

Approved
7/18/13

**New Milford Zoning Board of Adjustment
Work Session
May 14, 2013**

Chairman Schaffenberger called the Work Session of the New Milford Zoning Board of Adjustment to order at 7:36 pm and read the Open Public Meeting Act.

ROLL CALL

Mr. Binetti		Present
Ms. DeBari		Present
Mr. Denis		Present
Fr. Hadodo		Recused
Mr. Ix		Present (7:45)
Mr. Loonam		Present
Mr. Rebsch		Present
Mr. Stokes	Vice Chairman	Present
Mr. Schaffenberger	Chairman	Present
Ms. Batistic	Engineer	Present
Mr. Sproviero	Attorney	Present

REVIEW OF MINUTES – March 28, 2013 and April 9, 2013

The Board Members reviewed the minutes for the Work and Public session and there were changes.

OLD BUSINESS

**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 Chairman stated the Board was in receipt of the correspondence from the Shade Tree Commission dated 4/26/13, a Boswell review letter from Berge Tombalakian dated 5/7/13, a Boswell letter from Margita Batistic dated 5/13/13 and a referral letter from NMFD dated 4/19/13.

**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 stated the Board was in receipt of correspondence from the Shade Tree Commission dated 4/26/13 and a letter dated May 11, 2013 from Al Alonso.

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

**New Milford Zoning Board of Adjustment
Public Session
May 14, 2013**

Chairman Schaffenberger called the Public Session of the New Milford Zoning Board of Adjustment to order at 8:05 pm and read the Open Public Meeting Act.

ROLL CALL

Mr. Binetti		Present
Ms. DeBari		Present
Mr. Denis		Present
Father Hadodo		Recused
Mr. Ix		Present
Mr. Loonam		Present
Mr. Rebsch		Present
Mr. Stokes	Vice Chairman	Present
Mr. Schaffenberger	Chairman	Present
Ms. Batistic-	Engineer	Present
Mr. Sproviero -	Attorney	Present

PLEDGE OF ALLEGIANCE

OFFICIAL MINUTES OF THE SPECIAL MEETING – March 28, 2013

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

OFFICIAL MINUTES OF THE WORK SESSION – April 9, 2013

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

OFFICIAL MINUTES OF THE PUBLIC SESSION – April 9, 2013

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

OLD BUSINESS

**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**

Father Hadodo has previously recused himself from the application.

Carmine Alampi stated some issues from the March meeting were with regard to the tree management plan adopted by ordinance and tree removal. The Attorney said with regard to private trees there was no comprehensive ordinance except there was a permit process on tree

removal. The Engineer prepared an updated landscape plan with a resubmission in March. According to Mr. Alampi, they received a review letter from Boswell Engineering dated 5/1/13, a report dated 3/28/13 from Dolan and Dean, a report dated 5/7/13 from Berge Tombalakian, an updated report from the Shade Tree Commission dated 4/26/13 and the Fire Advisory Committee dated 4/19/13.

Mr. Alampi called their Civil Engineer, Mr. Richard Burns, to testify. The Board Attorney swore in Mr. Richard Burns, Azzolina & Feury Engineering Inc. 30 Madison Avenue, Paramus, NJ. The Board Members accepted Mr. Burns's qualifications as a civil engineer.

Mr. Alampi marked the set of 7 sheets with a revision date 3/18/13 as **Exhibit A-3**. Mr. Burns explained the set consisted of a cover sheet, existing conditions map, site plan, soil erosion and sediment control plan, landscape and lighting plan, community forestry management plan, cross sections and detail sheet. The Engineer stated the subject property was located on the north side of Madison Avenue across from Monroe Avenue. There were preexisting conditions because of the demolition of the existing structures. It was an irregular shaped lot, 270' deep, frontage on Madison Avenue was 139.6', an area of 48,168 s.f. or 1.1 acres and located in the Residential A zone. Mr. Burns explained the front part of the property for approximately 170' had a moderate slope of about 5% and then a drop of about 20' (1.5 horizontal/ 1' vertical) down to a low area that the DEP has classified as wetlands. Mr. Alampi asked if he filed the application with the DEP and secured the necessary recognition of where the wetlands were on the site. Mr. Burns said they filed for a letter of interpretation. Mr. Alampi asked if they were able to develop a plan for a footprint of this 14 unit building in conformance with the DEP guidelines. Mr. Burns answered yes. Mr. Alampi asked what type of soil movement or soil control would occur in the wetlands. Mr. Burns said nothing. According to the engineer, their survey crew went out and located all trees on the site down to a diameter of 3".

Mr. Alampi asked if the site plan was last revised on 3/18/13. Mr. Burns agreed. Mr. Alampi said aside from the use variance what were the setbacks and height issues. Mr. Burn explained the minimum lot area required is 7,500 s.f. proposed 48,168 s.f., the lot width required is 75' existing and proposed 139.60 ft, rear yard required 62.5 ft proposed 84.6 ft, side yard required is 10' proposed 20', building coverage required 18% proposed 21%, height required is 30' proposed 37.68 ft and one family maximum required proposed 14 families. Mr. Burns revised his front yard setback according to the ordinance which required 59.2 ft proposed 45.625. The Engineer stated there was a 24' two way driveway across from Monroe Avenue and 4 means of pedestrian access to the building. He added there were 23 parking spaces underneath the building, 5 spaces at grade outside the building with a total of 28 spaces proposed which satisfied the RSIS standards. The size of the parking spaces was 9x18 and 2 handicap stalls with a dumpster area located outside the building. There was access to the elevator at the garage level and stairs were located at the rear of the building and off the lobby.

Mr. Burns said the applicant reviewed and complied with the Fire Advisory letter requesting a sidewalk at the east side and the rear of the building for emergency and pedestrian access. Mr. Burns said for drainage they were providing two large seepage pit systems. The one closest to Madison Avenue would correct the front half of the roof drains run off and the rear system would correct the second half of the roof leaders and all of the driveway area. According to Mr.

Burns, it satisfied the requirements for a major development to reduce the rate of their run off. There was no outlet pipe except for an overflow pipe to the County system for the front seepage pit system.

Mr. Alampi marked **the Storm Management Report** as **Exhibit A-4** and asked Mr. Burns if he submitted and reviewed the report with Ms. Batistic. Mr. Burns said he spoke with Ms. Batistic and the report complied with Borough ordinances. Mr. Alampi asked if this report was reflected in the May 1, 2013 Boswell letter. Mr. Burns said it was.

Mr. Alampi commented from the front of the property grade they needed to create a ramp to the main entrance and there was a small retaining wall to hold the ramp. Mr. Burns agreed. Mr. Burns explained based on the County requirements, they were proposing to construct a sidewalk the full frontage of the property and 270' towards the west to meet up with the existing sidewalk in front of the school property. Mr. Burns explained they would change the grade in the front so it would drain away from the back and into Madison Avenue. He added they conformed to the County requirements for the slope of the driveway, which was 2% for the first 70' and then 5%. He said a vehicle could stop and have site distance east and west getting out of the driveway. Mr. Alampi asked if 5% was considered acceptable. Mr. Burns agreed after the first 2%. Mr. Alampi clarified that they produced a 2% slope for vehicles to be flat to egress and ingress the site. Mr. Burns said there would be low shrubbery and three shade trees along the front as required by the Shade Tree Committee. Mr. Alampi asked if he reviewed the Shade Tree Commission Report dated 4/26/13, which recommended changes to the variety of the trees. Mr. Burns agreed and the applicant would comply.

Mr. Burns discussed the Soil Erosion and Sediment Control Plan. Mr. Alampi asked if he filed with the Bergen County Soil Conservation. Mr. Burns said they did not and were holding off until they heard comments. They had also met with the County but the County application had not been filed. The Engineer reviewed the trees on the Landscape and Lighting Plan/Community Forestry Management Plan. He stated they sent out their survey crew to count the trees, measured the diameter and showed each tree by number to show the dimension and size. There was discussion of the landscape schedule on the plan, which had the proposed plantings. Mr. Alampi asked if they indicated there would be 22 trees removed. Mr. Burns agreed and discussed the Community Forestry and Management Plan. Mr. Alampi clarified that 22 trees would be removed with new trees to be planted and asked if there would be more or less trees on the site as a result of this development. Mr. Burns said less trees. Mr. Alampi asked if there would be more trees tightly planted around the perimeter of the property to give a screening effect. Mr. Burns said on the east side of the property there would be 12 cypress trees and the side west to the school would have arborvitae to screen the property. There was also discussion on the lighting plan. Mr. Burns said there would be 4 lamps approximately 14' in height along the driveway. He added there would be no lighting in the back, the side with two residents and on the wall of the building but there would be lighting underneath the building. Mr. Alampi clarified there would not be much shedding of light off the back of the building. Mr. Burns agreed. Mr. Alampi noted there was approximately 80' from the back of the building to the property line. The Engineer reviewed the cross section sheet, which included the excavation for ground floor for the parking, excavation for the seepage pit, site grading of the front and side yards. He stated 858 c.y. of soil would be exported from the site. Ms. Batistic noted that would be 57 trucks loads. Mr. Burns

said there would over 1,000 c.y. excavated from the site and 295 c.y. excavated from the seepage pit systems. Mr. Alampi asked if they have done any geotechnical studies to determine the suitability of the soil for construction purposes. Mr. Burns said only to determine where the water table was and the soil conditions for drainage. Mr. Alampi asked if there was a soil movement permit required. Mr. Burns believed there was an application that they would need to file. Mr. Burns reviewed the detail sheet which included the seepage pit systems, sidewalks and signage.

Chairman Schaffenberger clarified there would be 57 truckloads of soil removed from the site and questioned if they would be bringing soil onto the site. Mr. Burns said the soil on site would be moved around and some of the soil that was cut would be moved to another part of the site. The Chairman questioned that the grading in the front would be pitched towards the street. Mr. Burns agreed. The Chairman asked if 2% grading for the driveway was pitched towards the street. Mr. Burns answered it was pitched towards the street for a short distance. The Chairman asked what the short distance was. Mr. Burns replied about 20'. The Chairman clarified it was 2% sloping towards the street and 5% down to the back. Mr. Burns believed that was correct. The Chairman asked if removing any soil from the site would impact the wetlands in the back. Mr. Burns said no. The Chairman asked if the seepage pits would impact the wetlands. Mr. Burns said no because there was a substantial drop in the property to the wetlands and added the bottom of the seepage pit was not at the same elevation as the top of the grade. The Chairman asked if the bottom of the seepage pit was lower than the wetlands. Mr. Burns said it was higher. The Chairman asked what the intermediate value meant in regard to the wetlands. Mr. Burns said there were three levels of classifications and intermediate was the most common, which required a transition area of 50'. Chairman Schaffenberger asked if the site would impact any of the wetlands north of the property. Mr. Burns said they were not impacting the wetlands and there was a transition area required on the north side. The Chairman asked if the lighting from the parking area from under the building would impact the houses north of the building. Mr. Burns said they would see lighting.

Motion to open to the public was made by Ms. DeBari, seconded by Mr. Binetti and carried by all.

Lori Barton, 399 Roslyn Avenue, questioned if a small school and homes bordered the property. Mr. Burns said there was a private school to the west of the property, residential homes and an apartment complex. Ms. Barton asked if the balconies would impact the privacy of the residents immediate to the east. Mr. Alampi asked if the architect, Mr. Dattoli, could answer the question. The Chairman agreed. The architect said their privacy would be impacted. Mr. Alampi asked how large the balconies were. Mr. Dattoli said they had 5' balconies mostly to be able to open up sliding glass doors. Ms. Barton questioned that the current zoning for the frontage of that property was only large enough for one single family home. Mr. Burns agreed. Ms. Barton asked if there would be any COAH units. Mr. Burns did not know. Ms. Barton clarified that 22 trees with a 10' diameter would be removed. Mr. Burns agreed. The resident questioned the diameter of the replacement trees and how tall the evergreen trees would be on the side of the property. Mr. Burns answered 3 ½" diameters and the evergreens were 8'-9' tall. Ms. Barton questioned if there would be a spillage of lighting from the apartment windows to the east side of the property. Mr. Burns said there would be lights in the apartments at night.

Catherine Martin, 274 Fulton Street, had concerns with the traffic back up because of the middle school and questioned when would the road be blocked off for the construction. Mr. Burns said the roads would not be blocked off for construction.

Mary Ann Milligan, 407 Madison Avenue, said her property abuts New Milford Arms and the applicant's property did not abut New Milford Arms. Ms. Milligan said after the home and garage were demolished, truck loads of dirt were brought in which encroached more into the wetlands and the DEP stickers were removed. Ms. Milligan had concerns for her property, the residents on Neumaier Drive and the New Milford Arms Apartments. She added that part of the apartments need to lift up their frames because of the wetlands. Ms. Milligan asked if there would be any trees put in the back of the property. The resident questioned what would happen to the drainage because not all of the drainage goes into the seepage pit and much of the drainage would go into Madison Avenue into an old drainage system.

John Rutledge, 335 River Road, asked if there have been any soil testing for contaminants. Mr. Burns did not know of any prior history to indicate contaminants on site but if the town requested testing they would comply. Mr. Rutledge asked if there was ever an oil tank on the property and could there be an oil tank leakage. Mr. Burns said the owner cleared the site and did not see any indication of any contaminants. Mr. Rutledge asked the engineer if he had any conversation with the school regarding concerns of any potential impacts that construction might have on the children. Mr. Burns had no conversations with the school.

Carol DeSantis, 190 Powell Drive, asked how many parking spaces were there for the tenants. Mr. Burns said they satisfied the RSIS standards, which were 2 spaces per units. The resident asked where guests would park. Mr. Burns responded that was all factored in by the State requirements.

Barbara Monahan, 299 Webster Drive, had concerns regarding the wetlands and the land sliding down in the back and asked what would be done to prevent that from happening. Mr. Burns said there would be no run off from any paved surfaces on their property. The property behind them would be left undisturbed. The resident asked if they reached out to the apartment complex regarding the issues with their building. Mr. Burns had not but would look into their issue.

Mr. Varkui, 401 Madison Avenue, asked if the applicant had the necessary access for fire and ambulance. Mr. Burns said they did and satisfied the Fire Advisory Committee request for access. The resident said their bedrooms were facing the building and asked if he would lose their privacy. Mr. Burns said yes as compared to what he had now. He added they were providing privacy but could not provide screening from the second and third floor.

Motion to close to the public was made by Mr. Loonam, seconded by Ms. DeBari and carried by all.

Mr. Alampi said they had the traffic and planning experts to offer testimony at the next hearing. The Chairman said the next meeting would be June 11, 2013.

RECESS

**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**

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

The Board Attorney stated Mr. Ix has certified that he listened to all the recordings of the NMRA meetings to date.

Mr. Del Vecchio member of the firm of Beattie Padovano on behalf of the applicant requested special meetings for May and June. The Board Members scheduled a special meeting for May 23, 2013 at 7 PM. Mr. Del Vecchio would have Mr. Steck return for public questioning. The Board discussed tentative dates for June, which would be confirmed on May 23, 2013.

Mr. Del Vecchio said the Board was in receipt of a communication from Mr. Alonso questioning the Board's ability to proceed with the hearing at this time based upon an owner consent issue. Mr. Sproviero said the Board Secretary was in receipt of correspondence with attachments dated 5/11/13 issued by Mr. Alonso questioning jurisdiction of the Board as a result of the status of the contingency contained in the contract of sale by the property owner (United Water) and the applicant (NMRA).

Mr. Alonso, 45 Clover Court, summarized the dates and facts of the contract and said there was no dispute that the owner of the property could come before the Board and file an application or a contract purchaser with the consent of the property owner could come before the Board and seek relief. The Board Attorney did not think there was any issue that the applicant required the consent of the property owner for the Board to hear the application. Mr. Alonso agreed but discussed in length the contract and options. Mr. Sproviero clarified that Mr. Alonso's position was the extension periods under the contract had expired, there had been no extensions, this applicant had not demonstrated satisfaction with the condition that the consent of the property owner remained valid and the Board had no jurisdiction to hear the application. Mr. Alonso agreed and added it was not sufficient that they provide representation from United Water at this hearing because that had to go through the Board of Public Utilities (BPU) to be authorized. Mr. Sproviero did not know if he was in agreement with that and asked if each of the 30 day options required BPU approval. Mr. Alonso answered no.

Mr. Del Vecchio said they had a written consent from United Water to prosecute the application in their stead and that was all that was required of them as a developer. The private contract issues were not an issue for the Board and the ordinance stated that either the owner or the applicant with the owner's consent could appear before the Board. Mr. Del Vecchio stated as part of the initial submittal of the application they provided the signed and written consent of United Water which had not been withdrawn or revoked.

Mr. Del Vecchio distributed a letter to the Board concerning the status of the contract from Archer & Greiner dated May 14, 2013. The letter was read into the record. Mr. Del Vecchio said it was their position that they had a written consent, reconfirmed that the consent was in place by the property owner and they had the property owners position on the contract extension and the lack of any BPU action required for the extension of time. Mr. Del Vecchio added the contract review did not affect the Board's jurisdiction. The Board Attorney stated the MLUL required any applicant that was not an owner of the subject property obtain the consent of the property owner. The MLUL does not speak in terms of contract purchase status or any other status other than obtaining the consent of the property owner. Mr. Sproviero was satisfied not only through the correspondence but by way of the initial application and the non revocation of the consent that was granted at the time the application was filed and confirmed through the May 14, 2013 correspondence that the consent of the property owner was in effect. The Board Attorney concluded the Board continued to have jurisdiction. Mr. Alonso believed the correspondence of May 14, 2013 to be self serving and not supported by any statement from BPU. The Board Attorney did not think they needed the BPU because the MLUL did not say anything about contract status. The Board Attorney said there may be review contract issues but he did not think those issues as they pertain to the contract of sale affect the Board's jurisdiction to hear the case. Mr. Alonso said his point was to preserve it for the record.

Mr. Del Vecchio shared with the Board some developments that have occurred. He explained Mr. Stokes had recused himself because the Board had received a letter from the BOE indicating they had an interest in this application. Mr. Del Vecchio stated that the applicant as well as himself were not pleased that there was another entity seeking to involve itself in their application because it upset the balance of the Board, the process of the application and involved expense in terms of their declaratory action filed with the court. Mr. Del Vecchio said the two parties who were adverse to each other have turned things around. The BOE had reached out to them to open dialogue and they have worked hard to understand each of their problems, wants and needs. He added that last night the BOE took a vote to authorize an agreement with NMRA. Mr. Del Vecchio stated they wanted to explain the nature of the agreement because it would impact the application as it was pending before the Board. He understood that the applicant, members of the board and the public have invested a lot of time and they did not intent to change the application or lose the testimony and hearing time. He announced they agreed with the BOE that the applicant would accept a condition of their approval of this current application. Mr. Del Vecchio added if the Board were to approve the application, the applicant would provide an excess of 3 acres of land of their property to the BOE for them to construct an athletic field and stadium on the property in the area where they designated the storm water detention and flood hazard storage. The applicant did not intend to go back on their commitments to the Board or the public to maintain the storm water detention volumes and the flood hazard area volumes as proposed on their own property to recreate that by way of an easement over a portion of the BOE property. This would allow the BOE to construct a state of the art athletic field that would not be subject to the flooding that the public has complained about to the applicant many times during the course of the meetings.

Mr. Del Vecchio said they have listened to the public and the Board's concerns about the scope of the housing. They were listening to the concerns for providing for the school children, the athletic department and field of dream groups that have sought additional land to create the

complex that they have been told the community would like. Mr. Del Vecchio said they have a conceptual plan that showed the delineation of the field to be located on the subject property. According to Mr. Del Vecchio, if the necessary governmental approvals from the Board, DEP and County were secured, the applicant would accept the condition of approval and donate to the BOE that land area to construct the field. Mr. Del Vecchio showed on the map the existing BOE property and the area of the softball field that would be utilized for the stormwater management basin and provide some flood hazard storage. There would be an area also outside of the track and within the track that would provide the additional flood hazard storage that they agreed to provide on their property.

The applicant had conceptual plans to provide visual aid and according to Mr. Del Vecchio, they would provide more detail and Mr. Dipple would explain the revisions on the drainage. Other than the drainage component, the application as last constituted remained unchanged and the applicant thought the revised plan added another component to the inherently public benefits that this application sought to provide at no cost to the community.

Mr. Del Vecchio had asked representatives from the BOE to attend the March 14th Zoning Board meeting. The Board Attorney asked if there was a form of agreement that existed. Mr. Del Vecchio answered there was a list of terms that have been agreed upon. There would be a letter of intent and the BOE had authorized the signature for the document and then the next step would be the contract. The Board Attorney asked if a letter of intent would become evidentiary in this proceeding. Mr. Del Vecchio said they were negotiating with a public body and the documents might be public. Mr. Sproviero questioned his comment regarding the development of the property for the public use at no expense to the community. The Board Attorney asked if that was no cost for the land or no cost for the entirety of the project. Mr. Del Vecchio said the applicant would provide the land area in a rough graded state ready for development to the BOE and the applicant would make a donation to the BOE. Ms. DeBari clarified that they were not paying for the total cost. Mr. Del Vecchio said they were not building, providing the dirt, the field, the stadium and buildings that went with it but they were providing a sizable contribution to the effort. Ms. DeBari asked how many meetings they had with the BOE regarding this. Mr. Del Vecchio said there were many telephone and conference calls and two or three meetings. Ms. DeBari asked when these meeting took place. Mr. Del Vecchio said after the April 18, 2013 meeting.

Mr. Alonso said the complaint of the applicant has been that too much time has been wasted so the applicant had the opportunity at this meeting to hear testimony from the public. The Board Attorney interrupted and said sometimes the Board needed to protect the public from themselves. Mr. Alonso said the application had not been amended yet. Mr. Sproviero said it was absurd that Mr. Alonso wanted to present testimony and evidence against an application that isn't what he was objecting to. Mr. Alonso said the application had not been withdrawn or amended. Mr. Sproviero said he heard his argument and they need to hear what was going to happen. Mr. Alonso said he was objecting to an application that was pending.

Mr. Del Vecchio asked the Board if Ms. Mecca, attorney for BOE, could verify his testimony. Ms. DeBari agreed. Ms. Jane Gallina Mecca from the law firm of Fogarty and Hara, 16-00 Route 208 South, Fair Lawn, NJ, affirmed what Mr. Del Vecchio presented regarding the BOE

reaching a conceptual agreement with the applicant for a substantial donation of approximately 3 acres of land adjacent to the board's existing property. The BOE felt this was the best opportunity that it would ever be presented with in terms of having a new location for the athletic facility. According to Ms. Mecca, the decision was made after careful consideration of the BOE options and weighing the benefits to the school district, children, athletes, and to the community. Ms. Mecca added the revised plan by the developer would require a series of approvals from the Zoning Board, Department of Education, DEP and others. Ms. Mecca said this was a conceptual plan and because there were so many questions that need to be answered in terms of what can and cannot be done, this has not been completely converted into an agreement. She added the BOE has retained a consulting engineer that would make sure the plan would maintain the integrity of the existing properties, to have a practice field on the existing field and hopefully a stadium on the proposed property. Ms. Mecca added the BOE thought it would be a benefit to the community and asked the community to stand behind them.

Ms. DeBari asked if the existing track and softball field would remain the BOE's property. Ms. Mecca said there would be an easement on the softball field to assist with stormwater management and retention and the existing track and existing field would remain.

Mr. Loonam asked Ms. Mecca if the BOE had the ability to enter into the agreement if any grant money was used to reconstruct the track. Ms. Mecca did not believe the BOE had the ability to tap into any grant money for the track. According to Ms. Mecca, the grants were not granted for strictly athletic facilities because there had to be some educational component to it. Mr. Loonam thought they needed to look into it. Ms. Mecca agreed and believed there was money available through the County Open Space Trust Fund. She added the BOE could not apply for it but could enter into shared services with the municipality. The municipality would then apply for the grant on behalf of the BOE and then construct/maintain the facility and the grant monies would be available for it. Mr. Loonam asked if the town or taxpayers would be put into a position to repay the grants. Ms. Mecca said they would look into it but the only thing changing was the existing softball field and the existing track would remain a track.

The Board Attorney asked what would happen to the softball field. According to Mr. Del Vecchio, the softball field would be excavated to create the stormwater detention basin. Mr. Sproviero asked where they would play softball. Mr. Del Vecchio understood the softball field was a practice field and was not needed for their regular use. He added they did not propose to touch the track but would be grading along the inside and along the exterior of it as a way to create the flood storage volumes. Mr. Loonam again questioned the issue of grant money used for the subject property and the taxpayers having to repay it. Mr. Del Vecchio understood and Ms. Mecca would look into it.

Ms. DeBari said they had received a letter dated March 11, 2013 from Michael Polizzi, Superintendent of Schools, in opposition to the application stating that the increase traffic was an eminent danger to the safety of the school children. Ms. DeBari asked if this was all about a field because now they aren't worry about the eminent danger for the school children with the increase traffic flow. Mr. Del Vecchio said it had always been the applicant's position that the traffic had proved itself out. He added the Board would ultimately be called upon to agree or disagree and if they disagreed another body might be called upon to review the decision. Mr. Del

Vecchio said if someone looked to object the typical reasons were it would hurt their children, hurt their water and food supply but he did not think the facts in this case bear any support to the allegations that were typical. He added they proved their issue on the traffic and they would hear from their traffic consultant and perhaps a traffic consultant from the Board and Oradell. According to Mr. Del Vecchio, the applicant was confident that the traffic information supported the safety concerns.

Mr. Ix clarified that there would be a stormwater detention basin where the existing softball field was located. Mr. Del Vecchio said one stormwater detention basin. Mr. Ix said in 2009 the water was half way up the bleachers and questioned what the stormwater detention basin would do when the water was that high. Mr. Del Vecchio said they would provide the stormwater management report that would give the detailed answers for the Board to confirm or take issue with. The applicant's attorney said on a preliminary basis that the applicant would be able to drop for drop gallon for gallon of the storage proposed on their property be able to replace it where indicated on the proposed plan.

The Board Attorney said his primary concern was how the Board would proceed to prosecute this application. Mr. Sproviero asked Mr. Del Vecchio what happened next. Mr. Del Vecchio responded that they would formally submit a letter of amendment indicating their willingness to accept a condition of the Zoning Board approval for the applicant to proceed with the BOE and if they were not able to secure the necessary governmental approvals they would continue the application as constituted today. The Board Attorney asked what would happen at the May 23rd meeting. Mr. Del Vecchio believed the Board could proceed with aspects of the objector or its own witnesses. Mr. Sproviero said he would not control the objectors on how to present their case and it was fool hearty to start the objectors case before the applicant finished. Mr. Alonso said this changed everything and the Board would need the traffic engineer, Mr. Steck and Mr. Dipple back. The Board Attorney agreed. Mr. Alonso felt this was a new application and anticipated making a motion to dismiss the application and felt the whole process was tainted because of the correspondence issued by the superintendent to the Mayor and Council back in 2011. The Board Attorney said this was not the appropriate time to do it. Mr. DeBari felt Mr. Alonso had a good point.

The Board Attorney asked when they would have the amended components for the Board to hear. Mr. Del Vecchio said they need to confer with the engineer and would report back to Mr. Sproviero with timeframes. The Board Attorney requested a representation to the Board that the May 23rd meeting would be meaningful and after Mr. Steck there would be something else. Mr. Del Vecchio understood. Ms. DeBari felt it was like starting all over again. The Board Attorney could not even say how broad the scope of the amendment was until the Board heard some testimony on it. Mr. Del Vecchio understood the Board needed details and anticipated bringing back Mr. Dipple to speak on the amendment of the stormwater management plan and Mr. Steck would supplement his testimony concerning any additional satisfaction on the positive criteria.

The Board Engineer asked if there was a possibility that the area of the softball field was wetlands or a wetland buffer and maybe they would not be able to do this. Mr. Del Vecchio responded that Mr. Dipple had taken a preliminary look and believed they would be able to make the modifications shown on the conceptual drawings. He said they need to look at the exact

location of where the flood way limit line was because it would control where they could put the additional flood storage.

The Board Attorney clarified there would be a retention system in the track. Mr. Del Vecchio said no the only stormwater management area was at the softball field. The area outlined in the track and adjacent to the outside was one on three or one on five slope coming off the edge of the track and would it be flat in the middle. He further added it was not intended to retain water for stormwater detention but to provide the flood storage. Mr. Sproviero asked if it would be dry under normal circumstances. Mr. Del Vecchio said yes except in a flood event. Ms. DeBari clarified that they were removing the retention basin up top and proposing the field in that location. Mr. Del Vecchio agreed. Ms. DeBari said the retention basin would now be across the street and asked how the water would get across the street. Mr. Del Vecchio said there would be a pipe under the road into the detention basin.

Mr. Loonam asked if the Board was prepared to have a special meeting in May. The Board Attorney wanted the applicants presentation finished before the objectors put on their case. Mr. Loonam clarified the objectors would not present anything on May 23rd. Mr. Sproviero agreed. Ms. DeBari said the Board would meet on May 23, 2013. Mr. Sproviero agreed. Mr. Del Vecchio said in order to continue the chain of notice they would need to continue the hearing to the 23rd and if it does not proceed they would make the necessary announcement. Ms. DeBari said the Board has been more than generous regarding special meetings.

Mr. Louis Flora, on behalf of the Borough of Oradell, thought since there were so many issues involved they would not know anything by the 23rd. He said there was a school facility project that would have to go back to the Department of Education and there was property that might be subject to grant or deed restrictions. The Board Attorney agreed and said if it seemed to be a fruitless exercise to proceed on the 23rd, a notice would be given to everyone. Mr. Flora questioned if there was now a notice issue in terms of extending this project to an area outside the site and would there be variances required. The Board Attorney said he did not know yet.

The Board Attorney said the meeting would be carried to May 23, 2013 at 7PM.

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

Respectfully submitted,
Maureen Oppelaar