

Approved  
1/9/2014

**New Milford Zoning Board of Adjustment  
Work Session  
October 8, 2013**

Chairman Schaffenberger called the Work Session of the New Milford Zoning Board of Adjustment to order at 7:38 pm and read the Open Public Meeting Act.

**ROLL CALL**

Mr. Binetti		Present
Ms. DeBari		Absent
Mr. Denis		Present
Fr. Hadodo		Recused
Mr. Ix		Present
Mr. Loonam		Present
Mr. Rebsch		Present
Mr. Stokes	Vice Chairman	Present
Mr. Schaffenberger	Chairman	Present
Mr. Sproviero	Attorney	Present
Also present		
Mr. Grygiel	Planner	Present

**REVIEW OF MINUTES – August 13, 2013**

The Board Members reviewed the minutes and there were no changes.

**OLD BUSINESS**

**12-01 New Milford Redevelopment Associate, LLC – Block 1309 Lot 1.02  
Supermarket, Bank and Multifamily Residential Units**

**Height, stories, building and impervious coverage, use and parking**

The Chairman said the public would be asking questions of Ms. Batistic. The Board Attorney said there would be also testimony from Mr. Grygiel.

**13-02 Alex and Sons Real Estate, LLC – 391 Madison Avenue - Block 1211 Lot 32  
Three story 14 unit multiple dwelling with parking underneath building  
Use, building coverage, front yard and height**

The Board Attorney noted a revised site plan had been submitted which has been with the board since August. The Board anticipated hearing testimony from their architect to explain the revisions to the site plan which involved a reduction of the amount of units. The Chairman said there was a letter from Ms. Batistic dated 9/19/13 which would be addressed with regard to the fill in the backyard where she recommended a topographic survey be prepared by the applicant and submitted to the Board. Ms. Batistic said she received a topographic survey and letter but did not believe it was submitted to the Board.

Motion to close work session was made by Mr. Loonam, seconded by Mr. Ix and carried by all.

**New Milford Zoning Board of Adjustment  
Public Session  
October 8, 2013**

Chairman Schaffenberger called the Public Session of the New Milford Zoning Board of Adjustment to order at 8:00 pm and read the Open Public Meeting Act.

**ROLL CALL**

Mr. Binetti		Present
Ms. DeBari		Absent
Mr. Denis		Present
Father Hadodo		Recused
Mr. Ix		Present
Mr. Loonam		Present
Mr. Rebsch		Present
Mr. Stokes	Vice Chairman	Present
Mr. Schaffenberger-	Chairman	Present
Mr. Sproviero -	Attorney	Present
Also Present		
Mr. Grygiel	Planner	Present

**PLEDGE OF ALLEGIANCE**

**OFFICIAL MINUTES OF THE WORK SESSION – August 13, 2013**

**Motion** to accept the minutes were made by Mr. Loonam, seconded by Mr. Binetti and carried by all.

**OFFICIAL MINUTES OF THE PUBLIC SESSION – August 13, 2013**

Motion to accept the minutes were made by Mr. Loonam, seconded by Mr. Ix and carried by all.

**12-01 New Milford Redevelopment Associates, LLC – Block 1309 Lot 1.02  
Supermarket, Bank and Multifamily Residential Units  
Height, stories, building and impervious coverage, use and parking**

Karl Schaffenberger, Ronald Stokes, Joseph Binetti and Father Hadodo have previously recused themselves from the application.

Mr. Del Vecchio, member of the firm of Beattie Padovano on behalf of the applicant, requested special meetings for November. The Board Attorney stated there would be a special meeting October 29, 2013 and the Board Members decided on a tentative meeting on November 18, 2013.

Mr. Loonam certified that he listened to the recording for the September 19<sup>th</sup> meeting that he did not attend.

The Board Attorney stated at the end of the September 19<sup>th</sup> meeting, Mr. Del Vecchio raised an issue regarding the propriety of Mr. Schaffenberger's cross-examination of Ms. Batistic. Mr. Sproviero felt as an objector Mr. Schaffenberger had a full unbridled right to participate as a member of the public as an affected property owner. Simply because he has stepped away from his duties as a member and Chairman of the Board, the Board Attorney said it did not abridge his rights as a citizen. The Board Attorney's opinion was after considering the issue Mr. Schaffenberger could cross examine Ms. Batistic and any other witness that the Board might call with respect to the application. Mr. Del Vecchio stated they have objected from the outset, objected during the duration and the objection was noted and continued.

Karl Schaffenberger, 173 North Park Drive, clarified that Mr. Dipple testified that the 1980 DEP flood elevation calculations were the numbers he was required to use and Ms. Batistic agreed. Mr. Schaffenberger believed those were the numbers required to be used but asked Ms. Batistic if she would agree that the 1980 DEP flood elevations did not accurately reflect the flooding conditions in this area today. Ms. Batistic said areas outside the flood zone on the DEP map do flood. Mr. Schaffenberger asked if she agreed that has happened on numerous occasions in the last decade. Ms. Batistic agreed.

Mr. Schaffenberger questioned the applicant's intent to raise the elevation 2' on the property in certain areas. Ms. Batistic said the first floor elevation of the supermarket was revised from elevation 16 to 18. Mr. Schaffenberger asked Ms. Batistic if she agreed that the applicant was going thru considerable trouble and expense to do that. Ms. Batistic answered that the applicant would have to bring more soil to the site. Mr. Schaffenberger commented that was a considerable amount of soil and asked Ms. Batistic why she thought the applicant would do that. Ms. Batistic did not know the reason but thought the flood could be one reason. There was a comment she had raised regarding the steepness of the driveway and by elevating the elevation of supermarket, the driveway now had a decent slope. Mr. Schaffenberger said if that area was going to flood and the property has been raised, 2' of the flood could not go there. Ms. Batistic answered that the revision from the old to the new map was also the removal of the berm. With the berm, the flood could not go to the property so they lowered the berm to allow flood to go to portions of the property and raised the other portions of the property 2', explained Ms. Batistic. Mr. Schaffenberger said this was a Residential A zone and asked if he could raise his property 2' at his house. Ms. Batistic said the DEP did not allow filling of the flood zone and if he was not in the flood zone he could fill it 2'. Mr. Schaffenberger clarified that the applicant was bound by rules for the runoff percentages and had thought it was the volume of runoff. He questioned if it was the rate of runoff. Ms. Batistic agreed. Mr. Schaffenberger said there would be 13 acres buried under concrete and asked if the runoff from the 13 acres would be significantly higher than it was undeveloped. Ms. Batistic agreed but said half of the 13 acres would be paved. Mr. Schaffenberger referenced Mr. Henning comment that in 1960 two out of every four raindrops that fell in this 120 sq mile watershed ended up in the Hackensack River and because of development it was now in 53 years three out of four raindrops that ended up in the river. Mr. Schaffenberger said according to Mr. Henning there has been 50% increase in the amount of water that ends up in the river due to development. Mr. Schaffenberger thought that they were temporary custodians of the town, river and reservoir and added that Mr. Dipple and Ms. Batistic's testimony was that this would not have any perceptible impact to the flooding but cumulatively it did. Mr. Schaffenberger asked because they were temporary custodians of this,

don't they have a responsibility to stop this for the people who will be taking care of whatever we leave them in the next 53 years. Mr. Del Vecchio objected to the question on relevancy. Ms. Batistic clarified that she could not approve or disapprove this application but could only make sure that it met the requirements. She added if everyone did what they were supposed to do regarding the excess rate of runoff then it would be good for the many generations to come. If all developments do the right thing and what was required to do regarding the stormwater management, the flooding would not increase, said Ms. Batistic. Mr. Schaffenberger questioned her comment that there would be more runoff as a result of this development and water that would have seeped into the ground will now runoff at a managed rate. Ms. Batistic agreed. Mr. Schaffenberger repeated that Mr. Henning's comment was that runoff was the reason for so much water in the river. If this project and other projects would have more runoff all with a controlled rate, would this still end up in the water system and make more flooding, asked Mr. Schaffenberger. Ms. Batistic said it was a hypothetical question but said if the flow of the water was controlled at a certain rate, directed in certain areas then if managed properly you could maintain and very slightly increase the level of water.

John DeSantis, 190 Powell Drive, asked for a name of a river that had been managed properly in the United States. Ms. Batistic could not. Mr. DeSantis asked she would agree that it was a common argument for developments along rivers and that this development did not contribute much. Ms. Batistic said every development had to meet the criteria.. Mr. DeSantis asked her opinion on proper river management. Ms. Batistic said maintaining the corridor of the river flows, cleaning the rivers and keeping the free flow of water unobstructed. Mr. DeSantis asked if proper river management was keeping the flood plains free of development. Ms. Batistic answered yes and added development in a flood plain is allowed in areas that flood but it has to be done in a certain way. Mr. DeSantis asked if the cost of flood damage in NJ was high. Ms. Batistic did not know what the costs were but thought it could be high. Mr. DeSantis asked Ms. Batistic if she agreed with Mr. Henning saying that the proper river management was to stop building in areas that flood and remove the existing structures out of the way. Mr. Batistic did not agree. Mr. DeSantis asked if Blue Acres programs worked towards that goal. Ms. Batistic agreed but added the State allowed building in a flood plain and had recommendations to have a different approach to building in a flood plain.

Michael Gadaleta, 270 Demarest Avenue, asked to be recognized as an expert in the field of architecture. Mr. Sproviero said he was not offering any evidence but cross-examining based upon what has been testified to by Ms. Batistic. Mr. Gadaleta asked if her home ever flooded. Ms. Batistic said yes. Mr. Gadaleta asked if it was to the extent to what happened in New Milford. Ms. Batistic answered no. Mr. Gadaleta questioned why her report had objections to underground detention that has since been removed from the engineering proposal. Ms. Batistic had questioned the ground water level and because there were no soil borings at the area where the underground detention was. She added if the water level was interfering with the underground detention that capacity of the detention would be compromised. Ms. Batistic did not like underground detentions because of the maintenance and preferred above ground, rain gardens and different methods.

Mr. Gadaleta questioned if she requested or received any soil analysis and where the water table was. Ms. Batistic said she asked for the soil borings and the applicant submitted a soil analysis as

part of the initial submission done a few years ago, which showed some areas on the site where the ground level was. Mr. Gadaleta asked if it was labeled as an elevation. Ms. Batistic said it was measured from the surface at the point taken. Mr. Gadaleta said they really don't know where the groundwater was. Ms. Batistic thought at the lowest portion of the site was 4 or 5' below the surface. Mr. Gadaleta clarified that the applicant would require a soil movement permit because of the amount of imported soil and asked for the number of trucks and the amount of soil brought in. Ms. Batistic said if the application was approved another application to the planning board would have to be submitted showing quantities and the truck routes. Mr. Gadaleta questioned that to raise the site 2' was a large volume of soil and asked if she thought that information was something the Board should know. Ms. Batistic said Mr. Dipple testified that a soil movement permit would be submitted to the planning board. Ms. Batistic explained they raised the floor elevation of the supermarket by 2' but it did not mean that the whole site was raised 2' from the initial application. There would be areas on the site that would have 5' of fill over the existing grade and there were areas that would have 10' of cut. Mr. Dipple testified during his presentation that it was balanced and Ms. Batistic believed there would be quite a bit of import of soil. Mr. Gadaleta asked if this information was something that this Board should have prior to going to the planning board. Ms. Batistic said if they did not testify that they were making an application to the planning board for the soil movement then they would ask them to bring it to the zoning board. Mr. Gadaleta asked if it was too late to ask for it before this board. The Board Attorney said the zoning ordinance places jurisdiction before the planning board. Mr. Gadaleta understood but asked if the Zoning Board could request the information prior to approval. Mr. Sproviero said they could. The resident asked if she recommended that the applicant did a geotechnical soil report. Mr. Gadaleta said during the application process when he worked at 725 River Road he had to retain all the water on site but when excavated the soil was sand and marginally supported a two-story dwelling. Mr. Gadaleta asked if this Board should have the knowledge if piles would be driven 70' into the ground should it be part of what the board based their decision on. Ms. Batistic said she has been before many planning/ zoning boards meetings and the foundation design has never been part of the applications but rather part of the building permit. Mr. Gadaleta said as part of the approval this Board should have as much information as possible on the disturbance that this construction could cause the high school. He added there would not be an issue if there were conventional footings but if the construction required piles in the ground it would be a tedious and noisy operation. He thought it was an important environmental factor in the decision-making. The Board Attorney said typically a developers agreement those provisions where in there and asked Ms. Batistic when the information went to her whether or not pilings were required. Ms. Batistic said it was all part of the building permit because if this was approved they go back to the drawing board. In order to design the footings, they need to know what soil they have. Ms. Batistic said she reviews the developer's agreement to make sure board and her conditions were in it and the restrictions were put on the applicant. The Board Attorney said the building permit was a separate issue from the approval and thought Mr. Gadaleta's question might go the balancing of the negative and positive criteria and they would hear from the planning expert.

Mr. Gadaleta asked if she offered suggestions as to the main access/ egress on River Road being inappropriate. Ms. Batistic said that would be for traffic. Mr. Gadaleta said that it was brought out in Ms. Batistic's comment regarding the buffer strip being maintained. Ms. Batistic said to minimize the impact she requested better buffering and felt some of the equipment on the roof

would be visible and should be screened. Ms. Batistic said it was not unusual to have access from residential areas. Mr. Gadaleta asked if it was true that without the access on River Road the buffer could remain and the grade would not have to be so steep to the site. The Board Engineer could not answer the question because it was a design issue. The resident asked what they would have to do to maintain the buffer along River Road as she suggested. Ms. Batistic did not mean to keep the existing but to plant more trees in the area that was currently proposed.

Mr. Gadaleta asked if all the flooding events in New Milford proved the 1980 DEP maps wrong and they know they flood at elevation 18 as per the USGS. Ms. Batistic did not know where the elevation 18 came from. Mr. Gadaleta asked if she was aware that in recent flood events that they touched elevation 18. Ms. Batistic was not sure they had elevation 18 and she had not measured the flood level but knew it was beyond the DEP map. She added elevation 18 was in relation to the gauge location. The resident said regardless of the elevation if she agreed that they should be held to a higher standard than the 1980 DEP map but it was not relevant on this site. Ms. Batistic questioned who would set and tell them what the higher standard was. Mr. Gadaleta asked if the standards would be based on the actual flooding events that have happened. He asked if the engineers were held to a standard of care the same as architects. Don't their ethics require them to design to a higher standard because the DEP was a minimal standard, asked Mr. Gadaleta. Ms. Batistic answered the DEP required them to set the first floor elevation at or above the flood hazard which was elevation 13.5. A higher standard would be to set the first floor elevation at a level higher than that elevation, said the Board Engineer. Mr. Gadaleta agreed. Ms. Batistic said the applicant designed at a higher standard, which was 18. Mr. Gadaleta said shouldn't that higher standard of raising the finished floor elevation count for the detention basin. Ms. Batistic said basins are required to be designed to address the volume of the 100-year rainfall event generated on the site and the basins on the site exceed that requirement.

Mr. Gadaleta asked if the basin would be inundated with the last flooding event when the floodwater came up Cecchino Drive. Ms. Batistic answered it would be inundated which is the purpose of the basin. The berm is lowered so the floodwater could get into the basin. Mr. Gadaleta asked if she would agree that in the event of a catastrophic flood, the basin becomes ineffective and could not handle the runoff and the runoff would be going down the river. He asked if it was an ineffective drainage basin as designed. Ms. Batistic said for that one situation when the whole area is flooded then the 100-year runoff generated on the site was irrelevant. The basins were designed for the runoff generated on the site and did not contribute to the flood of the whole area. Ms. Batistic added that when there was a 100-year runoff on the site, there would not be a 100-year flood from the river at the same time. Ms. Batistic further explained that the 100-year rain event on the site is in the basin and gone and then the flood comes.

Mr. Gadaleta asked if the amount of runoff was a direct reciprocal of the amount of impervious coverage and the development. Ms. Batistic agreed. Mr. Gadaleta asked if the development was smaller the large basin by the high school could be smaller. Ms. Batistic agreed. Mr. Gadaleta said the aggressiveness of the development and variances sought for coverage was a direct reciprocal of the 2 acre drainage basin needed on the site. Ms. Batistic agreed but did not think they were requesting a coverage variance. Mr. Gadaleta thought they forgot about it and asked if there were other alternatives than an open basin. Ms. Batistic agreed. Mr. Gadaleta asked Ms. Batistic if she had ever seen an application with an open detention basin in New Milford. Ms.

Batistic said there has never been an application like this before in New Milford but there were a lot of open detention ponds in Bergen County although not this large. Mr. Gadaleta asked if this was an appropriate design engineering solution for water retention or should other alternatives been explored. Ms. Batistic said it was a standard practice to have open ponds.

Mr. Gadaleta noted that New Milford did not require any Environmental Impact Statement (EIS) but asked if she believed an EIS was more encompassing than just the flora and fauna of the site. Ms. Batistic agreed. The resident asked if the environmental commission had requested the board to prepare an EIS. Ms. Batistic said there was a letter requesting that. Mr. Gadaleta asked if the Board would require the applicant to prepare a report. Mr. Sproviero said no request has been made by the Board at this time to the applicant to produce an Environmental Impact Statement primarily on the basis of a No Further Action Letter being issued by the DEP. Mr. Gadaleta asked if they trust the DEP. Mr. Sproviero said the DEP was the regulatory agency with appropriate jurisdictions and their word was the law. Mr. Gadaleta asked Ms. Batistic if an EIS statement should be prepared in the best interest of New Milford. Mr. Del Vecchio objected that her belief does not translate into law of procedures. Mr. Sproviero would like to hear Ms. Batistic's opinion. If the site was not disturbed prior to the application, Ms. Batistic said she would agree but knowing what was happening on the site in the last 10 years she was not positive an EIS would conclude that there should be some drastic measure statement to prevent the development of the site. Ms. Batistic added she was not an environmental engineer. Mr. Gadaleta asked if the EIS was not site specific but involved the surrounding community. Ms. Batistic said the traffic engineer issued letters regarding the surrounding community, which could be part of the EIS. Ms. Batistic said if the site was undeveloped and not disturbed she would probably recommend it. Mr. Gadaleta asked if she knew the United Water issued an environmental assessment of the site when they turned it over for sale and the study indicated there were endangered species on the site. Ms. Batistic was not aware. Mr. Gadaleta asked it would be prudent to review the United Water study in place prior to making a decision about an EIS. Ms. Batistic did not think she was qualified to give an opinion. Mr. Gadaleta asked if it would be prudent if he gave copies of the report to the Board. Mr. Sproviero said the evidentiary component was over but he could make reference to it during his comment component. Mr. Gadaleta asked based on the current zoning of the property if a single family zone would be less of an environment impact on flooding, traffic, EIS, environmental than the proposed application. Ms. Batistic could not answer that because she did not have the subdivision, did not know how many single-family lots would fit on the site and the amount of paved area. Ms. Batistic believed if the property subdivided with the roadways and amount of coverage allowed with the zoning the amount of paved area could be more than proposed.

Steven Tencer, 701 William Bliss Drive, said her prior testimony mentioned was that it was not what they wanted to hear and asked whom she was referring to. Ms. Batistic did not remember saying that but maybe it was the public. Mr. Tencer asked why the public would be upset. Ms. Batistic answered people were opposing this development because they felt it would impact the flooding and her review of the plans said it would not. Mr. Tencer questioned her prior testimony regarding higher standards and when did these standards develop. Ms. Batistic said the latest one was in 2004. Mr. Tencer asked if flood maps used were developed in 2004. Ms. Batistic said the latest FEMA map was 2005 and the 1980 DEP maps. The DEP map agreed with the 2005 map. Mr. Tencer asked if those standards were the criteria for her testimony. Ms. Batistic agreed. Mr.

Tencer asked if everything was exactly the same as in 1980. Ms. Batistic said no. Mr. Tencer asked if she thought more current flood maps would agree with the existing flood maps. The Board Attorney asked if she aware of any reason why the applicable regulatory authorities would update their maps. Ms. Batistic said FEMA updated their maps because of Hurricane Sandy and introduced advisory base flood elevation but the preliminary maps were issued and the revisions to the map stopped by the riverside square mall area. She was aware the DEP maps were being revised not as a result of Sandy but she did not know when the maps would be issued. Ms. Batistic has seen preliminary images and she saw no significant change as to New Milford on the maps. Mr. Tencer asked if a 100-year flood would it impact the town. Ms. Batistic said the areas that were within the 100-year flood would flood. Ms. Tencer asked if she could estimate when the next 100-year flood would occur. Ms. Batistic said no. Mr. Tencer said the 100-year storm would imply that the storms should have occurred over a thousand years and they have occurred over 12 years. Ms. Batistic said the 100-year storm is a storm that had a 1 % chance of happening in any year. The Board Attorney clarified that it was not a time-based description but a percentage based description.

Mr. Tencer asked if she was commenting on the quality of the proposal or the fact that it met minimum standards. Ms. Batistic reviewed the plans to make sure they met the level of the law and the requirements of their local ordinance and the state requirements. Mr. Tencer asked if she could measure how much less flooding there would be. Ms. Batistic could not. Mr. Tencer asked if the testimony and photographs presented by the opposition represent the conditions at the time they were taken. Ms. Batistic agreed.

Recess

Sharon Hillmer, 563 Columbia Street, asked for the location of the opening in the basin. Ms. Batistic said it was at one end of the basin and the geometry of the openings was designed to control how much water went out of the basin. Ms. Hillmer asked at what point the water gets released from the basin. Ms. Batistic answered all the stormwater on the site was collected in catch basins and through pipes. The pipes discharge in the four basins. When the water flows in them the water quantity volume stays in the basin so debris and sand did not go into the river. Ms. Hillmer clarified that the oil from the blacktop would not go into the river when released. Ms. Batistic agreed. Ms. Hillmer asked as the water recedes would the water that begins to release from the basin come down the river and keep them out of their homes longer. Ms. Batistic said the water from the site and detention basin should be gone before the river comes up. Ms. Hillmer asked if they would be flooded at a quicker rate and sooner. Ms. Batistic did not think the site would generate enough water to create flooding. Ms. Hillmer asked if it would exacerbate the condition on Columbia Street. Ms. Batistic did not think the impact could be measurable in days or inches from the site but they knew it would be insignificant and would not be a big flood event from the site.

Ms. Hillmer asked regarding DEP calculations had she ever come across a situation where it did not depict the right situation. Ms. Batistic said no and added even if a project does not have to go to DEP you still need to design the stormwater management on site per the requirements. The Board Attorney said she had never had a project that she reviewed for a board or designed that it functioned differently after it was built. The resident clarified Ms. Batistic's testimony was that



there would not be a significant impact and thought based on reality these figures might not depict what would happen and asked if the Board Engineer would challenge the DEP. Ms. Batistic said if she felt the flooding in the area was higher than the DEP map shows that would impact any of the design she would raise it. Ms. Hillmer asked if there would be a significant impact if the DEP maps were inaccurate and they build the detention basins. Ms. Batistic said the design of the detention basin had nothing to do with the DEP maps. The design of basin were designed for the rainfall amount held on the site not the level of the Hackensack River, said Ms. Batistic.

Mr. Sproviero said this application would be carried to October 29, 2013 at 7 pm.

**13-02 Alex and Sons Real Estate, LLC – 391 Madison Avenue – Block 1211 Lot 32  
Three Story 14 Unit Multiple Dwelling with parking underneath building  
Use, Building Coverage, Front Yard and Height**

Mr. Carmine Alampi, representing Alex & Sons, stated the applicant adjourned the meetings in August due to vacation schedules and trying to secure the revised plans and September was also due to vacations. The attorney stated based on the testimony of the witnesses, comments of the public and due consideration to the zoning in the area he counseled his client to consider changes to the plan and changes in the number of units because that would affect traffic activity and the footprint of the building. Mr. Alampi said the applicant made revisions in the number of units from 14 to 10 and changed the bedroom configuration with a net reduction of 2,500 sf of the size of the building.

The Chairman stated Mr. Loonam had left because he was not feeling well.

Mr. Alampi said they have received an updated letter from DPW, which had additional comments with regard to the sidewalk. The Fire Advisory Committee letter commented on a full sprinkle suppression, which Mr. Alampi said testimony was that the building would be fully sprinkled. The applicant already agreed to install a 6' wide sidewalk on the opposite side of the building for the fire fighters with ladders. The new item was a recommendation for a standpipe throughout the building. Mr. Alampi said the code did not require that for a two-story building.

Mr. Albert Dattoli, 70 Chestnut Ridge Road, Montvale, NJ, architect, previously sworn in and still under oath.

Mr. Alampi marked as exhibit A-11 revised 3 page architectural plans.

Mr. Dattoli explained on sheet 3 of the exhibit the building from the street looked the same. There were two (2) bedroom units (1,221 sf) on the street side and another 2 bedroom unit (1,275 sf) on the east side of the corridor. Mr. Alampi asked if the floor plan was the same on both levels. Mr. Dattoli agreed and said there were three (2) bedrooms and two (3) bedroom units on each level. Mr. Alampi asked where he reduced the footprint. Mr. Dattoli said on the north side there was an L- shape that was eliminated. The architect explained there was L-shaped corridor with a stair at each end for two means of egress for each unit. The elevator remained in the same

area, which went from the parking level to the first and second floor. Mr. Alampi asked what the size was for revised footprint. Mr. Dattoli said 8,091 sf on both floors with 16,200 sf of enclosed space. The architect said all the units were handicapped accessible and units would be built as regular apartments but could be adapted if a handicapped person rented a unit. On sheet 2 was the parking level, which the architect said the configuration was similar to the original plan but the parking requirements had been reduced. He added they had additional parking with the new plan with parking requirements now 20.4 spaces providing 25 spaces and previously the parking requirements were 28 and provided 28 spaces. Mr. Alampi clarified there was a surplus of parking. Mr. Dattoli agreed. The architect said less of the parking was under the building because part of the building was eliminated leaving 9 parking spaces open air. There was under building parking, elevator lobby and a meter room. Mr. Alampi clarified that the irregular shaped configuration was the property lines. Mr. Dattoli agreed. Mr. Alampi asked if they still maintained a garbage receptacle. Mr. Dattoli said it would be in the same area as before. Mr. Alampi asked if the driveway was still a singular two-way drive. The architect agreed.

The architect said they were still proposing the same building materials, same roofline, cultured stone and stucco or siding. Mr. Dattoli said on the right side elevation they had balconies in two locations, which were eliminated based on comments from a neighbor. Mr. Alampi asked if the height of the building was increased. The architect said it remained the same. Mr. Dattoli said the letter dated 9/16/13 from the Fire Advisory Committee commented on the building be fully sprinkled. The architect added it is required for any multifamily residential building which the applicant had proposed. The second request was to provide standpipes in the building which were not required by code in this building, said the architect. The third comment would be referred to the engineer.

The Chairman clarified that each floor was 8,091 sq ft with a total of 16,182 sf with a total net reduction of 2,500 with the original building being 18,682 sf. Mr. Dattoli agreed. Chairman Schaffenberger questioned the parking requirements. Mr. Dattoli said the revised plan required 20.4 parking spaces with 25 proposed parking spaces. The Chairman asked if the standpipes would be difficult and expensive to do. Mr. Dattoli said it would not be difficult but it was estimated to be \$15,000.00.

Motion to open to the public was made by Mr. Ix, seconded by Mr. Rebsch and carried by all.

Terence Mc Mackin, 400 Madison Avenue, asked why they proposed 10 units from 14 units while it seemed there was opportunity for more residents in the building. Mr. Dattoli answered it was based on the applicants request for a mix of units. Mr. Mc Mackin asked if there was a national average on how many people would be able to reside in a 14 unit apartment building. The architect did not have the statistics. The resident asked if the applicant was just shifting to three bedrooms to accommodate more people because they were losing 4 apartments. The architect said they were adding a few more bedrooms to some units but typically in a three bedroom unit 2 bedrooms were occupied with the third bedroom being a den. The resident asked if approximately 50 people would live in 10 units. The architect did not know. Mr. Mc Mackin asked about the traffic situation being a reason the apartments were reduced. The architect said he did not testify to traffic. Mr. Mc Mackin said there was an opening statement made on traffic activity. Mr. Alampi did not recall making reference to traffic. The Chairman thought the

statement was made. Mr. Mc Mackin asked if this would have more or less of an impact on traffic. Mr. Dattoli could not answer the question. The resident was concerned because the plan was reduced 2,500 sf but there a possibility for more residents in the building. Mr. Dattoli could not answer the question because he did not have a comparison of the apartments.

Lori Barton, 399 Roslyn Avenue, asked if the property was zoned to allow for one single family home. Mr. Dattoli did not make testimony to it but believed it was a one family zone. Ms. Barton asked if this property could only fit a single family home if the zoning for a single family home was a 7,500 frontage. The architect agreed. Ms. Barton questioned that the prior plan had ten 2 bedroom apartments and four 1 bedroom apartments for a total of 24 bedrooms and the revised plan had six 2 bedroom and four 3 bedroom for a total of 24 bedrooms. Mr. Dattoli agreed. Ms. Barton asked if he would agree that on a smaller footprint there could be more people and more densely populated than the prior plan. Mr. Dattoli did not think it would be more densely populated with the same amount of bedrooms. Ms. Barton asked if it would be more densely populated if there more or the same amount of people in a smaller square foot building.. Mr. Dattoli said per square foot. Ms. Barton asked if they could estimate the amount of school age children now that there were three bedroom apartments, which could have an impact on property taxes. The architect could not answer the question.

Gene Murray, 425 Madison Avenue, asked if the revised plan had the driveway one way in and one way out 24' wide. The architect agreed. Mr. Murray asked how a garbage truck would maneuver in the driveway. The architect said the 24' driveway was a state standard. Mr. Murray asked how a garbage truck would make a turn into the garage. The architect said the engineer would testify to it. Mr. Murray asked if there were any plans to expand the driveway size to allow for a garbage truck to maneuver. The architect answered not based on the limits of the property. Mr. Murray asked how much area would be allowed for garbage. The architect said 9x18 area.

Motion to close was made by Mr. Rebsch, seconded by Mr. Ix and carried by all.

Mr. Richard Burns, Azzolini & Feury Engineering, 30 Madison Avenue, Paramus NJ, previously sworn in and remained under oath.

Mr. Alampi marked as exhibit A-12 the revised Engineering plan 7 sheets last revised 8/27/13.

Mr. Burns discussed the changes on the exhibit. He stated the cover sheet and existing conditions map did not change, the site plan had moderate changes, parking configuration reduced parking spaces from 28 to 25, change in the stairwell location along the rear property line and they reconfigured the lobby losing two spaces. Mr. Alampi asked what the reason for losing the two spaces were. Mr. Burns said the lobby/elevator configuration was brought to the east into the parking area and the garbage was in the same location. Mr. Alampi asked if the physical dimensions changed for the parking level. Mr. Burns answered the parking level itself did not change. There were 5 uncovered parking spaces and now there were 9 because of the overhang. The engineer added that they eliminated the building coverage variance that was 21% to 16.6% . Mr. Alampi asked if the impervious coverage changed. Mr. Burns said they left it at 32%. He discussed that this was a residential zone and a single family was permitted. The applicant had

proposed 14 units and now proposed 10 units and the building height remained the same at 37.68' permitted 30'.

Mr. Burns said at the request of the Borough Engineer they showed the utility lines on the plans and provided a maintenance schedule for onsite retention system. Mr. Burns said the applicant would provide for the 6' wide sidewalk at the request of the Fire Advisory Board, which was not shown on the plans, but there was sufficient room for it. Mr. Burns referred to the DPW letter stating no pavers for the sidewalks by the curb and added they would be concrete. The applicant would maintain the lights and trash on the site. Mr. Alampì clarified that a garbage truck would enter the driveway and take the receptacles. Mr. Burns said an alternate would be that the trash and recyclables be brought out to the curb without having the truck come into the site because there was no turn around on the site. Mr. Burns said the distance from the trash receptacle to the curb was 140'. The engineer said there was a DPW comment regarding the sewer into the main line. The engineer said the DPW asked for a manhole connection but said they usually don't do manhole connections for sewers but they could do that and would provide a cleanout. Mr. Alampì asked if they could meet those requests and if he would confer with the DPW. Mr. Burns agreed. Mr. Alampì clarified that there has been no enlargement of the footprint of the building and change of the height. Mr. Burns agreed.

The Chairman stated there was a letter dated 9/19/13 from Ms. Batistic regarding the possibility of fill and asked if his firm did a survey. Mr. Burns said it was done after the demolition of the onsite improvements and they found no substantial changes to the ground elevation from the topographic survey taken back in 2012. The engineer said there was with the demolition of the structures a regrading but no material was brought in and there was no deviation. Mr. Burns said they provided Board Engineer with the survey. Ms. Batistic said they took the existing and just spot checked at the site and but they did not do anything in the back where the slope was. There was no significant change in the area of the building. The Chairman questioned that it was suggested that fill had taken place in the rear of the property. Ms. Batistic agreed and said the survey did not go in the back. Mr. Burns said they did not go down the wooded slope. Mr. Denis understood that the property was designated a wetland property and how did they make wetlands dry.

Motion to open to the public was made by Mr. Rebsch, seconded by Mr. Ix and carried by all.

Terence Mc Mackin, 400 Madison Avenue, questioned if the 32% imperious area was the entire piece of property. Mr. Burns said it was. The resident questioned if it was a false reading because the DEP deemed an area not buildable. Mr. Burns said no because it was still their property.

Mr. Mc Mackin asked if he was at the site during the demolition. Mr. Burns was there prior to the demolition. Mr. Mc Mackin had a photo marked as exhibit O-1 photo. The Chairman asked if he took the photo. Mr. Mc Mackin said he took the photo in the spring and it was not altered. The resident said the mound of earth was in the northeast corner adjacent to a property owner. Mr. Mc Mackin testified that was not there prior to the demolition so he felt it was an attempt to extend the property beyond the normal scope, which might have encroached upon the DEP. Mr. Burns clarified that the piles of dirt were at the top of the slope. Mr. Mc Mackin agreed and added as well as behind the garage. The Chairman asked if he was suggesting the dirt came from

somewhere else. The resident said it was non-existing while the Pianfetti's owned the property. The Chairman clarified that it was not dirt moved around on the property. Mr. Mc Mackin said no. Mr. Burns said the property owner did not put any piles of dirt on the property and they would investigate the matter.

The resident questioned if they reduced the amount of parking spaces because they reduced the number of units. Mr. Burns agreed but said they had a surplus of parking. Mr. Mc Mackin questioned the seepage pits. Mr. Burns said there was a four unit system under the parking driveway and one up towards the front. Mr. Mc Mackin asked if he was aware they had to rebuild the whole rear foundation and facade of the apartments because of the terrain and questioned if the seepage pits might create a problem with the soil. Mr. Burns did not anticipate a problem. The resident said a neighbor had a seepage pit required by the town because of an addition that was causing a problem because of the type of soil. Mr. Burns said they took soil logs and did not anticipate a problem.

Mary Ann Milligan, 407 Madison Avenue, questioned that no one seems to know where all dirt has come from. She added the land was uneven and asked where did they get the fill to fill in the basement to level off the property and to push the area back further and remove all the DEP stickers to make the land level. Ms. Milligan stated she saw trucks of dirt brought in and put on the property but for some reason no one seems to know the answer..

Lorraine Mc Mackin, 400 Madison Avenue, asked if the testimony was the applicant changed the location of the elevator. Mr. Dattoli said the elevator lobby was moved slightly but it was still in the general area. Ms. Mc Mackin questioned the testimony that the garbage truck could not legally back out onto Madison. Mr. Burns said it could not turn around onsite and there would be pick up on the curb. Ms. Mc Mackin asked if the dumpsters would be on the curb. Mr. Burns said no they would pull out the individual containers. Ms. Mc Mackin clarified that the 9x18 area would accommodate garbage cans for recycling and garbage and then there would be 20 garbage cans on Madison Avenue. Mr. Burns said one garbage can per unit. Ms. Mc Mackin said there would be a rat problem and said there needs to be a way to have the garbage truck turn around.

Terence Mc Mackin, 400 Madison Avenue, questioned if the lights would illuminate Madison Avenue. Mr. Burns said no and there would be shields on the lighting. Lights would be along the property line next to the school to illuminate the driveway and no other lighting on the site except for underneath to the garage. Mr. Burns pointed out where the foot-candles would be located. The resident asked what the elevation was of the lamps. Mr. Burns said there were four 12' high lamps.

Gail Ablamsky, 557 Mabie Street, was concerned about the garbage and questioned that a janitor or maintenance person would be hauling 20 garbage cans twice a week 130' to the curb which would create a lot of noise to the neighbors. She also asked how long before the garbage cans were returned. Ms. Ablamsky asked where the entrances were to the building. Mr. Burns said there was an entrance in the front of the building and at the main lobby off the driveway. The resident asked if there was room for an ambulance to pull up. Mr. Burns said an ambulance or fire truck could pull in but would have to back out.

Gene Murray, 425 Madison Avenue, questioned prior testimony was that garbage trucks could pull in and back out to the street or back in and pull out. Mr. Burns thought that would be an issue and they would have to bring it out to the curb and no turn around could be provided. Mr. Murray asked if that was illegal. Mr. Burns would check the code and would tend to think it could be deemed illegal if it created a hazard and they would get tickets. Mr. Murray asked if they could plan a pad by the curb. The engineer said there was a new concrete sidewalk and they could provide a pad but they were trying to maximize the green area. Mr. Murray questioned if they had no plans to accommodate commercial traffic in front of the site or any widening. Mr. Burns said no. Mr. Murray questioned the garbage area being close to the school playground. Mr. Burns thought it would be 50-60' away.

Mr. Murray asked if the wetlands encroached up to the northeast corner of the building. Mr. Burns said no and indicated on the plan the buffer requirement that the DEP required. He stated they require a 50' transition area which could be modified and they went up to the buffer line. Mr. Murray clarified that they were taking the building to the edge of the buffer line with the garage to the west of that line. Mr. Burns agreed. Mr. Murray questioned if there would be runoff from the garage. Mr. Burns said the only runoff would be over the landscape areas.

Mr. Murray asked if the planner would return. Mr. Sproviero would check the minutes. Mr. Murray asked for his comments on the planner's testimony that a multifamily development was more suitable on the site than a single family home because a single family homeowners tend to put grass clippings in the wetlands. Mr. Burns could not comment. Mr. Murray asked as an engineer responsible for removing runoff from the property would motor oils and road salts from 25 vehicles in a garage have more tendency to pollute the property. Mr. Burns indicated the curbed areas and said there would not be any runoff from the paved areas or the building.

Mary Ann Milligan, 406 Madison Avenue, had concerns regarding snow removal. Mr. Burns said snow would be removed offsite. The resident questioned if snow would be pushed to the back of the property and encroach on the wetlands. Mr. Burns said there would be a natural snow melt and there was landscaped areas they could pile some snow but thought it was a good question.

Terence Mc Mackin, 400 Madison Avenue, asked for clarification of the runoff from the parking lot and questioned if a resident washed their car with a leaky transmission that would go into the retention system and eventually get to the wetlands. Mr. Burns agreed and said the same thing would happen on private residents.

Ulises Cabrera, 659 Columbia Street, asked if the garbage area was enclosed. Mr. Burns said it was fenced. Mr. Cabrera asked if the garbage cans on the street would generate some traffic with so many extra cans to pick up as opposed to a residential area. Mr. Burns said it would be one stop to pick up the cans.

Motion to close to the public was made by Mr. Ix, seconded by Mr. Denis and carried by all.

Lorraine Mc Mackin, 400 Madison Avenue, asked Mr. Alampi for clarification on his testimony that the units were reduced based on information from the traffic engineer. Mr. Alampi said he advised the client to reorganize the plans and downsize the application based on all the testimony from the witnesses and comments of the public and Board. The Chairman and Board Attorney agreed that was the answer.

Mr. Rebsch asked if there would be fencing in the back. Mr. Burns said there was curbing and they were not proposing a fence. Mr. Rebsch had concerns with 14 children in the apartment with no fence with a dangerous area. He asked where the children would play on the property because there was no proposed playground. Mr. Burns did not know how he came up with 14 children. Mr. Rebsch said from the number of units and bedrooms. Mr. Burns would discuss it with the client. Mr. Alampi asked if there was any reason why a fence could not be installed in that area. Mr. Burns answered no. Mr. Alampi said he made a good point and would take it under advisement.

The Chairman said he was not convinced that the Board received the answer to Ms. Batistic's letter on the backfill. He understood they resurveyed the footprint of the building but did not look at the back. There has been testimony from the public that soil has been brought to the property and questioned how the foundation was filled in and was there fill in the back. Mr. Burns said his client has stated he has not brought fill to the site and the existing basement was small and did not take that much grading to do that. Mr. Burns thought testimony was there were several piles of dirt near the wetlands. The engineer did not know if the piles did exist or if they existed prior to his client and his client stated he has not done this. They would do further investigation. The Chairman would appreciate it that.

Mr. Alampi said they would not object if Board Members wanted to walk the site singularly or in groups of two so not to violate the sunshine law. The Chairman said he would not know the before and after. Mr. Alampi said they would see if there were unusually large mounds of dirt. The Chairman appreciated the offer to walk the property. Mr. Alampi added that with the topographical survey they performed a series of field notes and shots and recalculated the grade and did not see anything inconsistent with the historical grade. Mr. Alampi said there was evening out and movement of the soil with the demolition but the question was if there was dumping on the site, which they would check out.

Mr. Alampi did not recall where they left off with the planner's testimony. The Board Attorney would check.

The application was carried to November 12, 2013.

As there was no further business to discuss, a motion was made by Mr. Rebsch, seconded by Mr. IX and carried by all

Respectfully submitted,  
Maureen Oppelaar