



**New Milford Zoning Board of Adjustment  
Work- Reorganization  
January 8, 2013**

Chairman Schaffenberger called the Work Session of the New Milford Zoning Board of Adjustment to order at 7:02 pm and read the Open Public Meeting Act.

**ROLL CALL**

Mr. Binetti		Present
Ms. DeBari		Present
Mr. Denis		Present
Fr. Hadodo		Present
Mr. Loonam		Present
Mr. Rebsch		Present
Mr. Stokes		Present
Mr. Schaffenberger-Chairman		Present
Ms. Batistic-	Engineer	Present
Mr. Grygiel	Planner	Present
Mr. Sproviero -	Attorney	Present

**REORGANIZATION – 2013**

The Board Attorney swore in Mr. Gerard Ix for a two-year term as an alternate member with a term expiring 12/31/14.

The Board Attorney swore in Eileen DeBari for a four-year term as a full member with a term expiring 12/31/16.

The Board Attorney swore in Karl Schaffenberger for a four-year term as a full member with a term expiring 12/31/16.

The Chairman called for a motion to dissolve the Firm of Boswell Engineering.  
**Motion** made by Ms. DeBari to dissolve the firm of Boswell Engineering from its obligations, seconded by Mr. Stokes and carried by all.

The Chairman called for a motion to dissolve the legal counsel of Scott Sproviero Esq.  
**Motion** made by Ms. DeBari to dissolve the legal counsel of Scott Sproviero Esq. from its obligations, seconded by Mr. Stokes and carried by all.

The Chairman called for a motion to dissolve all officers from their obligation to the Zoning Board, that being Vice Chair and Chair.  
**Motion** made by Ms. DeBari, seconded by Fr. Hadodo and carried by all.

Meeting turned over to the senior member, Ms. DeBari.

Ms. DeBari called for a motion to nominate a Chairman for 2013.

**Motion** made by Mr. Loonam to nominate Mr. Schaffenberger, seconded by Mr. Binetti.

There were no other nominations.

The motion passed on a roll call vote as follows:

For the Motion: Members Loonam, Binetti, Denis, Hadodo, Stokes, DeBari

Against the Motion: None

Abstain: Member Schaffenberger

The Chairman called for a motion to nominate a Vice Chairperson for 2013.

**Motion** made by Mr. Loonam to nominate Mr. Stokes, seconded by Ms. DeBari.

There were no other nominations.

The motion passed on a roll call vote as follows:

For the Motion: Members Loonam, DeBari, Binetti, Denis, Hadodo, Schaffenberger

Against the Motion: None

Abstain: Member Stokes

The Chairman stated all the Board members had received four Qualifications statements for Board Attorney for the Zoning Board of Adjustment for review.

The Chairman called for a motion to nominate a Board Attorney for 2013.

**Motion** made by Mr. Loonam to nominate Scott Sproviero, Esq., seconded by Fr. Hadodo.

There were no other nominations;

The motion passed on a roll call vote as follows:

For the Motion: Members Loonam, Hadodo, Binetti, Denis, Stokes, DeBari, Schaffenberger

Against the motion: None

Mr. Sproviero thanked the Board Members.

Mr. Sproviero stated the Board Members had a resolution that recognized Boswell McClave Engineering as Engineer to the Zoning Board of Adjustment. It has been the practice to recognize annually that the Engineering Firm of Boswell McClave Engineering thru Ms. Batistic would be their Board Engineer thru the upcoming term. This resolution appoints and recognizes the Board's intention to follow the past practice to utilize the services of the Borough Engineer as the Board's engineer representative in matters before the Zoning Board of Adjustment.

The Chairman called for a motion to nominate a Board Engineer for 2013.

**Motion** made by Mr. Binetti to nominate Boswell Engineering with the understanding the appointed representative to conduct business to the Board was Ms. Batistic, seconded by Fr. Hadodo.

There were no other nominations;

The motion passed on a roll call vote as follows:

For the Motion: Members Binetti, Hadodo, Denis, Loonam, Stokes, DeBari, Schaffenberger

Against the motion: None

Ms. Margita Batistic thanked the Board Members.

Chairman Schaffenberger thanked former Board Member Mr. Appice for his dedicated service to the Board.

**REVIEW OF MINUTES – November 13, 2012, November 19, 2012 and December 11, 2012.**

The Board Members reviewed the minutes for the Work and Public session and there were no changes.

**RESOLUTIONS**

**12-03 – 105 New Bridge Properties, LLC – Block 113 Lots 4,5,6  
Parking Lot/Restaurant Expansion – use, impervious lot coverage, front and side yard setback, off street parking, signs and seating.**

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

**12-05 - Bromberg – 1109 Alessandrini Avenue – Block 205 Lot 20  
New House – building coverage, height, stories, projections into required yard, driveway/  
curb cut.**

The Board members reviewed the resolution and there were no changes.

**OLD BUSINESS**

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

Mr. Sproviero stated he had received a letter from Beattie Padavano, LLC as well as correspondence from Giblin and Giblin and Kaufman, Semeraro, Bern, Deutsch and Leibman. The Board Attorney stated Mr. Leibman has been appointed Borough Attorney for the Borough of New Milford and he represented to Mr. Leibman that his position paper would be recognized and accepted by the Board. The Board Attorney had considered it in formulating his opinion document distributed to the Board. Mr. Sproviero stated the document expressing his legal opinion to the Board fell under the attorney client privilege. He explained Mr. Leibman would not be present tonight nor did he believe he would be at any further proceedings representing an objector as now his role with respect to this application and his representation of the Borough of New Milford has significantly changed. Ms. DeBari asked if Mr. Leibman said who would be representing Mr. Ashley. Mr. Sproviero did not know if Mr. Ashley would continue to appear in this proceeding as an objector or if he was to continue if he would be represented by counsel. Mr. Loonam asked if Mr. Ashley would be allowed to hire someone from Mr. Leibman's firm. Mr. Sproviero thought that would be a conflict but he did not know if Mr. Leibman or the firm was hired by the Mayor and Council. Ms. DeBari questioned if the Board could accept Mr. Leibman's brief. Mr. Sproviero answered yes because Mr. Leibman submitted it prior to his engagement by the Board.

The Chairman said the Board Secretary submitted the Board's Annual Activity Report for 2012. The Board Attorney stated his recommendation was to start thinking in terms of a master plan revision. The Chairman asked if this would be done in terms of a resolution. Mr. Sproviero answered yes. The Board discussed the matter and decided to meet at 7 pm at the February meeting to review it.

The Board Attorney told Mr. Ix that he would have to listen to the recordings from all the meetings to date for New Milford Redevelopment Associates. Mr. Loonam had concerns on how they would handle questions Mr. Ix might have for any professionals. Mr. Sproviero stated the Board first had to discuss how they would proceed from this point forward with this application.

**Motion** to close was made by Ms.DeBari, seconded by Mr. Stokes and carried by all.

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

Chairman Schaffenberger called the Work Session of the New Milford Zoning Board of Adjustment to order at 8:10 pm and read the Open Public Meeting Act.

**ROLL CALL**

Mr. Binetti		Present
Ms. DeBari		Present
Mr. Denis		Present
Father Hadodo		Present
Gerard Ix		Present
Joseph Loonam		Present
Mr. Stokes	Vice Chairman	Present
Mr. Schaffenberger	Chairman	Present
Ms. Batistic-	Engineer	Present
Mr. Grygiel	Planner	Present
Mr. Sproviero -	Attorney	Present

**PLEDGE OF ALLEGIANCE**

**OFFICIAL MINUTES OF THE WORK SESSION – November 13, 2012**

**Motion** to accept the minutes were made by Fr. Hadodo, seconded by Mr. Denis and carried by all.

**OFFICIAL MINUTES OF THE PUBLIC SESSION – November 13, 2012**

**Motion** to accept the minutes were made by Ms.DeBari, seconded by Mr. Denis and carried by all.

**OFFICIAL MINUTES FOR THE SPECIAL MEETING – November 19, 2012**

**Motion** to accept the minutes were made by Ms.DeBari, seconded by Mr. Stokes and carried by all.

**OFFICIAL MINUTES OF THE WORK SESSION – December 11, 2012**

**Motion** to accept the minutes were made by Ms. DeBari, seconded by Fr. Hadodo and carried by all.

**OFFICIAL MINUTES OF THE PUBLIC SESSION – December 11, 2012**

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

**RESOLUTION TO BE MEMORIALIZED**

**12-03 – 105 New Bridge Properties, LLC – Block 113 Lots 4,5,6**

**Parking Lot/Restaurant Expansion – use, impervious lot coverage, front and side yard setback, off street parking, signs and seating**

**Motion** to memorialize the resolution was made by Mr. Stokes, seconded by Fr. Hadodo

The motion passed on a roll call vote as follows:

For the Motion: Members Stokes, Hadodo, Binetti, Denis, Stokes

Against the Motion: Members Loonam, Schaffenberger

**12-05 Bromberg – 1109 Alessandrini Avenue – Block 205 Lot 20**

**New House – building coverage, height, stories, projections into required yard, driveway/curb cut.**

**Motion** to memorialize the resolution was made by Mr. Stokes, seconded by Mr. Loonam.

The motion passed on a roll call vote as follows:

For the Motion: Members Stokes, Loonam, Binetti, Denis, Hadodo, DeBari, Schaffenberger

**OLD BUSINESS**

**12-01 New Milford Redevelopment Associate, LLC. – Block 1309 Lot 1.02**

**Supermarket, Bank and Multifamily Residential Units**

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

The Chairman and Father Hadodo recused themselves from the application.

Mr. Rebsch requested to be reseatd for this application. The Board Attorney explained that the issue of recusal was up to him not the Board. Mr. Sproviero said to Mr. Rebsch if he believed there were circumstances with respect to the way he viewed this application that previously led him to believe there was a conflict to explain to the Members why they did not exist now. Mr. Rebsch explained in regard to his recusal he had personally nothing to do with the advertisement for the campaign. The Board Attorney asked him if he could hear this application with no disposition and that he could fully, fairly and impartially decide the application with no sense of previous disposition. Mr. Rebsch answered yes. The Board Attorney had no objection to Mr. Rebsch coming back to hear the application. Mr. Rebsch commented he was self employed and made daily unbiased decisions and no one could influence his decisions on this application. Ms. DeBari asked if the applicant's attorney had any objection. Mr. Sproviero stated he did not think it was up to either Mr. Del Vecchio or the Board to decide. Mr. Del Vecchio agreed with Mr. Sproviero that neither the Board nor the counsel for the applicant could waive or grant disposition to a Board Members determination on recusal. Mr. Del Vecchio said it did leave in jeopardy the possibility that the continued participation by any Board Member was subject to judicial review.

The Board Attorney stated there was another issue where a motion was made at the December 11, 2012 meeting by an objector based on the amended site plan filed by the applicant that reduced the residential component from 221 units to 24 affordable housing units and the

elimination of the parking garage and whether that modification resulted in the Board's determination that this application be deemed a new application. Mr. Sproviero had requested the applicant and objectors submit by December 28<sup>th</sup> their written positions with respect to their legal basis underlying their positions. Mr. Sproviero issued his opinion to the Board that he did not think this was a new application and discussed in length court cases and their decisions on amended and new applications. Mr. Sproviero stated the issue discussed in December was that density triggered a new application but reviewing the cases said it was the issue of the quantitative nature of the application. The Board Attorney stated while the numbers of this application had changed what they were asking for remained the same – use variances for a mixed-use development with bulk variances. He said they were not adding property affecting new property owners and they were not adding new variances that would trigger new notice. He felt the elements that the courts were looking for to trigger a new application were not present in this case. The Board Attorney discussed the Davis v. Planning Bd of Somers Pt. 327 N.J. Super.535 case, which involved the McDonald development and felt that was the case that convinced him this was not a new application. Mr. Sproviero did not see a substantial portion of the testimony changing and they would need to hear more engineering and traffic testimony but he did not know if the applicant was planning to bring back the valuation or affordable housing experts. The Board Attorney concluded that he did not believe this was a new application. Mr. Stokes asked for comments from the Board Members. Ms. DeBari agreed but said last month there was a new flood map published in the paper and would the applicant consider using the new flood map for the application. Mr. Sproviero stated if there were new proofs that were not introduced into the record by the applicant the Board had the ability thru the Board Engineer to put it into the record and question the applicant's experts on how the map would impact the proposed development. Mr. Sproviero explained that was a proofs question not a jurisdictional question. Mr. Stokes questioned what happened if the Board found this a new application. Mr. Sproviero stated in the event the Board determined this was an amended application the Board would proceed with the application. If the Board determined this was a new application, he anticipated that the applicant would withdraw the amendment and file a new application to prosecute a new application based upon the reduced residential component while simultaneously prosecuting the existing application for the full residential component.

Mr. Loonam felt since the original application went from 40 to 24 affordable units the dynamics changed tremendously. He had concerns with the reduction of units and the town's COAH obligations.

Mr. Stokes stated they were looking for a motion whether or not this was an amended or new application. No Board Members made a motion. The Board Attorney stated if there was no motion declaring this a new application the Board would continue in the normal course. Mr. Del Vecchio stated the issue was raised by a request from an objector and agreed if the Board did not act on that request the application would continue as previously submitted.

Mr. Stokes polled the Board whether the application was new or not new.  
Members voted not new : Members Denis, Binetti, DeBari, Stokes, Ix  
Members voted new: Members Loonam, Rebsch

The Board Attorney stated the Board would continue with the application.

Recess

Mr. Del Vecchio member of the firm of Beattie Padovano on behalf of the applicant asked about special meetings. Mr. Sproviero stated Mr. Ix needed to listen to countless hours of recordings and wanted to give him some time to listen to them. The Board Attorney also stated the Board and the applicant have been trying to resolve a dispute with respect to how certain professionals' bill for their time for the attendance of special meetings. Mr. Sproviero stated as a result of the dispute the application was out of escrow and bills have not been paid. The Board Attorney stated they were close to a resolution and did not think the Board should schedule any special meetings until such time they have arrived at a final resolution of that issue.

Mr. Del Vecchio commented in regard to the new member they did not want to be dealing with this issue next January and another new member seated and said if they don't get these hearings done they would have this discussion in 2014. He added his obligations end at the first quarter of 2013. Mr. Del Vecchio stated the issues were complex and sometimes they deal with curve balls at no fault to the Board or applicant. Mr. Del Vecchio felt this application deserved special meetings and stated this was an inclusionary development application and believed the COAH regulations require the Board to remove cost impediments to produce affordable housing and having the application stretched out was a significant cost factor in prosecuting any application. Mr. Del Vecchio stated in regard to the escrow resolution he agreed they were close on resolving the prior billings against special meetings. The Board Attorney's concern was his client has ceased to make the monthly escrow payments. Mr. Del Vecchio stated they would apply the credit and would submit the difference. The Board Attorney suggested they schedule a special meeting on the condition that in addition to the credit the Board received at least \$5000.00. Mr. Sproviero stated the Board has conducted 21 hearings in 2012 and the Board has gone above and beyond what was normally expected of a Zoning Board of Adjustment in recognition that this was an inclusionary development. The Board Attorney did not want the Board to be put in a position that the Municipality would issue notice suspending the proceeding because they were out of escrow. The Board Members scheduled Thursday January 31, 2013 7:30PM for a special meeting pending an escrow payment.

Mr. Del Vecchio marked as exhibits:

Exhibit A-37 architectural plans three sheets November 28, 2012

Exhibit A-38 revised engineering plans L2A 19 sheets last revision sheet 12/11/12

Mr. Del Vecchio recalled Mr. Lessard and reminded him he was still under oath and he was previously qualified and accepted as an expert in the field of architecture.

Mr. Lessard testified that the current retail center location and pad site remained the same. There was a 24 unit three story walk up building to meet the fair housing, a surface parking lot, an enclosed trash compactor and handicap accessible requirements would be on the first floor units. He reviewed the COAH mix stating there were 4 one bedroom units at 720 sq ft, 15 two bedroom units at 1,080 sq ft 5 three bedroom units at 1,200 sq ft. Mr. Lessard stated there were no dens, all affordable and the mix provided met the COAH requirements. He added on the first floor there was a management space to manage the units.



Mr. Lessard referred to exhibit A2-01 elevation B and described the sloped asphalt roof, the building height being 30' to the fascia, 39.5 to the midpoint of the roof and 49' to the top of the ridge point. The materials would be brick and horizontal siding. Mr. Del Vecchio clarified that the finishes on all four sides of the building would be fully finished in the same manner so all elevations were clean and polished. The architect agreed and said the bank was a one story building set 2' higher than the elevation of the multi family building. It would also have a sloped roof.

Mr. Del Vecchio asked if the 24 inclusionary units would be fully compliant with COAH requirements and meet all building code requirements in terms of fire, fire safety, fire accessibility and travel distance to the necessary exit points. Mr. Lessard answered yes. Mr. Del Vecchio asked if the building would be accessible on all four sides by ladder for fire safety purposes and be fully sprinkled. Mr. Lessard answered yes.

Mr. Stokes questioned how the building would be air-conditioned. Mr. Lessard answered they would have PTAK units installed under the windows.

Mr. Loonam referred to the site plan and asked if he drew the architectural rendering. Mr. Lessard said yes and there was a refinement on the site plan that Mr. Dipple would testify to but the building location was the same. Mr. Loonam questioned what the flood storage was. Mr. Lessard said it was a civil engineering question. Mr. Sproviero asked him to explain what he meant when he testified the units were fully compliant to COAH. Mr. Lessard answered the bedroom counts and size of the counts and in terms of the accessible requirements it was a non elevator building and it was required to be accessible on the first floor because there were walk up stairs for the second and third floor. Mr. Sproviero asked what the bedroom counts were. Mr. Lessard said they want to make sure they were not manipulating the bedroom counts in order to satisfy family requirements of the affordable. He reviewed the bedroom counts and explained they had 5 three bedroom units and COAH had minimum requirements of how many three bedrooms because if there was market rate you might choose to do zero.

Ms. DeBari asked why there was not an elevator in the building. Mr. Lessard said because it was not a large building, only had 24 units and construction costs. Ms. DeBari couldn't understand why a brand new building would not have an elevator. Mr. Lessard said they look at elevators if there were a lot of units and greater than three floors. Mr. Loonam asked if COAH was still suspended. Mr. Del Vecchio stated the COAH was not suspended anymore and the requirements in terms of bedroom mix, accessibility and size were never a target of any of the litigation and had never been challenged. The COAH cases heard in November of last year were awaiting decision from the Supreme Court so they do not know the ultimate status of what COAH would be.

Mr. Grygiel clarified his testimony regarding an amenity mentioned on the architectural plan would be replaced with an office. Mr. Lessard agreed. Mr. Grygiel asked if there were any proposed amenities to be provided for the residential units. Mr. Lessard answered no.

**Motion** to open to the public for questions to the Mr. Lessard was made by Ms. DeBari, seconded by Mr. Denis and carried by all.

John DeSantis 190 Powell Drive, asked if there would be any playground or swing sets. Mr. Lessard answered no it was not required.

Ms. Hillmar 563 Columbia Street, asked if the building had to be compliant with ADA requirements. Mr. Lessard answered Fair Housing Requirement. Ms. Hilmar asked in terms of ground surface area what the difference between the previous and revised plan was. Mr. Lessard did not have the calculations but he could provide it later.

Michael Gadaleta 270 Demarest Avenue, asked if COAH had a complimentary recreation area requirement for children. Mr. Lessard said he was dealing with the building. Mr. Gadaleta asked if COAH had a recreation requirement for development for internal or external for children. Mr. Lessard did not know of any requirements inside the building. Mr. Del Vecchio stated the COAH regulations had no requirements to provide any recreational amenities for affordable housing. Mr. Gadaleta questioned if he thought a building of this type should be accessible on all floors. Mr. Lessard answered no. Mr. Gadaleta asked if this would be an energy star building, which would need to meet certain codes like insulation and high-energy equipment. Mr. Lessard said they were building to code and energy star was for appliances. Mr. Gadaleta disagreed and said it went from windows down to caulking. Mr. Lessard said he would provide to code. Mr. Gadaleta responded minimum code.

Lori Barton 399 Roslyn Avenue, asked if there were restrictions on how many residents could reside in a unit. Mr. Lessard answered there were fair housing requirements and that would be a management issue. Ms. Barton asked who would be picking up the trash for the building. Mr. Del Vecchio said there would be private garbage collection for the units. Ms. Barton had questions regarding ambulance pick up for residents on the third floor. Mr. Lessard said it was not unusual to walk up to get residents that need help.

Todd Ghiosay 334 Morris Lane, asked if he reviewed any environmental reports with regard to ground water. Mr. Lessard answered no. The resident asked if he was aware of a report that was commissioned by United Water that indicated there were chlorinated solvents on the property. Mr. Lessard was not aware of it. Mr. Ghiosay asked if he would look into that issue. Mr. Lessard answered he would look into any report that was given to him but he had not seen any report so he could not testify to it.

Ulises Cabrera 659 Columbia Avenue, asked if they needed to bore any soil samples before the construction. Mr. Lessard said it would be done at construction. Mr. Cabrera asked what they looked for when they did that sample. Mr. Lessard answered the soil expert gives their recommendation for the foundation system. The resident asked if it would be built on a slab or would it have pylons. The architect answered he did not have the soil report yet.

Nick D'Amelio 349 Trench Avenue, asked if there were provisions for handicap people. Mr. Lessard answered yes on the first floor.

Gene Murray 425 Madison Avenue, asked if any of the units were designed for purchase. Mr. Lessard answered that was a decision by the owner. Mr. Murray asked if he was designing to a market price. Mr. Lessard answered no and added whether it was a rental or sale there were regulations on pricing. Mr. Murray questioned if there were considerations on what was put into a unit. Mr. Lessard said he followed a program that meets the affordable requirements. Mr. Murray questioned how they knew that 24 units were the correct number for the development and what was the actual COAH requirement for New Milford. Mr. Lessard said the attorney gave him the program and he would have to ask him. The resident asked if the completion of the 24 affordable units would help New Milford meet its COAH obligation. Mr. Lessard assumed it would but it was not up to him to testify if it met the local requirements. The resident asked who on their team could present that to the Board. The architect answered the planner. Mr. Sproviero stated their COAH planner presented a calculus which differed from the calculus of the municipality and the state had their numbers so there were various numbers out there. Mr. Murray had concerns that they could develop 24 COAH units on this reduced plan and find out later that it did not make a dent in the COAH obligation. Mr. Del Vecchio answered that every unit produced for affordable housing made a dent in the affordable housing obligation. Mr. Sproviero said provided there continued to be COAH obligations. Mr. Del Vecchio said there was a Supreme Court mandate and until it changed it was out there and the obligation was still unfulfilled in the second round in New Milford. Mr. Del Vecchio stated he reviewed Dr. Kinsey's report as to his calculation on the number of units created by the commercial development aspect of this project. His report and testimony stated the supermarket and bank created approximately 8.2 units of affordable housing and this applicant choose to provide three times the minimum. Mr. Murray questioned that they did not know if the units would be affordable in the marketplace under COAH guidelines because they were not able to say what was going into any of the units. Mr. Del Vecchio objected and said COAH regulations tell them how much they could sell for and how much they could rent for and whether there were gold or standard faucets was no difference to COAH. He added what went into the footprint or interior of the building was outside site plan jurisdiction of the Board. Mr. Murray responded that COAH did provide some requirements that they could price their units 50 to 80 percent of market rate and how could they price something at 50-80% of "x" if they did not know what "x" was. Mr. Del Vecchio said it did not provide for 50 to 80% of market but it provided for how much of your pay could be dedicated to selling or renting a home regardless of what may be in there.

Gail Ablamsky 557 Mabie Street, had concerns with excavating the soil and asked how many feet down would they need to go for either the slab or basement. Mr. Lessard answered there would not be a basement. He said the soil expert and engineer recommended to them the footers but from a design standpoint he had to have footers low enough not to be effected by frost. The resident questioned when they move the soil they could be releasing contaminants into the town. The architect had no information that indicated that.

Miriam Pickett 222 Baldwin Avenue, said that the plans were not complete and if this was the normal way business was done that questions asked would be answered upon approval. Mr. Lessard explained the process and some questions were construction detail, which would not be answered at this stage. The resident asked when he received his request to revise the presentation. Mr. Lessard did not remember but said there were documents with submission dates. Ms. Pickett questioned how he could design a building and not know if it would be on a

slab or pylons. Mr. Lessard said they would need it for a building permit but not necessarily a building process.

Steven Tencer 701 William Bliss Drive, felt there was no consideration for going beyond the minimum requirements and asked if the applicant planned to provide testimony from site and soil experts to get answers to questions asked. Mr. Lessard did not know and corrected the resident that from an elevation standpoint he did not believe the elevations were at a minimum. He added there was a substantial amount of brick and it was detailed proportioned well. Mr. Del Vecchio stated Mr. Dipple previously testified to environmental conditions of the property, soil borings and tests taken and the status of the property being cleaned by the DEP.

Al Alonso 45 Clover Court, questioned there were no NJ license number as an architect on the renderings and asked if he was a licensed architect. Mr. Lessard answered yes. Mr. Alonso questioned his testimony regarding amenities being cost prohibitive based on the cost of construction. Mr. Lessard answered even if there were amenities there would be monthly maintenance costs, which become a problem for market rate and sales. Mr. Alonso asked what the projected cost for construction was for this 24 unit building. The architect said approximately \$60-85/sq ft. Mr. Alonso asked what would be the cost to provide minimum recreational amenities. Mr. Lessard said he would not provide it for 24 units and it could be cost around \$60-\$80,000. Mr. Alonso asked if he designed the supermarket building. Mr. Lessard answered that was a prototype footprint. Mr. Alonso questioned if the flood storage area was part of the recreational amenities. Mr. Lessard said that was a question for the civil engineer.

Louis Flora on behalf of the objector Borough of Oradell, law firm of Giblin and Giblin, 2 Forest Avenue, Oradell, asked how the amenities provided for the original 40 units differ with respect to the proposed. Mr. Lessard said there was a pool and approximately 3,500 sq ft allocated for recreational amenities.

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

Mr. Sproviero asked if the Board had architectural plans of the proposed supermarket building. Mr. Lessard answered it was a shell building. The Board Attorney questioned that the shell layout was reflected on A1-03 on the initial plan. Mr. Lessard agreed that it showed a cold shell that someone would lease and then layout the inside where they would want shelves, cash registers and bathrooms. He added that they might think but not necessarily know what the user was. Mr. Sproviero questioned his testimony in response to Mr. Alonso that he did not design it. Mr. Lessard answered he designed the pad. The building that goes on the pad might be designed by another architect depending on the user. The Board Attorney stated the Board has heard testimony that the user would be Inserra Supermarket. Mr. Lessard answered until something was approved there was no user or contract. Mr. Sproviero questioned what they were doing if the Board was hearing testimony offered by representatives of a user that might not be the user based on a plan that Mr. Lessard signed but did not design. Mr. Del Vecchio stated the footprint was for an Inserra Supermarket and they stipulated for the record that the outside exterior of the building would be familiar to the Lodi building and they were committed to Inserra Supermarket subject to zoning board approvals.

Ms. DeBari asked what would happen if Inserra backed out. Mr. Del Vecchio stated he indicated his commitment to the site and thru contractual dealings with the applicant but if the building could not be used for Inserra Supermarket he believed any subsequent user would have to come to the Board for amended approval.

Mr. Rebsch asked what motivated the applicant to reduce it to 24 units. Mr. Del Vecchio answered the good will and comments of the Board. Mr. Rebsch commented that he has been to every meeting since his recusal and did not think he would have to listen to the recordings. Mr. Sproviero would let him know after he thought about it.

Mr. Del Vecchio said they have concluded with Mr. Lessard's testimony.

Recess

Mr. Del Vecchio recalled Mr. Dipple who was previously sworn in and qualified as a civil engineer. He asked the architect if the revised drawings marked A-38 were prepared by him. Mr. Dipple answered yes. Mr. Dipple confirmed that the square footage, location of supermarket and bank component, parking field and access points to and from the site as it related to the supermarket all remained the same. Mr. Del Vecchio clarified that the parking field as it relates to its connection to the supermarket, the bank pad parking all remained the same except for the connection to the proposed residential lot. Mr. Dipple agreed. Mr. Del Vecchio also clarified that the additional site changes as it pertains to the roadway geometries associated with the site all remained unchanged. Mr. Dipple agreed. Mr. Del Vecchio said the residential had been reduced in size to accommodate the new footprint to house 24 units of affordable residential housing. He said it was the applicant's intention that the parking layout and orientation of the building were to be controlled and supersede the architectural drawings. Mr. Dipple agreed.

Mr. Dipple reviewed the changes for the revised plan. Mr. Dipple referred to C-03 overall site plan which depicted the entire property with the supermarket remaining the same. He stated there were 48 parking spaces associated with residential building which was connected to the bank lot with a total of 84 parking spaces in the area between the bank and the residential dwelling. He said the entry points and circulation patterns remained unchanged. They still had two access points off of River Road, one access point off of Main, one access point off of Madison and no proposed access points off of Cecchino Drive or any improvements made to that right of way. Mr. Dipple stated there was empty space to the west of the proposed 24 unit building which was labeled above ground detention/infiltration basin which would manage storm water from this development including the 24 units, bank pad and part of the supermarket. The underground detention/infiltration system at the bank, a small infiltration system in one of the courtyards of the previous building, an above ground detention infiltration basin along Madison Avenue have all been replaced by this detention basin which sits in the southwest corner of the site. He stated there were now two detention basins on the site. Mr. Del Vecchio asked if the detention basin # 2 would hold standing water on a regular basis. Mr. Dipple said no only after a storm event. He stated the basin would have a sand bottom so when water entered the basin some of the water would infiltrate and some would flow out thru a pipe out to the Hackensack River. Mr. Dipple explained there would be a 36" fence around basin #2.

Mr. Del Vecchio asked if the new curb radius and layout for the residential component was designed to address the fire departments concerns regarding equipment getting in and out of the parking areas. Mr. Dipple answered yes. Mr. Del Vecchio clarified there was now access to all four sides of the building. Mr. Dipple answered yes. Mr. Del Vecchio asked if there would be any problems in providing emergency access to or from the building for police, ambulance or fire. Mr. Dipple answered no.

Mr. Dipple reviewed the zoning table and stated there were two variances eliminated. One was for maximum building coverage where 18% was allowable proposed 13.75% and the other was maximum impervious coverage where 58% was allowable proposed 56.21%. The engineer stated the parking requirement had been significantly reduced where the site required 547 spaces and they were providing 438 spaces where a variance was required for 109 spaces.

The Engineer reviewed C-05 Site Plan-2. He said they proposed a 12x18 ft trash enclosure with sidewalks leading to it, enclosed by a fence and handled by a private hauler. He described the infiltration detention basin 2 on C-07. He said the finished floor of the residential building was elevation 19 and the bank elevation 22. Mr. Dipple described the lighting plan on C-09 and said they incorporated a lot of the acorn style lighting in the residential dwelling which would be consistent to the access driveway from River to Madison and thru out the parking area. Mr. Dipple said the illumination levels met the IES Standards. The Engineer said on C-12 Landscaping Plan there were no changes to the tree management plan but they provided a detail landscaping plan.

Mr. Del Vecchio asked if the map that appeared in the newspaper was the official map. Mr. Dipple answered no. Mr. Del Vecchio asked if the map in the newspaper extended to cover this site. Mr. Dipple answered no. The Engineer said they had discussions with the DEP and FEMA and the map issued was an advisory map along tidal and coastal areas, which was a mandate from Governor Christie to produce the map due to the devastation from Hurricane Sandy. Mr. Dipple said it was described to them as a safe elevation of tidal surges so the coastal areas could begin to rebuild. He said it did not extend up to this site because this was a fluvial flood area not a tidal flood area.

Mr. Loonam questioned why the new basin was labeled flood storage area on the architectural plan. Mr. Dipple responded they had changed the elevations of the property especially down along Madison and Cecchino where the elevations of the existing berm were currently at elevation 19. He said under this proposal that berm would be removed and invite flood waters into this area onto the site should they rise to an elevation above 12. He said it functions as a detention basin with infiltration capability. Mr. Loonam asked if the new design increased the capability of the flood basin previously submitted. Mr. Dipple stated there was no new map they were still at elevation 14 for the flood hazard area. He stated the old site did not allow any flood water onto the property at all and that changed under this application. He believed it made things better for the community in terms of flood storage.

Mr. Binetti asked if they would consider putting a football field on the flood storage area. Mr. Dipple answered he had not been asked to design a football field. Mr. Binetti said it was something to think about.

Mr. Loonam requested again a field trip to the site. Mr. Del Vecchio stated they had communication with United Water and they would need an access agreement, hold harmless and insurance to allow access. He said it was preferable and easier to accommodate one member at a time. Mr. Del Vecchio would work out the terms with the Board Attorney.

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

Respectfully submitted,  
Maureen Oppelaar