- Lenlita Lim-Sulit. I live at 3 Cromin Court. I am a nurse practitioner and I work with children with cancer. I just want to bring up human life. The future is our children so I do not think we should harm our children.

Mr. Tyler- Thank you mam.

Mr. Vella-Sir please raise your right hand do you swear upon the following testimony that your about to give is the whole truth nothing but truth?

John Boyle -- I do

Mr. Vella- Please state your name for the record spelling your last name sir

John Boyle- John Boyle. 34 Cromin Court, all this past year we've seen our properties go down in value. I know I look for a home any house with a tower behind it I said I don't want to live there. What kind of voltage is going to be feeding this tower?

Mr. Stanzione- It's in the record it's a 220AMP service.

John Boyle- What type of voltage is going to be feeding this tower?

Mr. Tardy- It's not a high voltage situation. Its 220 AMPs 110 volts.

John Boyle- We we're just concerned we have environmental issues. Now the property value I don't want to have to sell my house and find out that I'm not going to get what I feel I deserve for my house because no one wants to buy it. That's the only thing I want to say at this time.

Mr. Tyler- Thank you sir.

Mr. Vella-Mam please raise your right hand do you swear upon the following testimony that your about to give is the whole truth nothing but truth?

Jennifer Kistler – I do

Mr. Vella- Please state your name for the record spelling your last name sir

Jennifer Kistler- Jennifer Kistler and I'm at 55 Cromin Court. First I'd like to say that the tower would be directly behind my home so when my children are on their swing set they can look at it as like a beacon in their backyard and wonder what's behind their house which right now we just have woods and it's a park like setting and also I just want to remind everybody that we have ordinances for this reason, it doesn't fit so it shouldn't be put there. If they want it put in the front I can't say anything but if it doesn't meet the 500ft then it's really not fair.

Mr. Tyler- Thank you mam.

Mr. Vella-Sir please raise your right hand do you swear upon the following testimony that your about to give is the whole truth nothing but truth?

Christopher Kast – I do

Mr. Vella- Please state your name for the record spelling your last name sir

Christopher Kast- Christopher Kast, 42 Cromin Court. I think the main issue with the homeowners here is with visual impact and effect on the properties and there's no doubt that there will be a significant visual impact especially when there are no leaves on the trees. I think if Verizon and whatever financial consideration the Red Oak Diner is going to receive from this do not out weight the rights of the people and the fact that they are looking for something from us which is a variance but are not willing to give up rights to conservation development of the trees right there it says it all.

Mr. Tyler- Thank you sir. Anyone else? I'd like to close the floor to the citizen hearing and open up for discussion.

Mr. Vella- Mr. Chairman before we start Mr. Stanzione had some questions for our engineer on the reports so I would suggest that I swear Mr. Kittner in before the board. Mr. Kittner please raise your right hand do you swear upon the following testimony that your about to give is the whole truth nothing but truth?

Mr. Kittner – I do

Mr. Vella- Please state your name for the record spelling your last name sir

Mr. Kittner- Paul John Kittner Jr.

Mr. Vella- Mr. Kittner you've submitted numerous reports that are part of this file is that correct?

Mr. Kittner- That is correct.

Mr. Vella- DO you want to summarize any of them?

Mr. Kittner- Our report dated March 28, 2013 was our site plan review. Our comments and questions are numbered in that report primarily dealing with the application itself we were asked by the board to summarize available properties and review the exhibits. That information is dated in our report dated August 7, 2013 and we provided a supplement for the planning report that Mr. Kyle presented that is dated May 2, 2013.

Mr. Vella- Does the board have any questions for Mr. Kittner regarding any of his reports?

Mr. Stanzione- I'm going to primarily focus on your report of August 7, 2013. You asked to have the opportunity to review the exhibit that as presented by the applicant which detailed the 500ft. setback is that correct?

Mr. Kittner- yes

Mr. Stanzione- Did you find that exhibit to be correct?

Mr. Kittner- Yes I did.

Mr. Stanzione- Did you find any properties that were not addressed by the applicant that met the 500ft setback?

Mr. Kittner- All of our comments and notes are numbered in our report dated August 7, 2013. Overall I thought you did a good job going through the properties evaluating them. I did have some questions and concerns and thought it was important that the applicant provide testimony regarding some of the parcels.

Mr. Stanzione- Where there any township owned properties within the search area that would be first priority locations other than those identified by you or addressed by the applicant.

Mr. Kittner- Not that I was able to identify.

Mr. Stanzione- Page 2 number 2 you identify the second priority location as being those in the IA-1 Zone.

Mr. Kittner- I believe that their testimony indicated that 1.5 miles away.

Mr. Stanzione- Do you concur that it is 1.5 miles away?

Mr. Kittner- I did not measure the distance but I didn't see any properties in the IA-1 zone.

Mr. Stanzione- You also heard the applicant testify that there were no existing structures of height. Did you review the search area?

Mr. Kittner- I did.

Mr. Stanzione- A number of the properties that you addressed you said there could be locations within certain parking areas or driveways. Would that identification of those properties require changing of the parking lot designs, signs and entrances?

Mr. Kittner- In many cases it would. There are several parcels that we have identified that we've noted in our report that there appeared to be areas that were treed that the equipment shelters could be located.

Mr. Stanzione- If they are ok with the treed area would that necessitate the removal of trees?

Mr. Kittner- Yes.

Mr. Stanzione- How close were those properties that you've identified with those tree areas to the residential areas?

Mr. Kittner- It varied that's one of the questions I asked you to provide testimony on was the residential buffers and I believe the testimony was it did not meet the 500ft requirement.

Mr. Stanzione-If it was a treed area that was being looked at to locate a facility in but it did not meet the 500ft setback from the residential area you would have to remove trees that were within that distance correct?

Mr. Kittner- If the space is available.

Mr. Stanzione- In regard to properties encumbered by wetlands are you familiar with the wetlands restrictions in New Jersey?

Mr. Kittner- Yes

Mr. Stanzione- If there's wetlands it requires a buffer area is that right?

Mr. Kittner- Not always. Ordinary resource value wetlands don't require buffers.

Mr. Stanzione- Can you build within an ordinary resource value wetland?

Mr. Kittner- No.

Mr. Stanzione- I have no more further questions for Mr. Kittner.

Mr. Tyler- Any comments discussion for the board? These are always contentious applications no one wants a cell tower near them. That's why we have ordinances in town that specify how far away it needs to be and other things. I have a problem with deviating from the standard setback when it comes to something as important as this especially when the property owners have an opportunity to satisfy the setback. That's my basic problem with this application.

Mr. Lavan-With the removal of trees in the next five to ten years you have the Frank's property that's probably going to be redeveloped south of the Red Oak Diner. There's for acres of land there that's mostly buildable property, what if Red Oak decided to sell that property to the developer then we'll have trouble with our trees. So I think I would look close at that that the trees can be removed in a year, two years, or ten years but they can be removed and they won't take responsibility to put anything in place to protect the citizens.

Mr. Tyler- Any other comments? Do I hear a motion?

Mr. DeMatteo- I have a motion to deny this application.

Mr. Bace- And I'll second that.

**Motion to Deny:**

**Offered By:** Mr. DeMatteo

**Seconded By:** Mr. Bace

ROLL CALL

YES

NO

Mr. Glackin (absent)

Mr. Pobega (absent)	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Vignola	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mr. DeMatteo	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mr. Mann (absent)	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Bace	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Chairman Mr. Tyler	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Deputy Mayor DiNardo (absent)	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Belasco	<input type="checkbox"/>	<input type="checkbox"/>
Alt #1 Mr. Lavan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alt #2 Mr. Solomeno (absent)	<input type="checkbox"/>	<input type="checkbox"/>

**New Case - 13-03P – JPA Holdings/ Dr. Beverly Avendano, 875 Poole Avenue Block 183 Lot 4, Business Highway Zone. Applicant is seeking Preliminary and Final Site Plan approval to renovate and expand the lower floor of the existing Medical Office Building along with site improvements to the parking facilities and installation of sidewalk.**

Mr. Vella- For the record I've reviewed notice of adjoining property owners and affidavit of publication and they are in order and the board has jurisdiction of this matter. We already have marked exhibits that I am going to read them in the record for ease. A-1 preliminary and major site plan prepared by Two Rivers Engineer A.J Garito Jr. revised May 29, 2013 consisting of eight sheets, A-2 Sign rendering by CPC Signs and Awnings dated May 30, 2013 consisting of one page, A-3 eleven photos property exterior, A-4 architectural drawings prepared by Cohen Design Build, A-5 CME letter dated June 26, 2013, A-6 Survey property.

Ms. Vogt- Thank you Mr. Vella. I'm Martha Vogt here on behalf of the applicant. I just want to ask Mr. Garito what licenses he holds.

Mr. Vella- Ok let me swear him in first. Mr. Garito please raise your right hand. Do you swear upon the following testimony that your about to give is the whole truth nothing but truth?

Mr. Garito- I do

Ms. Vogt- What silences do you hold and how years have you had it?

Mr. Garito- I'm a professional engineer in the state of New Jersey and I've had that license since 1993.

Ms. Vogt- I just wanted to ask Mr. Garito to give a brief over view of the application.

Mr. Garito- The property is located at 875 Poole Avenue. Currently there is a 2800 square foot print of the property which is currently used as a medical office. The site currently has an existing parking lot and walkways. The intent of the application is to finish the lower level of the building, landscape, lighting and walkways.

Ms. Vogt- I'd like to have the applicant Beverly Avendano sworn in.

(swearing in Beverly Avendano)

Ms. Vogt- The applicant is JPA Holdings LLC. Dr. Avendano what is your relationship to the entity?

Dr. Avendano- I'm the managing partner.

Ms. Vogt- Is the owner of the property JPA Holdings LLC?

Ms. Avendano- Yes.

Ms. Vogt- And what's your profession?

Ms. Avendano- Gastroenterologist.

Ms. Vogt- Did you first purchase the property in March of 2012?

Dr. Avendano- Yes

Ms. Vogt- After you purchased it what was the condition of the place?

Dr. Avendano- It was run down.

Ms. Vogt- Did you demolish and rebuild?

Dr. Avendano- That is correct.

Ms. Vogt- I'm going to call the top story the first floor and the bottom the basement. Do you occupy the first floor?

Ms. Avendano- Yes.

Ms. Vogt- Is it your desire to renovate the bottom level into additional medical offices?

Ms. Avendano- Yes.

Ms. Vogt- Are you the sole doctor in your practice?

Dr. Avendano- Yes.

Ms. Vogt- And how many employees do you have?

Dr. Avendano- Two

Ms. Vogt- Do you propose to lease the bottom floor to other doctors and if so how many?

Dr. Avendano- Yes two.

Ms. Vogt- How many employees would each doctor have?

Dr. Avendano- Maybe two each.

Ms. Vogt- The site plan indicates four doctors and eight employees.

Mr. Vella- Let me just clarify something in case you get an approval is your asking for a one parking space variance so the applicant will agree to the condition that if the board grants approval there can be a maximum of four doctors and eight employees. That would result in a one parking space variance.

Ms. Vogt- What are your office hours?

Dr. Avendano- Monday and Thursday 11-4.

Ms. Vogt- Do you foresee the other doctors will also be there just a few hours a week?

Dr. Avendano- Yes.

Ms. Vogt- Will there be some overlap with doctors?

Dr. Avendano- Maybe but in medicine we do not see more than four people per hour.

Ms. Vogt- Would you open on weekends?

Dr. Avendano- I open sometimes on weekends for procedure maybe once a month twice a month.

Mr. Bace- Will you be doing procedures in the Hazlet office?

Dr. Avendano- Yes

Ms. Vogt- A-2 the sign rendering references the bottom level of the sign as LED digital. Is that accurate?

Dr. Avendano- It was just a thought that came up.

Ms. Vogt- Do you intend for it to be flashing or moving?

Dr. Avendano- No just a light that's digital. This sign is 4x8 but it will be moved to whatever you guys wanted.

Ms. Vogt- Do you generate any medical waste?

Dr. Avendano- No I don't draw blood. On Saturday when I do procedures a whole team comes in and that's where the waste is.

Mr. Bace- What kind of procedures do you do on Saturday's?

Dr. Avendano- Colonoscopies and endoscopies.

Mr. DeMatteo- With an anesthesiologist there so that means there are needles.

Dr. Avendano- Yes. When the team comes in the anesthesiologist takes care of her own waste so I think they a sharps bucket they have.

Mr. Kittner- Is your testimony that an regulated waste is generated that it will be properly disposed of in accordance with all rules and regulations?

Dr. Avendano- Yes.

Ms. Vogt- Where will you dispose of all trash and recyclables?

Dr. Avendano- I have a container right now. I have a private garbage company that comes and picks it up.

Ms. Vogt- You do not want to have a container and dispose of the waste in garbage cans?

Dr. Avendano- Correct.

Ms. Vogt- Will the cans be put out to the curb for private pick up?

Dr. Avendano- Yes.

Ms. Vogt- 9W on page eight shows three architectural drawing. The first two shows elevations.

Mr. Tyler- Your simply looking to add usage to the downstairs and the signs?

Ms. Vogt- You do not have a lay out or floor plan for the bottom floor correct?

Dr. Avendano- Yes.

Mr. Vella- Let's talk about the sign. Our ordinance prohibits moving or flashing signs. The applicant may want to put signs up like a gas station sign in the sense that you have movable letters. There's nothing that doesn't prohibit you from changing the lettering on the bottom.

Ms. Vogt- Let me just clarify that the sign will be illuminated and it would just be a phrase that would be changed once a week.

Mr. Vella- You can change it as much as you want it just can't be electronically changed. It can't be an LED like your phone.

Dr. Avendano- Yes because I would like to change it from a laptop but if I can't I won't do it.

Ms. Vogt- Mr. Garito (inaudible) letter of June 26 (inaudible) in 7-I can you please advise basis for request for a waiver for complete soil and ground water testing?

Mr. Garito- We're not proposing any storm water management on the property. The building is already constructed in fact the proposed site reduces the amount of surface on this site.

Ms. Vogt- With regard to (inaudible) letter regarding 9-D do you have any comments about garbage collection?

Mr. Garito- I think as the doctor testified it would be appropriate.

Mr. Kittner- Mr. Garito in reviewing the application it's a pretty typical site plan. I didn't see any major issues with this. Do you have any objection or comments in our letter that you cannot comply with?

Mr. Garito- No there is not I can comply to all your comments with satisfaction.

Mr. Kittner- One issue we came up with is buffering and some adjustment with the lights. Are you able to make those changes?

Mr. Garito- Yes we will.

Mr. Vella- We've heard testimony that as a condition of approval the applicant will remove the LED sign and just make it bigger and the only other variance is for parking where it's 28 is required and 27 is permitted and they will comply and that there will never be at one time more than four doctors and eight employees and the applicant will comply to CME's letter. I don't think we need anything else.

Mr. Tyler- I've heard enough. Are there any other questions from the board?

**Motion to approve:**

**Offered By: Mr. Lavan**

**Seconded By: Mr. Tyler**

ROLL CALL

YES

NO

Mr. Glackin (absent)

Mr. Pobega (absent)

Mr. Vignola

Mr. DeMatteo

Mr. Mann (absent)

Mr. Bace

Chairman Mr. Tyler

Deputy Mayor DiNardo (absent)

Mayor Belasco	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alt #1 Mr. Lavan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alt #2 Mr. Solomeno (absent)	<input type="checkbox"/>	<input type="checkbox"/>

**Other Items for Discussion:**

**Citizen Hearing:**

**Offered:** Mr. Bace

2<sup>nd</sup>: Mr. DeMatteo

**Voice Vote:** Yes

**Motion to Adjourn:**

**Offered:** Mr. Tyler

2<sup>nd</sup>: Mr. Bace

**Voice Vote:** Yes

**Next Meeting:** August 22, 2013

**Respectfully submitted,**

**Patricia Cullen**

**Board Secretary**