

**New Milford Zoning Board of Adjustment
Special Meeting
September 19, 2013**

Chairman Schaffenberger called the Public Session of the New Milford Zoning Board of Adjustment to order at 7:03pm 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 (8:30)

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**

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, asked for special meetings for October. The Board Members scheduled a special meeting for Tuesday October 29, 2013 at 7 pm.

Ms. DeBari stated there would be a timeframe for the public comments.

Ms. DeBari asked if there was anyone in the public to make a presentation.

Anna Leone, 505 Boulevard was sworn in by the Board Attorney.

Ms. Leone had photos of the United Water property and the Lodi Shop Rite on 7/13/13. The Board Attorney asked if she took the photos, they were not altered and fairly and accurately depicted the conditions of the property at the time taken. Ms. Leone agreed and said the photos were all taken on 7/13/13.

Page 2 - Photos of the United Water property facing west, south, north at the Demarest Avenue entrance on River Road and Ms. Leone commented there were no buildings or structures at the site.

Page 3 & 4 showing the flora on the property.

Ms. DeBari asked the resident if she had access to the property. Ms. Leone said these were taken right outside the street.

Pages 6- Photos of the backside and front of the Lodi Shop Rite, sign and trucks.

Page 7 – Photos of a collapsed fence in the rear of the property, a faded sign, a sign reading parking lot subject to flooding, front parking lot of the Lodi Shop Rite

Page 8 – Photos of asphalt and shoppers at the Lodi Shop Rite.

Page 9 – Ms. Leone said these were photos of oil, dirt, debris and potholes at a relatively new Shop Rite.

Pages 10-19 showed photos of dirt and garbage at the Lodi Shop Rite. The resident added the Lodi Shop Rite was the prototype for the proposed Shop Rite.

Page 18 – Photos facing the United Water Property west at the intersection of Demarest Avenue, Demarest Avenue, view south and north on River Road from the intersection of Demarest Avenue, Senior Center.

Page 19 – Photos of homes directly across the street from the United Water Property.

Page 20 – Photo of a Sycamore tree on River Road in front of the United Water property. Ms. Leone said that 8 of the 11 Sycamore trees would be removed if the project was approved.

Page 21 – Ms. Leone showed photos on Main Street at the intersection of Main Street and River Road. She said the area was quiet with no cars. There were also photos of River Road facing north and South at the intersection of Main Street and River Road, Volunteer Ambulance Corps and a sign reading Caution Ambulance Exiting.

Page 22 – Photos of homes at the intersection of Main Street and Washington Avenue.

Photo 23 – Photos of Merschrod Memorial Bridge and the old Water Treatment Plant.

Page 24 – photos facing United Water property near the intersection of Main Street and Madison Avenue. The resident said at this location it was all green with beautiful trees

Page 25 – Photos at the intersection of Madison Avenue and Main Street.

Page 26 – Photos facing United Water property at the entrance on Madison Avenue.

Page 27 – Photos with different views at the intersection of Cecchino Drive and Madison Avenue.

Page 28 – Photos of the high school track and clubhouse.

Page 29 & 30 – Photos of United Water property on Cecchino Drive

Ms. Leone stated that Mr. Peter Steck testified that the property was not vacant land and characterized the use of the property as an industrial type activity.

Ms. Leone stated that the property was vacant except for plant life as shown in her photos. She noted that Mr. Steck testified that the 2004 Master Plan identified this property as a site for inclusionary housing and one of the few properties that could accommodate this. Ms. Leone pointed out that the 2004 Master Plan identified this property as a site for providing open space and recreation opportunities. Ms. Leone said the Master Plan also said if it ever were sold by the water company a plan to fill the gap between existing open space and recreation land and the need for that type of land could be achieved. The resident stated the Master Plan said that properties that lie within the Hackensack River flood plain were not suitable for the development of housing and other major structural developments because of the flooding characteristics of the river and development would increase the amount of runoff from the impervious surfaces. Ms. Leone referred to the 2001 Open Space and Recreation plan stating that the Borough's goal was to provide ample open space and active and passive recreation opportunities. The resident added none of this Mr. Steck testified to. She commented that the Master Plan also discussed that measures should be taken to preserve open space and prevent the development of those sites where environmental constraints were present specifically areas adjacent to the Hackensack River.

Mr. Steck had testified that River Road was a significant roadway, said Ms. Leone. The resident noted that River Road, Main Street and Madison Avenue surrounding the United Water property was 25 mph. The resident stated there was reference in the 2004 Master Plan to Main Street being characterized as quaint and quiet and at the southern end of town there was a busy and active shopping center on River Road. Mr. Steck had testified that in Oradell there were some areas which contractors use, a recycling center, public works garage, NJ transit bus storage and servicing facility, said Ms. Leone. Oradell's public works garage and NJ transit bus storage were distanced and well buffered from community living unlike the proposed development, said Ms. Leone.

Ms. Leone referred to Mr. Steck's testimony on 4/9/13 that MLUL defined inherently beneficial uses as a use which was universally considered of value to the community because it fundamentally served the public good and promoted the general welfare. Ms. Leone stated that the word *Universal* in the Webster dictionary was described as including or covering all or a whole collectively or distributively without limit or exception. Ms. Leone said many residents have stated their objections to the development. Ms. Leone stated Mr. Del Vecchio sought to disqualify Vice Chairman Stokes from continued participation in the hearings thru a letter brief to Judge Carter and read part of this letter stating that Mr. Del Vecchio said the NMRA's application has been met with stiff opposition from local residents. Mr. Del Vecchio objected that the motion filed was not to disqualify Mr. Stokes but seeking a declaratory ruling. Ms. Leone said it was not inherently beneficial to the community. The Board Attorney stated the extent of the opposition had nothing to do with determination of whether or not it was or was not inherently beneficial. Mr. Sproviero said it was not Webster's standard but the law that they needed to be concerned with.

Page 46 discussed traffic. Mr. Del Vecchio objected to any testimony on page 46 because none of it was factual basis. Mr. DeSantis had questioned Ms. Dolan at the 9/19/12

meeting about the increase of traffic from the site, said Ms. Leone. Ms. Dolan had answered the roads were underutilized. Ms. Leone wanted to discuss the quality of life. Mr. Sproviero said she could do that in the context of negative criteria but she could not undermine the credibility of an expert witness without presenting her own expert. Ms. Leone said Ms. Dolan's focus was based on the perspective of capacity not from the increase in traffic, wear and tear of roadways and detriment of owners trying to get out of their driveways. Mr. Del Vecchio objected that she had no qualifications to provide an opinion. Mr. Sproviero said it was based upon observation. Ms. Leone stated if the proposed development was approved there would be more traffic. She added many cars would exacerbate the situation regarding residents trying to exit their driveways. Ms. Leone lived on the Boulevard and said it sometimes took 15 minutes to get out of her driveway when school was in session. Negative criteria for the residents living around the area, Ms. Leone said was that the people would not have the same quality of life that they were accustomed to. The resident said if this development exacerbates traffic the response time for emergency vehicles would suffer. The conditions would not be more conducive to their children and they would be at risk and it was a negative criteria putting lives at risk, said Ms. Leone.

Mr. Del Vecchio said there were portions of Ms. Leone's document that were not narrated into the record. He did not have objections to the photos but objected to the relevance of some of the photos. Mr. Sproviero said they would not move the presentation into evidence until they made a determination as to which specific documents would go in.

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

No one wished to be heard.

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

Donna Tomasini, 411 Charles Street, was sworn in by the Board Attorney.

Ms. Tomasini stated from March 29th thru July 31st there have been bus traffic and two Shop Rite tractor-trailers on her residential side street. She reported some of these to Mayor and Council meetings, called NJ Transit twice and had three complaints filed and four calls to Shop Rite Wakefern with two complaints filed.

Ms. Tomasini referred to photos showing a bus on Charles Street turning right on Madison and a bus on Charles Street in front of her home. She also had copies of the Mayor and Council minutes where she addressed her concerns, emails to Christine Demiris, NJ Transit complaint numbers and bus schedules with bus routes. She noted on the bus schedule the route was River Road and Madison and not Charles Street or Baldwin Avenue. There were also no bus stops on either Charles Street or Baldwin Avenue. Ms. Tomasini stated there was still bus traffic on Charles Street even after her complaints. Ms. DeBari asked if a road had been closed. Ms. Tomasini said no and it was constant. Ms. Tomasini also referred to photos of the Shop Rite Tractor Trailer on Charles Street. Another Shop Rite Tractor Trailer was seen on her street in March, which

she did not have a photo of but reported it to the Mayor and Council meeting with minutes of the meeting attached. The resident referred to the October 18, 2012 Zoning Board minutes and questioned the validity of the GPS and delivery route testimony. Ms. Tomasini said if the Shop Rite Tractor Trailers had GPS units they would have followed there routes and not been on Charles and Baldwin. Mr. Pagano testified that they were required to follow the town laws, which Ms. Tomasini said has been overlooked twice.

Referring to the 9/27/12 Zoning Board minutes, Ms. Tomasini said Ms. Dolan testified that the best design ideally would be three 12' lanes with a provision for a left turn lane on River Road. Ms. Tomasini said that would require Mayor and Council and County approval and questioned what if that did not happen. Ms. Tomasini questioned if Mr. Tombalakian's request was ever done to study in more detail River Road and Madison Avenue.

The resident said where the liquor store was on the corner of River Road and Madison cut thru traffic was a problem. She stated every day truck deliveries exit and make a right turn on Madison, a right on Charles and a right on Baldwin. Ms. Tomasini stated no counts were done after 6 pm or cut thru traffic.

Ms. Tomasini has seen a significant change and increase in the traffic pattern over the 24 years she has lived in New Milford. According to Ms. Dolan's testimony on 2/12/12 there would be new customers and an increase in traffic, said the resident. Ms. Tomasini could not imagine any benefit to the traffic.

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

Karl Schaffenberger, 173 North Park Drive, understood trucks finding their way to her street but buses were supposed to be always someplace at a certain time. Mr. Schaffenberger asked what the answer was from NJ Transit when they were notified that the buses were on her street. Ms. Tomasini said their answer was they have been redirected. Ms. Tomasini noted that they have been redirected several times and they were still coming on her street.

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

Ms. DeBari asked if anyone else in the audience wanted to offer evidence. No one wished to be heard.

A motion was made by Mr. Ix to close the evidentiary component, seconded by Mr. Denis and carried by all.

Recess

Ms. DeBari asked to enter Ms. Tomasini's presentation into evidence. The Board Attorney and Mr. Del Vecchio agreed to review and determine what parts of the document would be entered into evidence.

The Board Attorney stated the Board had concluded the objector's evidentiary component of the proceedings and now they would hear from the Board's experts.

The Board Attorney swore in Margita Batistic, Zoning Board Engineer.

Ms. Batistic stated that Boswell McClave Engineering had reviewed the plans and documents submitted to the Board for the NMRA application. As part of the evidence several Boswell letters with comments had been issued on 2/13/12, 10/15/12, 12/5/12 and another letter was submitted on 2/7/13 when the application was revised and all the technical reviews were part of the comments. According to Ms. Batistic, some of the comments were addressed by the applicant, a few minor comments they did not agree to and some of the comments were no longer applicable with the revision which was primarily underground detention that was part of the original application.

Ms. Batistic explained some of the short-term impacts to the neighboring properties and the town by this development. According to Ms. Batistic, the soil moving operations would be a major short-term impact to the community. Mr. Dipple had testified that the soil movement permit would be submitted to the planning board if approved, said Ms. Batistic. The Board Engineer pointed out with the revised plan the applicant raised the entire property approximately 2', which would be a tremendous amount of soil brought to the site. Ms. Batistic stated the soil movement permit would have to address issues relating to the soil movement operations. If the Board approved this application, Ms. Batistic said it would have to be conditioned upon submitting the soil movement operation permit, which would identify truck routes, the schedule and some restrictions on the time of operation. Ms. Batistic stated that short-term impacts would last until the development gets built.

The Board Engineer felt the buffer and screening of the residential area especially the one across River Road had not been addressed enough by the applicant. It was the opinion of the Board Engineer that more trees and dense vegetation needed to be planted. The existing trees along River Road and Cecchino Drive would be removed as a result of the development and the applicant was proposing low shrubs and 11 shade trees along River Road, said Ms. Batistic. The Board Engineer noted that Mr. Ashbahian testified that the equipment on top of the Shop Rite building would not be visible from River Road. Ms. Batistic's opinion was that the equipment would be visible from her calculations and added the proposed plantings were not enough screening. The proposed Shop Rite is the largest structure ever built in the residential area in New Milford, thought Ms. Batistic.

Another issue was the flooding, and the Board Engineer said one aspect that might occur was the result of the Hackensack River rising because of the significant storms. New Milford was a downstream point of 120 square miles of the watershed area and the proposed development is comprised of 13.7 acres which was 0.018% of the entire area,

said Ms. Batistic. The Board Engineer's opinion was that putting in perspective the impact from this proposed development on the flooding of the Hackensack River would be minimal. Ms. Batistic explained that the 100-year flood elevation at the site per the current regulatory maps was at flood elevation 12 at Cecchino Drive and elevation 13 at Main Street according to the FEMA map. The lowest floor of any structure on the property was at elevation 18. Based on the map, the lowest floor of the structure was 5-6' above the flood elevation per the current regulatory map. The residential building was at elevation 19 and the bank at elevation 22.

The lowest grade on the site proposed was elevation 12, which was the intersection of Cecchino Drive and Madison Avenue and according to the FEMA map, if a 100-year flood occurred the Madison intersection would be 6" underwater, said Ms. Batistic. The 1980 NJDEP maps have a flood hazard elevation slightly higher than the 100-year flood elevation. The Board Engineer said the amount of water during a 100-year flood plus 25% was what the DEP went by which was about 13.5 for the site. The 2005 FEMA and NJDEP maps have the same 100-year flood elevation level but the NJDEP added 25% to have a higher flood hazard elevation. According to the Board Engineer, these were the regulations to design a site. Ms. Batistic understood that there were major floods in the area that had elevations way above what was shown on the FEMA and NJDEP maps. It was up to the applicant to design the site for the higher elevation than the current maps and they had to design for a 100 year or higher and the flood hazard was 13.5 and the applicant designed the lowest floor for 18, said the Board Engineer. Ms. Batistic said portions of the site would flood when a major flood occurred as it floods today. Both DEP and FEMA were in the process of revising the flood maps but at this point they did not know what the new regulatory flood elevations would be. They had the maps for coastal areas that they added the advisory base flood but the studies stopped at an area near Rt 4 in Hackensack.

Ms. Batistic stated the site was currently undeveloped so the onsite generated runoff was much smaller than if the site was developed. She explained now the water seeps into the soil and once it's paved this will no longer occur. There were state regulations to be met, which dealt with stormwater runoff in designing a development. The regulations were the post development peak rate of runoff for a two-year storm had to be half of what exists now, for a 10 year storm had to be 75% of what exists now and 100 year had to be 80%. Ms. Batistic further explained that the most of site runoff now seeps into the ground but there was a small amount that runs off the surface and eventually gets into the Hackensack River. The developer had to reduce that amount for a two year storm to the half of it which was provided by detention basins. The basins would collect the runoff, hold it and thru the outlet structure release reduced runoff rate. The applicant's stormwater management plans and calculations exceeded the requirements for 50, 75 and 80.

As to water quality, the DEP requires that the developer reduce the post construction load of total suspended solids by 80% of the anticipated load. After reviewing the applicant's calculations they met the requirement for the detention basins being designed to hold an entire water quality designed storm, said Ms. Batistic.

Ms. Batistic stated another requirement was water quantity. The volume of water on the site would be increased as a result of paved surfaces. A purpose of the detention basins was to hold the increased volume of water and slowly release it into the river after the storm and heavy rain passes. The applicant met the water quantity requirement, said Ms. Batistic.

Ms. Batistic stated there were a lot of comments on the impact of the development regarding the flood and her opinion was the impact would not be significant. Ms. Batistic stated if the application was approved and built according to the plans, it would have a reduction of the rate of runoff. Mr. Sproviero asked what she took into consideration to reach that opinion. Ms. Batistic stated there was a model that they calculated the existing runoff based on the existing parameters. They come up with the amount of water that would runoff the site and apply the reduction required by the state and design the detention basins based on what was allowable to leave the site. The rate of runoff gives the volume needed to provide onsite to hold the water and slowly release it. Mr. Sproviero asked how the removal of the existing berm near the Hackensack River would impact the surrounding community. Ms. Batistic stated the site does not flood currently under this 100-year flood event storm because of the berm and at some points the berm was at elevation 20 but if there was a 500-year storm it may flood. The applicant proposed to eliminate the berm and the top of the berm was at elevation 12 so the water would enter the site. Ms. Batistic said now that the berm was lowered some of the floodwater would enter the site. Mr. Sproviero was not concerned with what happened on the site but how it would affect the surrounding neighborhood. Ms. Batistic said the lowering of the berm would not make it worse. It would take a little drop of water that would otherwise be in the river and stay on the property.

Ms. Batistic stated another issue raised was on the existing site pollution. Ms. Batistic stated in 1997, United Water received a NJDEP permit that allowed them to treat the sludge buried on the site and they started the soil operation on the site. Soil was brought offsite and mixed with the sludge to achieve the lower concentration of the pollution. The Board Engineer thought the soil was tested and accepted levels were sold as topsoil to landscapers and rest was taken to landfills. The Board Engineer stated that was the operation taken place on the site since 1997. In March 2010, United Water received a No Further Action Determination from the State. Ms. Batistic stated there was also mention of an Environmental Impact Statement but added New Milford did not have an ordinance requiring the developer to submit an environmental impact statement. Mr. Sproviero agreed especially when there was a No further Action letter. Mr. Batistic stated it was a vacant piece of land but not a heavily wooded area and up to 2010 there was a soil moving operation on the site. There were a significant amount of trees that would be removed as a result of the proposed development and Ms. Batistic would like some of the buffer be preserved to screen the huge structure from the residential areas. Ms. Batistic's opinion was it was not a pristine area that would warrant an environmental impact statement especially since the ordinance did not require one and it has had soil moving operations for a long time.

Mr. Ix stated that several months ago the applicant proposed seepage pits across Madison Avenue and thought that idea was eliminated because of the water table. Ms. Batistic did not know the reason but her comment was that the floodway cut thru half of the area and she believed there was a wetland buffer issue that would prevent any improvement. Mr. Ix questioned the seepage pits. Ms. Batistic stated they were not proposing seepage pits but detention basins. Mr. Ix asked when the basin filled and standing water was on the site for a few days where did the water go. Ms. Batistic stated the water would stay in the basin until it went away. Mr. Ix asked if the basin was large enough to hold 13 acres of water for days. Ms. Batistic agreed. Mr. Ix asked if the basins were filled and it continued to rain would it go downhill. Ms. Batistic agreed and said if the river rises to elevation 18 everything below elevation 18 would be flooded. If a significant event occurred that would produce the runoff on the site, it would go into the basin. She further explained the basin would not fill up from the river but it would fill up from the site and they were designed to hold the site generated runoff.

Mr. Sproviero asked if the development of the property as proposed by the applicant contribute to the flooding of the surrounding properties. Ms. Batistic answered no.

Ms. DeBari questioned that the detention basins would hold the water so the applicant's property would not flood but asked what it would do for the neighbors downstream because those were the people that they need to be concerned about. Ms. DeBari said with all the impervious area, once the basins filled with water it would run off and run into Madison Avenue and River Road. Ms. Batistic stated the basin function was to hold it until the flood passes then release the water. The Board Engineer said the amount of water would be larger than it was now but the detention basins were designed to hold it on site. Ms. DeBari saw this as prolonging the flooding in that area. Ms. Batistic answered that the rate the site was releasing the water would be smaller than the current storm rate.

Mr. Denis questioned the water table and the water from the site. Ms. Batistic stated the water table was at a level throughout the area. Mr. Denis said the water table under the river was higher now because the river was now much shallower. Mr. Denis said once the basins were filled they would be flowing into a flooded area. Ms. Batistic agreed and said the impact on the flood from the Hackensack River could not be measured. The amount of water from the site was small compared to the runoff that gets down to New Milford, said Ms. Batistic. The Board's Engineer believed the applicant was raising the site by approximately 2'. Mr. Denis commented that the applicant's site would be dry and they would be wet. Ms. Batistic stated the applicant did not take into account the seepage into the ground. Ms. Batistic said everyone knows the latest floods were way above what the regulatory floods were but the law requires them to design to those flood levels. Ms. DeBari commented that they just designed it to the law and met the requirements and added that the property in question with the detention basin would remain dry but stated what floods was the overflow of the river, Madison Avenue and the fields. Ms. Batistic agreed.

Ms. Ix questioned why 2' of fill was brought onto the property. Ms. Batistic thought maybe they wanted it be safer and higher because of the recent events. Mr. Ix thought that they were afraid it would flood and that was why they were bringing the elevation up 2'. Ms. Batistic said originally the site was designed for a lower elevation and they raised it approximately 2'. Mr. Ix asked if it was her opinion they raised it 2' to protect the site. Ms. Batistic said if she was to design this site she would design for a regulatory flood plus a foot or two to be on the safe side. If there was an area on the property that had six inches of water and filled with 2' of soil, Mr. Ix asked if the 6" of water would not be there anymore and be someplace else. Ms. Batistic agreed but added they did not raise the area that was currently under the floodplain.

Mr. Del Vecchio deferred his questions until after public questioning.

Ulises Cabrera, 659 Columbia Street, asked if she ever worked for Hekemian or United Water. Ms. Batistic said no. Mr. Cabrera asked if she worked for Boswell Engineering. Ms. Batistic said she was their consultant. Mr. Cabrera asked if she looked at the sewer lines. Ms. Batistic replied her comment letter asked the applicant to review the capacity of the existing sewer line and prove that the proposed development could be tied into the existing sewer system. Mr. Cabrera questioned a recent report on Cherry Street on a blocked sewer line. Ms. Batistic explained she asked them to study the existing sanitary sewer to make sure the existing system could take the new flow. The applicant might find they have to improve the offsite sewer system and in the report on Cherry Street it said once the improvements were done upstream a study had to be done to make sure that the existing downstream areas could take the additional flow, said the Board Engineer. Mr. Cabrera asked if the proposal was adequate. Ms. Batistic said the study was not submitted and if the project was approved it would be subject to all the engineer's comments. Mr. Cabrera questioned her testimony that the DEP map had the southwest area of the site in the flood zone. Ms. Batistic agreed it was in the flood plain. Mr. Cabrera asked if a basin would be in the southwest portion of the property. Ms. Batistic agreed and said it was outside of the floodplain. Mr. Cabrera asked if she had a problem with it being adjacent to a flood hazard area. Ms. Batistic did not. Mr. Cabrera verified that her testimony was that photos showed the elevations were higher than what the flood maps showed and asked if she did not think it mattered because the applicant was using the required flood map. Ms. Batistic did not say it did not matter but the applicant had to design to the regulations. Mr. Cabrera asked for the depth of the detention basins. Ms. Batistic said the bottom of the large basin was at elevation 9 and the top was at 12. Mr. Cabrera asked how many gallons was the basin adjacent to the flood hazard area. Ms. Batistic said approximately 2.2 million gallons. Mr. Cabrera asked if it was designed to seep water when it reached its capacity. Ms. Batistic said there was a basin and an outlet that would let water out. Below the opening was a certain depth that would hold one-year storm, which was the water quality. Below the opening there was a certain volume that would seep into the ground and eventually go to the river. The resident asked in a 100-year storm none of the water that would seep out of the basin would enter the flood hazard area. Ms. Batistic said all the water would enter the flood hazard area from the site as it did now. Mr. Cabrera questioned once the site was paved water would go to a basin, the river and seep out to the surrounding flood hazard area. Ms. Batistic said it would be

released at a slower rate. The resident commented that would be additional runoff to an area that gets inundated when there were 100-year storms. Ms. Batistic said it would be additional volume of water that would be released into the river at a slower rate. Mr. Cabrera asked why that would not impact the flooding. Ms. Batistic said they provide detention basins to contain the additional runoff that was created by the paved area, hold it and release it at a slower and later time. Mr. Cabrera clarified once the basin was a full capacity at a 100 year storm it would go right to the river. Ms. Batistic agreed. The resident said the town did not need additional runoff. Ms. Batistic said it was additional runoff but it was released at a controlled rate. Mr. Cabrera said the high tide, the runoff, the mismanagement of reservoir and how the river was today needs to be factored in and asked if she thought the applicant should consider the condition of the river when engineering the massive 2.2 million gallon basin. Ms. Batistic said the elevation of the water in the river governs the release of the water. The resident asked if the condition of the river was irrelevant. Ms. Batistic said yes. Mr. Cabrera asked if she was concerned with the river. Ms. Batistic said she was concerned with everything and had looked into the impact of this stormwater to the flooding and did not see a significant negativity and the impact but it could not be measured. Mr. Cabrera said it could not be measured yet she was giving her approval. Ms. Batistic stated she was not approving or disapproving the project but telling them how it meets the requirements that the applicant was required to meet.

Richard Mide, 660 Columbia Street, asked if she saw his presentation. Ms. Batistic was on vacation. Mr. Mide asked if she read the minutes. Mr. Sproviero said that meeting took place on 9/10/13 and the minutes would not be ready or approved for the engineer to read. Mr. Mide said she did not hear his presentation on displacement and was offended on her comment amount 0.08 was minimal because it was significant to the flooding in his home. Mr. Mide asked to do his demonstration on displacement on the Borough Engineer's lap because she said the river was not a factor. The Board Attorney resented his comment and said it was inappropriate. Mr. Mide said Ms. Batistic would object to a minuscule amount of water on her lap just like they objected to being flooded and having mass amounts of water in their lap. The Board Attorney objected.

John Rutledge, 335 River Road, asked what the runoff was in the river now from the site. Ms. Batistic said it was part of the stormwater management report and the existing rate of runoff measured in cubic feet per second for a two-year storm was 4.07' per second. They had to reduce it to 2.03' and the two year rate of runoff after it was developed would be modeled to 0.1. Mr. Rutledge asked if the model was subject to interpretation. Ms. Batistic said this was the data used thru the industry. Mr. Rutledge asked if the NFA letter was predicated on United Water having to mitigate the toxins and toxicity in the property of 90,000 cubic yards of dirt or if there was residual groundwater contamination there. He asked how he could be secure and safe as a resident that this property was not toxic at some layer that the DEP approved. Mr. Rutledge also asked how much impervious coverage this development would generate. Ms. Batistic said approximately 7 acres. Mr. Rutledge asked about her testimony of 6" of water on Madison Avenue. Ms. Batistic answered that the portion of the site that falls within the flood plain, which was the intersection, might have 6" of water during a 100-year flood. Mr. Rutledge asked

about the pollutants and contaminants from the impervious areas that would go the detention basins and be released into the river. Ms. Batistic said they were required to retain 80% of the suspended solids and they met that requirement.

Recess

Lori Barton, 399 Roslyn Avenue, asked if overdevelopment of flood fringe properties over the last 50 years were responsible for increased runoff. Ms. Batistic agreed. Ms. Barton questioned her testimony that the development would have minimal impact of downstream flooding but asked if they developed other flood fringe properties all of them together would have an impact on downstream properties. Ms. Batistic agreed. In 2008, the borough did not even have their own stormwater management plan and in the past there were no requirements for detention basins, said Ms. Batistic. According to the Board Engineer, only recently there have been the newest regulations because there were more floods. Over the last 50 years overdevelopment had a significant impact on floods but if they had been building the detention systems it would not be as severe, said the Board Engineer. Ms. Barton asked what happens if the calculations to reduce runoff was wrong. Ms. Batistic said they reviewed them and they were correct. Ms. Barton questioned the high water table on the softball field and the capacity of the basin to hold a certain amount of water. Ms. Batistic said the bottom of the large detention basin was higher than the softball field. Ms. Barton asked if she knew what the water table was. According to Ms Batistic, they asked for the soil test to done to determine what the water table was and the applicant would do that if approved. Ms. Barton asked if the environmental commission was valid in asking for an independent study based on fact that Ringwood and Garfield had contamination after the DEP gave an approval. Ms. Batistic said the Board determines if they want an independent study. Ms. Barton said the environmental commission letter indicated there was a possibility that an endangered species resided on the property and if there should be a study to find this out. Ms. Batistic said it was mentioned in the letter and it was up to the Board to determine if an additional study was required. Ms. Barton questioned that all the different calculations were based on the 1980 DEP map because it was the law. Ms. Batistic said the calculations were not based on the map. She explained the map sets the standards for the flood level. Ms. Barton said they know the 1980 map was inaccurate based on the photos showing areas flooded not in the flood plain. Ms. Batistic said they do not know that the DEP map was inaccurate and just because houses were outside the floodplain it did not mean they would not flood. If a storm was higher than a 100 year occurs than the areas beyond the 100 year would flood, said the engineer. Ms. Barton asked Ms. Batistic if she understood when it was their health and welfare involved that they get disgusted hearing about industry standards when they know it goes beyond it. Ms. Batistic understood.

Dan Ferretti, 163 River Road, asked if there was a study to see if the infrastructure would support the additional housing and commercial building as far as sewage and would it contribute to contamination at the time of a flood. Ms. Batistic said there was not a study done but they asked the applicant to study the existing sanitary sewage system to make sure it had adequate capacity to handle the additional flood. Mr. Ferretti asked if that was done. Ms. Batistic said if the project was approved they had to get a water treatment

approval with the DEP and it would be part of the municipal and county review with the state having final approval. Mr. Ferretti asked if that should be a pertinent study prior to making a decision. Ms. Batistic said it was a separate permit which they were required to obtain. Mr. Ferretti asked if she was aware that up until a few months ago there was Borough property could still not be cleared because of contamination from sewage and oil from floodwater. Ms. Batistic was not aware of it. Mr. Ferretti asked for the elevation of the top of the detention basin. Ms. Batistic said elevation 12 in the southwest corner. Mr. Ferretti asked if the water levels were at 14 at the southwest corner at the last major storm. Ms. Batistic said maybe a little higher. Mr. Ferretti asked if it were at 14, the water coming downstream would enter the basin. Ms. Batistic agreed. Mr. Ferretti said it could overwhelm the basin immediately if they open the gates and it would wipe out everything there. The resident asked if there was an oil separator in the basin. Ms. Batistic said no. The resident said the runoff of oil, antifreeze, water, and debris would go into the basin thru their catch basin and filter to the base of the basin and asked where it went from there. Ms. Batistic said the solids would be suspended and there was a maintenance plan that required the property owners to maintain the basin to clean it. The resident said if the basin overflows and the oils come to the top it could end up in the fields or on the cafeteria floor and asked if there was a study to find out how to avoid that problem. Ms. Batistic said the basins are maintained and the oil that the river brings in whether the basin was there or not would not make it more. Mr. Ferretti if she was familiar with the Old Hackensack Water building on the northwest corner. Ms. Batistic was not on the property. Mr. Ferretti asked if that property had been maintained over the last 5-10 years. Ms. Batistic said it did not look like it. Mr. Ferretti said they did not have any idea how much the borough would have to put into the infrastructure and would that be a deterrent for the town or county if they had to spend significant money and should be considered prior to an approval. Ms. Batistic said that was up to the Board.

Louis Flora, on behalf of the Borough of Oradell, clarified that she mentioned her testimony did not constitute an approval of the project. Ms. Batistic said she could not approve or disapprove and she was just stating the facts and the review of the engineering plans. Mr. Flora clarified the scope of her testimony was these were the standards, she reviewed the plans in accordance to the standards and advised the Board as to whether or not the plan meets the standards that the law required. Ms. Batistic agreed. Mr. Flora questioned if there were other short term impacts other than soil movement. Ms. Batistic said the short term was the construction period so it would be dust, noise and all that went with it. Some of the impacts would be mitigated by the soil erosion and sediment control plan but some could not be mitigated and would be there for the duration of construction, said Ms. Batistic. Mr. Flora asked if there were any studies done on noise levels that would come from the roof mechanicals. Ms. Batistic said no. Mr. Flora asked if a study should be done. Ms. Batistic did not think it was necessary because of the location of the supermarket it would be more of a physical impact than a noise impact. Mr. Flora asked in regard to the questions she has been asked at this hearing, would it appear that many people believe the 1980 DEP map was inaccurate. Ms. Batistic believed that the people thought that the maps did not represent the flooding situation in the town. According to the Board Engineer, the maps were accurate and were based on the accurate data when they were done. Ms. Batistic said the maps were being revised but did not know how much

that would impact this area. Mr. Flora asked she believed the numbers were accurate with respect to the flood elevation 12 at Cecchino and 13 at Main Street. Ms. Batistic said yes. Mr. Flora said based on conditions and weather patterns that have changed since 1980, did she have an opinion on if the maps were accurate. Ms. Batistic said she could not answer that because the reality is in the last ten years there has been major floods but it did not mean that they would have them in the next 100 years. Ms. Batistic said if she took the data from the last 10 years she would say the 100-year flood elevation would have to be higher than 12.5 that the map showed now but she would not know what the elevation would be. Mr. Flora asked in terms of the design of the project the Shop Rite was 18, the bank was at 22 and residential was at 19. Ms. Batistic said those were the lowest floor elevations. Mr. Flora asked if this was a significant amount of over engineering. Ms. Batistic would not classify that as over engineering because the site went from elevation 27 down to elevation 9 at Madison. Mr. Flora asked if they were raising most of the site by 2'. Ms. Batistic agreed they raised the site by 2' from the previous design. Mr. Flora asked what the lowest elevation was for the supermarket if they did not raise it by 2'. Ms. Batistic said the original was 16. Mr. Flora stated the total size of the three detention basins were almost 3 acres on a 13 acre property. Ms. Batistic said they were large areas. Mr. Flora asked if she has seen other projects with detention basins this large. Ms. Batistic said not as large as detention basin 2 but she has seen some the size at Main Street. Mr. Flora asked if she would agree this was a sensitive area in terms of flood and the ecology of the area. Ms. Batistic said the subject site does not flood. Mr. Flora commented that the earth moving operations were for the remediation. Ms. Batistic agreed it was to remove the sludge. Mr. Flora said outside of the remediation the area was undisturbed for a long period of time. Ms. Batistic agreed. Mr. Flora asked if her comments letters contained all the requirements and the new recommendations made were there would be more trees and more dense vegetation along River Road, there was not enough to screen the building and would require screening for the roof mechanicals. Ms. Batistic agreed.

Karl Schaffenberger, 173 N. Park Drive. Mr. Del Vecchio renewed his objection that the Board Chair that has been recused, cross-examine a professional who he is charge in part with retaining. The Board Attorney said he would need time to consider that question and make a determination at the October 8, 2013 hearing.

Ms. DeBari would not be present at October 8, 2013 meeting but there would be a quorum.

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