

**New Milford Zoning Board of Adjustment
Special Meeting
October 29, 2013**

Acting Chairwoman DeBari called the Public Session of the New Milford Zoning Board of Adjustment to order at 7:06pm and read the Open Public Meeting Act.

ROLL CALL

Mr. Binetti	Recused
Ms. DeBari	Present
Mr. Denis	Present
Father Hadodo	Recused
Mr. Ix	Present
Mr. Loonam	Absent
Mr. Rebsch	Present
Mr. Stokes Vice Chairman	Recused
Mr. Schaffenberger-Chairman	Recused
Ms. Batistic – Board Engineer	Present
Mr. Sproviero – Board Attorney	Present
Also attending	
Mr. Grygiel – Planner	Present
Mr. Tombalakian – traffic engineer	Present (7:30)

PLEDGE OF ALLEGIANCE

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

Ms. DeBari certified that she listened to the recording for the October 8th, 2013 meeting.

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, questioned if November 18th would be available for a special meeting. The Board scheduled the special meeting for November 18th at 7 pm.

The Board Attorney stated the Board was still open to the public on the cross examination of Ms. Batistic.

Al Alonso, 45 Clover Court, questioned Ms. Batistic's testimony that New Milford was downstream of 120 square miles of the watershed area with this site at 0.018 percent of

the total area. Ms. Batistic agreed. Mr. Alonso clarified that any flooding off the property could not be measured. Ms. Batistic said she testified that if there was any additional raise of elevation of the Hackensack River flooding coming from this property, it could not be measured. Mr. Alonso asked if her conclusion that there was not significant flooding was based on the size of the lot relative to the watershed area. Ms. Batistic said when they were speaking of the amount of water that the DEP and FEMA maps were based on that amount of flow that comes into the river was how the flood level was determined. The flow comes from 120 sq. miles of the watershed and this was part of this watershed area. Mr. Alonso asked if the development of any 14 acre property within the 120 sq mile area would not be significant in terms of flooding. Ms. Batistic said yes.

Mr. Alonso asked if she was present at the meeting when Mr. Henning attributed a lot of the flooding in New Milford to overdevelopment. Ms. Batistic said he said something to that effect. Mr. Alonso asked if it was important for the Board to consider what Mr. Henning testified to with respect to the cumulative effect of the flooding. Mr. Del Vecchio objected. The Board Attorney said she could offer her opinion. Ms. Batistic said New Milford was downstream of 120 sq miles watershed area and this site was part of the 120 sq miles. There was a runoff that currently happens on the site and there was a discharge from the site to Hackensack River, said the Board Engineer. Ms. Batistic clarified that this site today contributed to the flow into the river. She further explained that the applicant was required to make sure that the current rate of runoff after development was not increased but was reduced by 50% for a 2 year storm, 25% for a 10 year storm and 20% for a 100 year storm. The Board Engineer stated her job was to review and make sure they did the correct calculations, used the correct parameters and addressed the increase in the water runoff. She added the applicant did meet the requirements of the reduction. Mr. Alonso asked if there were any calculations for basins in the flood area. Ms. Batistic said the proposed water detention basins were outside the flood plain. Mr. Alonso asked if the Board could ask the applicant to produce Mr. Henning. Mr. Sproviero said the Board could ask but they were not under any obligation to do it and the Board had their own experts who were competent to render their opinions.

Mr. Alonso questioned that Mr. Dipple used the maps that were required back in the 1980's. Ms. Batistic said those were the only maps. Mr. Alonso clarified if there were standards and requirements that were set forth by the DEP and FEMA with respect to development within these areas. Ms. Batistic agreed. Mr. Alonso asked if they were the minimum standards. Ms. Batistic said they were the standards they had to meet. Mr. Alonso said the public showed photographs and testimony that showed flooding that exceeded the minimum standards. Ms. Batistic agreed that it exceeded the flood elevation of the DEP maps. Mr. Alonso asked as an engineer if it would be prudent to consider evidence that the flooding was worse than the 1980 DEP maps or would it be designed at the 1980 map level. Ms. Batistic said the 1980 map had a Hackensack river flood elevation for more than a 100 year flood. FEMA shows a 100 year flood. The DEP map gives the flood elevation to design the lowest floor elevation and does not prevent from building in the flood plain but there were rules to follow. Mr. Alonso asked if the application was approved would she design the site and elevations based on the 1980 data

or consider the testimony, evidence, videos and photographs presented and go a little higher. Ms. Batistic said she would probably go higher if the site allowed it. Mr. Alonso said the applicant had not considered that but just designed it to the 1980 maps. Ms. Batistic answered the flood elevation for the 1980 map at this site was elevation 13.5 and the applicant put their lowest flood elevation at 18.

Mr. Alonso questioned if application was approved and during the construction phase the site was engineered at higher elevations than proposed would the applicant have to return to the board or could the construction official issue a permit. Mr. Sproviero believed it would be the latter and did not think that would be a substantial modification that would require a reexamination of the plan based upon those limited facts. Mr. Alonso questioned if it would be important for the Board to consider how the site could be designed at higher elevations considering the evidence from the objectors. Mr. Del Vecchio objected that he was asking the witness to opine on if the application was approved here or by a court and that there was a field change. Mr. Sproviero said Mr. Alonso was asking if it would be prudent to consider the elements of the design in the approval process. The Board Attorney did not think it contemplated a field change and thought he was asking if the Board determines upon examining the totality of the evidence that the 18 ft elevation was insufficient. Mr. Alonso agreed. Mr. Del Vecchio said the application was for a floor elevation 18 and they were not looking for approval of anything else and there was no testimony saying 18 was insufficient. Ms. Batistic said based on what the public presented it appears that the site was higher than the floods that occurred in recent years. The Board Engineer added that the site was higher than where the buildings were.

Mr. Alonso asked Ms. Batistic if she did a study of the existing sewer system. Ms. Batistic had not. Mr. Alonso asked if the applicant had to address the sewers before the Board or address in with the engineer at the construction period. According to Ms. Batistic, the applicant obtains a sewer extension treatment works permit that is submitted to the borough, to the County then to the state to get the permit. In that process, the capacity of the existing sewer was evaluated and the new flow was added. If there was no capacity they would have to make improvements to the system, said Ms. Batistic. Mr. Alonso asked if there were any current problems with the sewer system in New Milford. Ms. Batistic said there have been problems thru out the town but was not aware of any problems in this area. Mr. Alonso asked if she was aware if the discharge from the site could be accommodated by the sewer system. The applicant has to prove that, said the Board Engineer.

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

Berge Tombalakian was sworn in by the Board Attorney. The Board Attorney said the Board recognized Mr. Tombalakian as an expert. Mr. Del Vecchio agreed.

The Board Attorney asked Mr. Tombalakian if he formed an opinion with regard to the traffic ramifications presented in the application. Mr. Tombalakian said he did.

Mr. Tombalakian explained they reviewed the applicant's traffic report as well as Oradell's traffic report. It was his opinion that the impact at the intersection of River Road and Madison Avenue was an impact especially during the school dismissal peak hour which has not been mitigated by the applicant and felt it was an impact the Board should consider in its assessment. The traffic engineer explained the applicant proposed a timing change at River Road and Madison of a few seconds to account for the change in traffic volume generated by the project. Even with that mitigation, Mr. Tombalakian said the impact at that intersection was not enough to overcome the additional impact of the traffic generated by the project. Mr. Sproviero asked if there were any other areas of concern. Mr. Tombalakian said there were other concerns listed in the October 15, 2012 review.

RECESS

Mr. Tombalakian reviewed the October 15, 2012 letter stating it was their opinion that Sunday traffic counts were not necessary due to the low level of background volume that would occur at the peak hour of the proposed shopping center. He added the 10% pass-by trip credit used was a conservative approach which they concurred with. There was not an ability to evaluate the impact of Elm Street because it was still closed. Mr. Tombalakian explained the Capacity Analysis in their letter dated October 15, 2012 that summarized their concerns about impacts. Mr. Tombalakian also had concerns regarding the impact of the new driveway opposite Demarest Avenue. The Engineer stated he did not have any issues with the site design. There was a number of access points which was good for a shopping center of this size. His concern was capacity analysis especially River Road and Madison Avenue and how it would affect the community.

Mr. Sproviero asked if he formed an opinion as to any traffic safety issues that related to the movement of school children at the high school. Mr. Tombalakian did not have any concerns with a school next door because it was a high school and the children were older. In reviewing drop off and pick up times, signage and layout, Mr. Tombalakian thought it worked well and was adequate. He added if it was a middle school or younger children he might have a different opinion. Mr. Tombalakian thought the procedures worked out by the police and school worked well.

Mr. Del Vecchio would hold his questions until the public has concluded.

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

Donna Tomasini, 411 Charles Street, questioned the cut thru traffic on Charles and Baldwin. She explained there were buses, Shop Rite tractor trailers, liquor store traffic every day. Ms. Tomasini asked if a study of River/Baldwin and Charles Street/Madison

intersections should be done. The resident said there was a significant amount of cut thru traffic now which she has spoken to the Mayor and Council about it and put in complaints to NJ transit. Mr. Tombalakian said they have not done a study of that location and thought cut thru traffic was from the impatience of motorists and the perception of capacity problems had motorists looking for alternative routes. Mr. Tombalakian said if there was a problem now possibly the police could look at some ideas like one way streets, traffic calming or various combinations. Ms. Tomasini asked if they changed the timing of the intersection would it need county approval. Mr. Tombalakian would have to find out if the municipality or county owned it.

Lori Barton, 399 Roslyn Avenue, questioned if they eliminated the cut thru traffic would that put more traffic on River Road and Madison Avenue. Mr. Tombalakian said the idea was to keep the traffic on the county road systems. He added traffic volume would fluctuate day to day and he did not know if the amount of cut thru traffic would fall within the band of variation in a given day. The engineer said they have not studied this and would need more information. Ms. Barton asked if the widening of River Road at Cecchino Drive north to Main Street would be necessary to build the development. Mr. Tombalakian said the improvement proposed at the site driveway by Demarest would provide a left turn lane and allow for an alternative means of truck ingress/egress in case Madison was unavailable due to an emergency situation. At this particular intersection because of turning movements and the applicant wanted a proper means of ingress/egress, the design was based on the results of the capacity analysis, said the engineer. He added the capacity analysis drives the decision on where to widen. Ms. Barton clarified they would have to be some widening and cutting down some trees. Mr. Tombalakian agreed. Ms. Barton asked if Demarest Avenue would see an increase of traffic because they would have a major driveway for customers. Mr. Tombalakian did not agree with her interpretation of Demarest Avenue being the main driveway because there was access points at River, Main and Madison in the rear. Ms. Barton thought the Madison Avenue driveway was a truck driveway not for cars. Mr. Tombalakian thought the Madison entrance was designed for trucks but could be used by anyone.

Ms. Barton asked if he was aware that Demarest Avenue did not have sidewalks. Mr. Tombalakian was not aware of it. Ms. Barton asked if children walking down Demarest with an increase of traffic would be a safe issue. Mr. Tombalakian said he would have to do an observation to see how the students were traversing the roadway before he could give an opinion. Ms. Barton clarified his testimony was there would be a degradation at Madison and River Road and should they look at Madison/Boulevard because traffic was already backed up from the Boulevard into Dumont. Mr. Tombalakian said from the traffic report the amount of traffic volume was not enough to trigger that assessment and they did not request it. He explained adding one car to an intersection had an impact but the question was if it had an adverse impact and from the information submitted it did not appear the amount of traffic volume added by the development would create an adverse impact. The intersections closer to the site would bear more of the increase of traffic. Ms. Barton asked if they should be investigated. Mr. Tombalakian said before making a determination he would have to look at the report and do an observation.

Anna Leone, 505 Boulevard, questioned his testimony that the applicant's traffic study did not adequately analyze the impact of River Road and Madison Avenue. Mr. Tombalakian said the intersection of River Road and Madison Avenue suffered a significant degradation of traffic flow primarily southbound during the afternoon peak hour. He felt the applicant has not provided adequate mitigation. Ms. Leone asked what needed to be done. Mr. Tombalakian said they look to make the timing better and if that wasn't enough to solve the problem then there would be options of adding lanes. They were pointing out their concerns, said Mr. Tombalakian and it would be up to the Board, the applicant and the public to discuss. Ms. Leone asked if there would be follow up. Mr. Tombalakian deferred to the Board Attorney to see if there was an opportunity for that. The Board Attorney said to Mr. Tombalakian this was his day to testify and it is unknown at this time whether the procedure would allow them to continue his testimony at the next meeting for that purpose. Mr. Tombalakian said some of the questions posed were of a hypothetical matter and he did not realize the Board would want him to undertake these analyses but he could. Mr. Sproviero said they would itemize the issues that he would like to examine further with the hope they would be able to conclude the testimony at the November 12th meeting. The resident clarified his testimony was the intersection at River Road and Madison Avenue affected the entire community. Mr. Tombalakian said an improvement of the intersection would affect the community due to a change in performance for the better or the worse and that would be something that was the burden of the applicant to demonstrate that the application would not cause an adverse impact at the intersection if approved.

Michael Gadaleta, 270 Demarest Avenue, asked what kind of studies did he do to come to his conclusion regarding the high school students being unaffected by this development. Mr. Tombalakian said he did some observations at the high school a couple of different days during dismal where he parked his car and watched how the students crossed the road and the school bus traffic. He said if this was an elementary school next door with younger children he might have gone in a different direction. The resident asked how many times he observed the situation. Mr. Tombalakian said maybe three times. Mr. Gadaleta asked if he ever went on a Friday night. Mr. Tombalakian did not. The resident asked if he was aware that the entire back of the facility was closed by the police during a football game. The engineer said that was a special event and they typically did not look into it. Mr. Gadaleta asked if he considered Cecchino Drive in his review. Mr. Tombalakian did. Mr. Gadaleta asked if he was aware that the County has given that road to the Mayor and Council and turned it over to the town to be used for parking for students and it was one way. The engineer knew it was used for parking and a one way and said looking at the site plan that condition would remain as is. Mr. Gadaleta asked if he was aware of any revisions that the applicant made to address any of his concerns regarding traffic. Mr. Tombalakian said they issued the February 13, 2012 review, a subsequent traffic report prepared June 28th, a review dated October 15, 2012 and the applicant revised their report dated January 4, 2013. Mr. Gadaleta asked if there have been any revisions to the locations as to the entrance being on Demarest or on Madison as a secondary entrance or the location on Main Street. Mr. Tombalakian said there have been minor adjustments but nothing significant. He added they have commented on the truck radii at the Madison Avenue access and at the driveway opposite

Demarest for emergency truck access. Mr. Gadaleta asked if he was helping the developer or helping the town. Mr. Tombalakian stated they were reviewing the plans and providing their thoughts on what would constitute a better design if approved. Mr. Gadaleta asked if they were preventing trucks coming from River Road using Demarest as a turning radius and would it be smarter to protect the town and bar trucks from using Demarest. Mr. Tombalakian added they were not proposing widening Demarest Avenue but mentioned Demarest because it was opposite the site.

Mr. Gadaleta asked if there was a crosswalk added to address the concerns of the public. Mr. Tombalakian was not aware of one. Mr. Gadaleta asked if there was a revision or suggestion that he would have to improve the high school safety. Mr. Tombalakian said there was adequate signage and did not think adding an extra crosswalk midblock would be the right way to go. Mr. Gadaleta questioned the need for a crosswalk for children coming down Demarest Avenue. Mr. Tombalakian thought they should cross at Cecchino where there was an existing signal. Mr. Gadaleta questioned how residents would get to the Shop Rite crossing at that location and thought he would recommend a signal. Mr. Tombalakian said the warrants for traffic installation were not met at the intersection. Mr. Gadaleta asked if they did that study. Mr. Tombalakian said there was not a study but they looked at the traffic volumes provided by the applicant, the manual on uniform traffic control devices, section 4C warrants for traffic signal installation and there was a set of curves which he could send him. Mr. Gadaleta questioned that he was taking the applicant's study as his study. Mr. Tombalakian said his role was to review their traffic study and evaluate it. Mr. Gadaleta asked if he thought this warranted his own traffic study not the applicant's traffic study. Mr. Tombalakian said his review of their study indicated that there was some operational problems which he mentioned at River Road and Madison Avenue.

Mr. Gadaleta said there were 700 additional cars a day anticipated on Demarest Avenue with no sidewalks with children walking up the street and asked if he thought it would be prudent to have a crosswalks at the intersection so residents could go to the supermarket. Mr. Tombalakian said by statute a crosswalk was there implicitly. The Board Attorney did not agree with that statement and added the way the crossing law worked was a pedestrian only had a right of way when in a designated crosswalk. Mr. Tombalakian said a crosswalk would be added and that would be fine but it did not change the main assessment. Mr. Gadaleta questioned if he felt the public had the right to their own traffic study and not use Dean and Dolan's report as his bible. This traffic report was not his bible, said the traffic engineer and that was not his assignment. Ms. DeBari understood that he would be doing his own traffic study. The Board Attorney said not a traffic study but he would be offering testimony as to his assessment of the traffic situation. One component of that would be his review of the applicant's traffic study but he was being presented as an expert witness to offer his opinion. The Board Attorney did not think there should be confusion as to the scope of his assignment. Mr. Tombalakian explained they utilized the data provided from Dolan and Dean in preparing their assessment and reviewed their information, did their own investigations of site conditions, roadway network, operational conditions at the site and adjoining area, reviewed reports and came to conclusions. Mr. Gadaleta asked again if he should do his own study. Mr. Tombalakian

did not think doing his own traffic counts and analysis would create a different conclusion. Mr. Gadaleta asked if he was accepting their counts for visitors to the Shop Rite based on counting visitors at the existing counts. Mr. Tombalakian said their traffic report provided a comparison between the ITE and the data accumulated from the existing Shop Rite and he did not have an objection to that methodology used.

George Fabiano, 109 Golden Gate Avenue, had concerns with students going to the high school and asked if any studies were done beyond the school day because there were many activities after school hours. Mr. Tombalakian said they did not factor that into their analysis. Mr. Fabiano asked if students were more socially involved and less aware of traffic conditions going to events at night than during daytime. Mr. Tombalakian said they did the assessment based on the peak hour conditions and were basing their review on adverse impacts in terms of traffic congestion and safety issues during the peak periods. Mr. Fabiano asked if a study should be done looking at various events because a high school more than an elementary school had constant movement around the school. Mr. Tombalakian said he was describing special events or off peak events that from their vantage point was not critical times of day that would offer guidance to the Board on whether the applicant met their burden with regard to adverse impacts. The resident said a high school was not just 8 am – 3 pm and thought there might be other peak events with a high school. The traffic engineer said if the roadway network could accommodate the peak traffic when the baseline traffic volumes for the roads were less because of a special event, the volumes would be lower than they would be during the commuter times so the congestion issues would not be as prevalent. The resident said at the intersection at Madison and Main it was difficult to make a left hand turn and asked if there should be a traffic signal. Mr. Tombalakian said they have not done an evaluation to see if a signal was warranted at that intersection but he would look into it.

Richard Mide, 660 Columbia Avenue, asked if there was an existing traffic problem on Madison and River. Mr. Tombalakian said it was busy and operated at a level of service C but their concerns was if the project was approved the southbound movement on River Road would be adversely affected and the applicant has not provided adequate mitigation to offset that impact. He added the level of service C was where the average stop delay at the intersection was 15-25 seconds. Mr. Mide asked what made him think that the applicant's report was accurate. Mr. Tombalakian said the report was prepared by a licensed engineer who has lots of experience in the field and they have reviewed her work before and found them to be credible in the past. Mr. Mide asked if sitting in the car three times to observe the high school was scientific. Mr. Tombalakian answered that one of the things he does in his evaluation was to see how the interaction takes place. Mr. Mide asked if he took notes. The traffic engineer did not. Mr. Mide asked if he could provide a record of his visits to the high school. Mr. Tombalakian agreed. Mr. Mide asked if his opinion was he would have concerns with an elementary school but not a high school. The traffic engineer answered less concerns. Mr. Mide asked if he had concerns with the high school. When there was an increase of traffic especially close to any school, said Mr. Tombalakian there was a general concern about how the interaction would be and based on his observation the interaction and students were working out well. Mr. Mide asked if high school students that text, have cell phones, do drugs, drink

and drive were at a higher risk than elementary students. Mr. Tombalakian said when he speaks of risk he considers teenagers unlike elementary children have a better understanding of depth perception and how to cross the street.

Recess

Gene Murray, 425 Madison Avenue, asked if he would clarify his testimony that it was not necessary to have driveway counts on Sunday. Mr. Tombalakian's opinion was that traffic counts on Sunday were not needed for the review of this project. He added the peak traffic volumes considered for a development of this size would be weekday commuter times, school dismissal times and Saturday peak hour. Mr. Murray asked if he reviewed any testimony from the witnesses relating to traffic. Mr. Tombalakian said he reviewed the Oradell report but had not read the transcripts of the testimony. Mr. Murray asked if it was a professional standard not to review the testimony. Mr. Tombalakian said they were charged with preparing their assessment based on the engineering data provided and to answer questions. Mr. Murray asked if he was aware the applicant presented a witness, Mr. Pagano, from Shop Rite back in October who testified that the busiest day for the store was on Sunday. Mr. Murray asked if that would change his opinion that Sunday traffic counts were important. In terms of impact of a project on the adjacent roadway network, the traffic engineer said it was the site traffic in combination with the adjoining street traffic. The differential in traffic to the site was more than offset by the decrease in traffic volume on a Sunday for the streets around it.

Mr. Murray asked if he was satisfied with the site design. Mr. Tombalakian thought it was acceptable. Mr. Murray asked if he was satisfied with the parking for the site. Mr. Tombalakian said he was focused on the layout and the access scheme that was provided that this site has four access points and the design had a parking field that was laid out well. The parking variance was set by the ordinance and the planner would provide testimony. The resident asked if he was comfortable with the proposed lane widths for the level of anticipated traffic. Mr. Tombalakian recommended a wider width than proposed to match the county standard and the applicant proposed a width for each lane about a foot narrower which met the standards. The resident questioned that he was not endorsing the design as ideal for providing maximum safety for the public. Mr. Tombalakian said it was acceptable but not the ideal design. Mr. Murray asked what the green book based their recommendations for lane widths, shoulders and safety standards. The traffic engineer said traffic composition, turning radii, land use, neighborhoods, classifications and offers guidance. Mr. Murray asked what the green book would recommend for road widths. They suggest 12' lanes for freeways and in urban settings 10' wide, said the traffic engineer. Mr. Murray questioned if there has been any testimony on daily volumes on River Road and Main Street. Mr. Tombalakian believed there were peak hour volumes but did not know if there were daily volumes. He added the daily volumes were not as important as peak hour volumes. Mr. Murray questioned if the total width of River Road and Main Street at the entrances would be expanded from 30' to 36'. Mr. Tombalakian agreed. Mr. Murray questioned that the plans had no accommodations for shoulders yet the green book recommended shoulders for high volume corridors. Mr. Tombalakian would have to see the section that he was referring

to. He added for county roads and locals streets where they have done intersections the shoulders were generally used for parking. The engineer explained a lot of time the trade off was between lane widths and shoulders vs trees. Mr. Murray said shoulders provide a level of safety for children and cyclists. Mr. Tombalakian said shoulders in the right setting were helpful but they create more width and might tempt motorists to speed. According to Mr. Tombalakian, you want to improve capacity and safety but increasing operating speed would be something you don't want to do. The trend now in the industry in terms of traffic calming was narrowing pavement widths, said the traffic engineer and shoulders do the exact opposite. Mr. Murray said the green book provides recommendations for road widths at certain road classifications and for a 36' width roadway the recommendation was a 1-2' shoulder for several thousand cars a day passing in a corridor. Mr. Tombalakian answered to widen the road 4' on the western side of River Road that the applicant controlled the taper lengths become longer and more trees would be removed. He added when designing an intersection like this you try to come up with something that was a best fit between the standards, the environment you are working in and the site conditions. Mr. Murray commented that it might be a wrong site for this type of the development. Mr. Tombalakian said that was a question for the Board and planning experts to contemplate.

Mr. Murray clarified that his previous testimony concerning site distances on Madison Avenue was that he was concerned about trucks turning into the Madison Avenue with a recommendation of an increase of the curb radius. The resident asked if this was complied with. Mr. Tombalakian would have to check. Mr. Murray asked if he reviewed the revised plans. Mr. Tombalakian said he had not done a follow up report since October so he might not have seen it. Mr. Murray asked if he had concerns if there was adequate distance between the north entrance when cars turn onto River Road and faced with the two lanes of traffic. Mr. Tombalakian did not see an issue with the spacing of the driveways. He said when a car exits the site and turns right onto southbound River Road the motorist would have to drive accordingly.

Mr. Murray asked if tractor trailers would come up River Road north making a left turn onto Madison and enter the rear driveway and also come up Kinderkamack Road down Main Street right onto Madison and enter the site. Mr. Tombalakian said he was not an expert in truck routing but if the roads were rated to accommodate trucks they could come from either direction. Mr. Murray asked if a tractor-trailer had the ability to make a left turn at Main Street onto Madison without encroaching upon traffic at the stop sign. Mr. Tombalakian said he would have to look into that to offer an opinion.

Mr. Murray asked if he was aware that New Milford and Oradell shared emergency services. Mr. Tombalakian was not aware of it. Mr. Murray asked if he knew the location of the ambulance service. Mr. Tombalakian did not. Mr. Murray questioned the road design in front of the entrance to the proposed site or they would tolerate a proposed bottleneck at Madison/Main and asked if there would be a possible public safety situation that ambulance might not be able to get pass traffic. Mr. Tombalakian said the intersection at Madison/Main might have to get looked at if there was a concern about trucks making that left turn and if it was permitted.

The Board Attorney told Mr. Grygiel he could leave because they would not be hearing his testimony tonight as well as Ms. Batistic. (10:05 PM)

Mr. Murray said the Dolan and Dean Report had estimates for trip generations based upon assumptions that the existing store was 62,000 sq.ft. Mr. Murray asked the traffic engineer if he verified the size of the existing store since Mr. Pagano testified that the retail store was 42,000 sq. ft. Mr. Tombalakian said no. Mr. Murray questioned if this would impeach the entire conclusions drawn in the Dolan and Dean Report if they were using an incorrect square footage for the existing store and prorating driveway activity and trip generations. Mr. Tombalakian would have to confirm the actual store size. Mr. Murray questioned if all the data in the traffic report would change. Mr. Tombalakian would have to see if the numbers used in the analysis was based on the ITE figures or the actual ITE rates, the proposed square footage and how they compared it to the existing. If they were dealing with an assumption that a store was 12% smaller than the proposed development where the existing store was 40% smaller than the proposed development, Mr. Murray asked if all the data would change. Mr. Tombalakian answered if what he said was correct the data and the conclusion would change.

Daniel Ferretti, 163 River Road, asked if it was his responsibility to do his own survey of the land around the property, roads and mass transit. Mr. Tombalakian said they used the data provided from the applicant, did observations on site, looked at the adjacent roadway network and did their evaluation on the impacts that this development could have on the adjacent roadway network. Mr. Ferretti asked as a borough representative and traffic expert did he feel he should do his own research and compile his own report instead of reviewing data that was received from the applicant that might be in favor of their client. Mr. Tombalakian did not believe their own traffic counts would change the result of their assessment and he did not think it would serve the best interests of anyone. He relied on the information provided in the report prepared by a professional engineer, critiqued it and did their own review, investigations and offered comments to the Board. Mr. Ferretti questioned his testimony that he had confidence and faith in the company that submitted the report but added the applicant's survey may or may not be valid. Mr. Tombalakian answered what they have provided to the Board to date was a critique and an assessment of what has been provided for them to review. He believed they have indicated to the Board and the public some of the deficiencies submitted by the applicant's team. The traffic engineer said for him to go do a second set of analysis puts him in the position of while he is an advocate for the borough. Mr. Sproviero interrupted and said he was a witness to verify facts. Mr. Ferretti did not think that had been done.

Mr. Ferretti asked if he reviewed rail traffic that would affect vehicle traffic going east and west on Main Street. Mr. Tombalakian did not. The resident asked if he incorporated in his review the adverse effects of flooding in the northwest corridor in New Milford. Mr. Tombalakian said they did. Mr. Ferretti asked how many streets in the northwest corner of the project they found impassable during flood or storm surges. Mr. Tombalakian answered that they looked at the testimony brought up by witnesses regarding alternative routes if Madison Avenue would be closed due to flooding. Mr.

Ferretti asked if he studied the traffic effects that occur by flooding and road closures in this community. Mr. Tombalakian said their review of traffic studies were based on normal traffic conditions not based on emergency situations where everything typical was no longer valid. When the roads are closed due to flooding and power is out, traffic patterns are not the same so an analysis could not be done. When there is an emergency, there was no way to come up with a quantitative answer to what happens to the traffic. Mr. Ferretti asked if an expert looks at every variable. Mr. Tombalakian said every variable within the realm of their expertise and normal operating conditions. Mr. Ferretti asked if he reviewed all configurations of weather situations that could occur and how the traffic would move in and out of this community without restricting the firehouse, police station or ambulance corp. The traffic engineer said not in the context that he described. He said they looked at if Madison Avenue was not available due to flooding and how trucks would enter the site. It was discussed that River/Demarest Avenue site driveway intersection would be used as the alternative means of egress/ingress for trucks to resupply the site. The traffic engineer understood that the main issue was flooding and it effects Madison Avenue. Mr. Ferretti said that was incorrect and asked if he would review the streets in the area and give a determination on what streets were impassable during flood times. Mr. Tombalakian said he would discuss the matter with the police department for their feedback and look at the FEMA or DEP flood map to see what streets were effected. The resident also asked if he could provide an alternative exit route from the site going to River Edge or to east during the times of concerns. If River Edge Avenue was closed and PSEG and transit were underwater, Mr. Tombalakian would have to look how the store would get resupplied. Mr. Tombalakian said if the river was up there might be disruptions to resupply the proposed supermarket. He stated the discussion was if Madison Avenue was unavailable how they could get into the site. They did not evaluate if the river was up and everything to the west was cut off how they would get a truck in. He felt that would be more a question for Wakefern.

Mr. Ferretti questioned that his testimony was that one car was an impact and asked if 28 trains could have an impact. Mr. Tombalakian said one car had an effect but they have to evaluate if it had an adverse effect. He said if 28 trains were existing and 28 trains remained and the NJ transit was not proposing more trains, it would be an existing condition and the borough did not have any control over that. Mr. Tombalakian said it was an active rail system and they did not look at the crossing in that context. He added there might be more cars using Main Street and a longer queue. They could investigate the gap time in between the train closures and see if there was adequate time for traffic to clear out. Mr. Ferretti asked if he should have reviewed all of the above without the residents coming in and disclosing this information. The traffic engineer said they do their review and assessment based on the standards in the industry and part of the process in NJ is the applicant makes their case, the public weighs in and projects are better for it.

Mr. Ferretti asked how many trucks would be delivering per day to this site and the time ordinance that trucks were allowed to deliver in town. Mr. Tombalakian would check into it. The resident asked if he could review what the time frame were and how many trucks were actually delivering per day to the current location and equate that to the high school

traffic and mass transit traffic. He also asked for information on the number of buses that stop in the vicinity. The traffic engineer would see what information they could acquire.

Mr. Tombalakian said he would investigate if a signal was warranted at River/Demarest and Main/Madison, check if the westbound left truck turning from Main onto Madison was suitable, review Mr. Pagano's testimony regarding the size of the store, talk to the police regarding emergency conditions, check number of railroad crossings per day and reconcile the number of trucks coming to the current site and compare them with the time of day and buses in the vicinity of the proposed site. The Board Attorney said a lot of what was being talked about was verification of the applicant's data and he asked what he was going to do to in that regard to effectuate that verification that the data he is relying on is accurate and appropriate to predicate his opinion on. Mr. Tombalakian would do some spot counts at some locations.

Mr. Del Vecchio said typically in every application he has handled the Board's consultant does a peer review of the applicant's material submitted which he believed was what Mr. Tombalakian has done to date. He had no issue with the usual and customary process because it maintains a balance between the peer review and not crossing the line in becoming a Board's advocate or public advocate witness. The Board Attorney stated that he was not telling Mr. Tombalakian to take counts but to what he feels was necessary to predicate his opinion and how he deems that appropriate to do that is within the purview of his professional expertise. Mr. Del Vecchio said the Board can do as they choose in terms of hiring advocates or professionals to review an application but once the line was crossed from a peer review into an advocate situation that expense becomes the Board's and not the applicant's. The Board Attorney understood.

The Chairwoman stated the next meeting was November 12th and this application was second on the agenda. Mr. Del Vecchio requested that the 7 minute rule be reinstated.

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

Respectfully submitted,
Maureen Oppelaar