

**MINUTES OF REGULAR MEETING OF THE
JACKSON TOWNSHIP BOARD OF ADJUSTMENT MARCH 3, 2021**

The March 3, 2021 Jackson Township Board of Adjustment Meeting was called to order at 7:05 p.m. with a salute to the flag by all present. Attorney Sean Gertner read the Open Public Meetings Act Statement and announced that adequate notice has been provided for this meeting.

ROLL CALL: Jeanine Fritch Kathryn McIlhinney, Board Secretary
Stephen Costanzo- arrived at 7:34 p.m. Scott Najarian, Board Vice Chairman
James Hurley Carl Book, Board Chairman
Toni Ann Comello- Alt #2

Also Present: Sean Gertner, Board Attorney, Evan Hill, Board Engineer, Ernie Peters, Board Planner, Frank Miskovich, Board Traffic Engineer, Jeffrey Purpuro, Zoning Officer, Fran Dibella, King Reporting, and Danielle Sinowitz, Zoning Board Recording Secretary.

Approval of Minutes: Motion to approve meeting minutes of February 17, 2021 by NAJARIAN/ McIlhinney. Yes: Fritch, Hurley, McIlhinney, Comello, Najarian, Book.

Motion to approve a voucher for Francesca Dibella, King Reporting in the amount of \$250.00 for March 3, 2021 & Danielle Sinowitz in the amount of \$150.00 for the meeting of March 3, 2021 by NAJARIAN/ McIlhinney. Yes: Fritch, Hurley, McIlhinney, Comello, Najarian, Book.

Resolutions: 2021-08: Siegel, Block 4605, Lot 31, 6 Elmswell Court- Granting approval of a variance to construct a deck. Motion to approve by NAJARIAN/ McIlhinney. Yes: Fritch, Hurley, McIlhinney, Comello, Najarian, Book.

Mr. Book announced for this evening, application **3. Paul Fornicola/ 534 Whitesville Road, LLC, Block 22401, Lot 15, 534 Whitesville Road**, Mr. Alfieri is representing the applicant. Mr. Gertner stated for members of the public application number **3. Paul Fornicola/ 534 Whitesville Road, LLC, Block 22401, Lot 15, 534 Whitesville Road** and **4. Clayton Sand Co./ Rettew Assoc. Inc, Solar Array, Block 19101, Lot 1 (4), Lakehurst Avenue** will be switching.

1. Lisa & Patrick Donato, Block 3801, Lot 17, 362 Tall Tree Court-Patrick Donato- Home owner- sworn- Mr. Book announced because there are sound issues, that Board asks that everyone speak clearly into the microphone. Mr. Donato stated he is looking for a 6' privacy fence. Mr. Book asked if the survey is what is being shown. Mr. Donato said that was correct. Mr. Book asked if the road furthest to the right is Tall Tree Court. Mr. Donato said that was correct. Mr. Book asked if Sugar Bush Court is to the west. Mr. Donato said that was correct. Mr. Book asked where the fence is going. Mr. Donato stated the fence would go off the porch to Sugar Bush court, and will go down Sugar Bush to the property line. Mr. Book asked if that is what's drawn on the survey. Mr. Donato said yes. Mr. Book asked if the fence along Sugar Bush is a 6' white plastic fence. Mr. Donato advised that was correct. Mr. Book asked as the fence moves to the rear, is the fence going to the property line or will it be inside the property line. Mr. Donato advised it would be on the property line and that would be a chain-link. Mr. Book asked if it would be 4'. Mr. Donato said yes. Mr. Book mentioned there is note of non-permit, no concrete, can that be explained. Mr. Donato stated the fence will go beyond freeze point, and if need be it can be moved and pulled out of the ground if necessary. Mr. Book asked if that is going down the property line, and will continue to a 4' chain link. Mr. Donato advised that is correct. Mr. Book mentioned it curves to meet with the frame of the garage. Mr. Donato stated it will come from the garage and will go to the property line, and there is a 20' distance from the garage to the property line. Mr. Najarian noted the plans say 6' solid. Mr. Purpuro stated the fence is currently coming off the house along sugar bush which will be 6' solid, and the rest of the fence will be 4'. Mr. Najarian asked if the non-concrete will be on the plastic as well as the chain-link. Mr. Donato said yes. Ms. McIlhinney mentioned the 4' chain link to the east, there is 4' open aluminum fence with a gate, and asked if that is only in the front. Mr. Donato stated that is from the house to the garage only. Mr. Hill reminded the Board the 4' chain link fence along the side and back to the garage is not part of the variance, that is permitted, only the 6' fence in the front towards Sugar Bush is what is being requested. Mr. Donato mentioned it would be 7' from the property line. Mr. Book asked if that is enough space. Mr. Hill advised it is, and that is outside the easement. Ms. Fritch asked why the white solid fence is desired and the rest is chain-link. Mr. Donato stated the back faces a neighbor and the side with the white will be for privacy.

Opened to the public; seeing no one use the "raise hand" function, public comment closed

Ms. McIlhinney motioned to approve a 6' solid vinyl fence 7' off the property line

Motion to approve by MCILHINNEY/ Najarian. Yes: Fritch, Hurley, McIlhinney, Comello, Najarian, Book.

2. Gary Mayer, Block 11407, Lot 2, 300 Cherry Street- Gary Mayer- property owner- sworn- Mr. Gertner mentioned that some background will be provided to assist the Board, as this site has some history and it's asked that Mr. Peters assist so the Board will see in 1988 when the property was zoned R-40 at that time the property was undersized as well, and the applicant appeared for permission to build on an undersized lot and the recollection and based on the Resolution from that time, no house has been constructed until then, but the zone has changed and the position of the Board at that time when the applicant came in, was that there was a quasi-legal question and the variance runs with the lands and based on the resolution, and the previous approval allowed for construction on the under sized lot and it's the understanding that there is a request to build an accessory structure in the front yard of a corner lot and in theory un like a C variance purely related to bulk requirements because it's an undersized lot the question may be that this is an expansion of the non-conforming use and the resolution from 2008' speaks in terms of following R-3 standards and because of the code this may be a D-2 analysis rather than a bulk and all that means is that this needs 5 affirmative votes to complete this request. Mr. Peters agreed with what was just stated by Mr. Gertner. Mr. Hurley asked if the original variance was a C variance rather than a D. Mr. Gertner stated it was a D variance as well. Mr. Book asked if this creates an issue because it's already built. Mr. Hill stated there was a notice of violation, and the applicant is here to correct the dimensional C variance relief for the structure. Mr. Book asked what is being requested. Mr. Mayer stated the lot is small and the structure was designed for more parking space, and his son and daughter are living with him, and his son has a nice car, that would like to be kept protected, and it was done over a stone driveway that was established. Mr. Peters stated before the Board proceeds, and to assure the record is clear, this is in the R-3 residential zone, and the resolution in 2008 has this in the R-1 zone, and this application is in the R-3, and asked if the structure is enclosed. Mr. Mayer advised it was not. Mr. Peters stated permitted uses are garages and the Board needs to determine that this is a garage and if not, there is the need of a D variance for something not permitted in the zone. Mr. Hurley asked if

there is something in the ordinance pertaining to garages. Mr. Purpuro advised it's a structure designed to house a vehicle needing a garage door intended to be used to accommodate a vehicle. Mr. Hurley asked if car port would fall in that definition. Mr. Purpuro said yes. Mr. Book asked if that means only a roof, no wall and 4 pillars are what's holding the roof. Mr. Peters stated it's a building or structure designed or intended to be used for the storage of vehicles, a car port is a roofed structure or portion of a building attached to the building of the same lot and is enclosed on no more than 3 sides. Ms. McIlhinney asked if there is anything in the ordinance where it specifies that a garage should be enclosed with 4 walls. Mr. Purpuro said no, however if a structure can be looked up that should help. Mr. Peters mentioned an accessory structure attached should comply with all aspects of a principal structure. Mr. Hurley asked if garages are permitted. Mr. Peters advised if the Board said this was anything other than a garage this would need a D variance. Mr. Book asked if garages are permitted why is this here. Mr. Purpuro stated this sits in the front of the house and it's not permitted in that location. Ms. McIlhinney asked if it were located elsewhere would it be permitted. Mr. Purpuro stated if it were behind the footprint, then yes, this application wouldn't be here. Mr. Book asked what can be said about the structure. Mr. Mayer mentioned he had photos. Mr. Book stated in terms of looking at the car port, the neighborhood has a particle style and the car port is right near the road and it's hard to justify that it fits there and asked why was it there and why can't it be moved back if the only purpose is to protect a vehicle, why can't this be moved and be put somewhere else. Mr. Mayer stated there are some big oak trees that kept him from putting it further away from the street, and since it was just 4 6x6 posts and it can be seen through and there is only a roof, he didn't think there would be an issue. Mr. Book stated it does not fit with the neighborhood and its un sure if there are other suggestions. Mr. Gertner asked if the applicant knows how far forward the shed is from the primary structure. Mr. Purpuro mentioned that is un sure because the survey provided does not show the structure as is. Mr. Gertner mentioned if it was 1' forward even if it was moved back 1' that would be one thing however if its 10' forward there may be a different. Mr. Hill stated the as built survey is not being provided, and the proposed plans prior to construction and an as built was requested. Mr. Mayer mentioned this was all that was provided. Mr. Hill stated the car port is approximately 17.5' from the closest house corner, then there is a 16' long structure totaling to 40'. Mr. Book asked if this can be re visited, and this be re positioned to get it moved back more, and just in driving by the gravel can be seen and there is some room behind the structure where it can be moved away from the road and still serve the purpose. Mr. Mayer mentioned that even moving it back 2' it will hit a tree, and with taking down a tree it can be cut down and the port can be moved back 7'. Mr. Book noted that would be a big difference. Mr. Najarian asked how is this anchored into the ground. Mr. Mayer said with concrete, and there is 5.5'x 5.5' poles that will be cut. Mr. Najarian asked if can be moved without removing the tree. Mr. Mayer stated if the port is moved, the tree has to be cut down. Mr. Hurley asked if there is a garage now. Mr. Mayer said no, the lot is too small. Mr. Hurley stated the survey shows the driveway from oak leaf, and there is a bit of a driveway and a walk way. Mr. Mayer mentioned that is not accurate to what is on site. Mr. Hurley asked what's there, is that a living space. Mr. Mayer said yes. Mr. Hurley asked if there are windows. Mr. Mayer said yes. Mr. Hurley asked if the driveway can be extended to have the car port added in front of there to have it almost blend with the house. Mr. Hill stated to clarify, if the purposed car port is moved, behind the front of the house where it could be along the side beyond the front face of the home there may not be the need for a variance other than the side yard setback. Mr. Purpuro stated this requires a 20' side yard, and there would be 20' from the side yard and 10' from the house. Mr. Hill stated this would need dimensional relief, it's only a side yard setback, and the Board is having an issue with this being in the front yard, and with moving this back behind the front corner only a side yard setback will be required, and detached garages have been seen and it wouldn't be as heavy a lift of the Board, and moving it back 5' it's still in the front and asked would it possible to see if this could be behind the front of the house. Mr. Mayer advised it can be looked at. Mr. Gertner stated it appears that this is being asked that this be carried and since this is being measured by the applicant there would be an estimate of how many trees could come down and if the applicant can accommodate this can be carried to April 7, 2021 and the public is directed to the municipal website and the applicant waives time requirements. Mr. Gertner announced this matter will be carried to April 7, 2021, and the public is directed to the municipal website for zoom information.

4. Clayton Sand Co./ Rettew Assoc. Inc, Solar Array, Block 19101, Lot 1 (4), Lakehurst Avenue- Sal Alfieri- Attorney for the applicant- stated this is a unique application, and the applicant is looking to install a solar array on water on site, and the variance is being sought because the array is not permitted in the zone. **Jason Wert- represented as the engineer for Clayton- licensed professional engineer for over 25 years with experience in heavy civil projects, licensed in 15 states and completed the nation's largest project- credentials accepted- sworn-** Mr. Alfieri asked for a description to describe what the applicant is seeking specifically to the solar array. Mr. Wert stated the floating solar array is desired to be installed for the coring operations, and will only be used on site for the coring on site and the body of water was selected because there is some land limitation due to uses on site, and the body of water provides for a great place for the solar array. Mr. Alfieri asked if there would be a glare or other impacts that might affect adjacent properties. Mr. Wert advised there has been a glare study and modern solar panels glares represent sunlight that is being reflected and most are enabled to collect as much sun as possible so glare is minimal. Mr. Alfieri asked how high the panels were off the water. Mr. Wert stated the arrays would be several inches high, and the float is about 4-6" and the panel is above that and the highest most point is only at about 2-3/8". Mr. Alfieri asked if there is screening or landscaping in this are to buffer. Mr. Wert stated there is none purposed and the site line to this and the quarry are limited and there are not direct site lines into the operations where this is located. Mr. Alfieri mentioned there was reference that the array that this extends into 2 companies and this is servicing the same common ownership, and there has been opportunity to review technical comments first dealing with JCP&L right of way easement. Mr. Wert stated the facilities are located in those areas however JCP&L has given approval and it can be clarified where those areas are. Mr. Alfieri asked regarding the contractor parking and staging areas, is it suggested that the plan should include that any disturbed areas would be restored. Mr. Wert mentioned there is not a large work force and generally there would be about 20 people and there are sufficient areas and generally there is a smaller work force and there is no need for offsite or along the street parking. Mr. Alfieri asked if the transformer pads are concrete. Mr. Wert stated the transformers were provided to JCP&L and because this is near water FDA approved materials are used and there are nonhazardous oils. Mr. Alfieri mentioned this is in the DEP flood hazard area, is there need for DEP review. Mr. Wert stated the DEP has reviewed and has provided environmental clearance and the DEP included they have no jurisdiction and declined the approval. Mr. Alfieri asked if there is written correspondence. Mr. Wert said absolutely. Mr. Alfieri asked if the applicant agrees to address technical comments in the report. Mr. Wert said yes. Mr. Alfieri asked how the plan works. Mr. Wert stated there would be a long-term warranty for these systems of 25 years or longer and after that they are guarantee for 85% life left, and the commissions are saved and transported to other projects and the remainder of the materials can be recycled. Mr. Alfieri asked regarding the array, how does it float, does it sit in one spot. Mr. Wert advised because of the nature of water, the array can move slightly, there is an ability to move 5-8' in any direction and there are anchoring and teetering systems, and some will be in the water and others are on land. Ms. McIlhinney asked how many are installed. Mr. Wert mentioned just over 8,000. Mr. Costanzo asked what maintenance is required. Mr. Wert stated the conversation is located on shore and that is the electrical equipment, and maintenance is done by drone and there are walkways in between the panels, and there is annual inspection done by drone and it would be yearly. Mr. Costanzo asked if that efficiency increases based on the panels floating. Mr. Wert stated there is a slight efficiency gained, and that is because there is more reflective light from the water, and being in a proximity with water the systems can stay cool in the peak hours of summer. Mr. Costanzo raised concerns about wildlife, the turtles, snacks and such that are common, they will be attracted. Mr. Wert mentioned that the water quality is unique on this site and there is a decrease in wildlife and there are techniques to avoid wildlife interaction, there are some autofill ant fishing lines like a fence to keep animals off the units. Ms. McIlhinney asked if there is any danger in

the system that might contaminate the water. Mr. Wert advised there are no toxic materials during construction or permanently on site. Mr. Hurley asked if there are any title issues. Mr. Alfieri stated there are none that have come up it's an isolated body of water. Mr. Hill asked what type of panels are there. Mr. Wert stated poly silicone. Ms. McIlhinney asked in the event one panel broke would something leak into the water. Mr. Wert advised these are all solids and these panels have heavy metals they are capsulated and there is nothing that can be airborne. Mr. Najarian asked if there is a storm and water starts coming in can the float break off from the 5-8'. Mr. Wert stated if there was a cable that broke there would be an instant shut down because they are fully grounded to shore, and the biggest risk would be a lightning strike. Mr. Hurley asked if this would be used to support the operations in the quarry. Mr. Wert mentioned this facility produces sand for concrete. Mr. Hurley asked if there is mining of the sand. Mr. Wert said yes. Mr. Hurley asked what the expected life of the mining facility is. Mr. Wert mentioned that the applicant is present to discuss the operations. Mr. Hill stated this is a net meteor project, building permits will be required for both structure and electrical review and footing and foundations as well, can it be explained what standards are allowed. Mr. Wert stated there are building codes to follow, and the electric will be in compliance to the state requirements. Mr. Book mentioned there were photos in the package, are they another location. Mr. Alfieri asked where are the panels in the photo. Mr. Wert advised those are taken from the Boro of Sayreville, and the water treatment plan received electricity from the solar array, and it's about 50% larger than what is purposed, and the one being installed will look identical to what is pictured. Mr. Costanzo asked how long the facility in Sayreville has been in operation. Mr. Wert stated this system went into operation in September of 2019 and was constructed around Labor Day 2018. Mr. Book asked what is the water used for now on site. Mr. Alfieri noted that would be a question for the applicant. Mr. Book asked if Clayton has no use for the panels what happens to the panels. Mr. Wert advised there would need to be a decommission.

Gordon Miles- director of Engineering and Planning, and licensed in NJ and is testifying as a fact witness to explain the operations on site- credentials accepted- sworn- mentioned that the site has been manufactured for construction sand for many decades and what is done and how the site is above grade, that is excavated with construction equipment run on wheels and tracks and ultimately there are large hydraulic backhoes and once at ground water a boat can float and there is a pipe into the water and there is a cutter head and a pump and it sucks the sand through the pipe and the grain sizes are separated, and the water goes through the system and back to the lake, the water is not treated, and the reason this was picked is because this rear is done being mined, and there is no desire to go back into this area and future dredging will not impact the panels. Mr. Alfieri asked what percentage of the lake will be taken up by the panels. Mr. Miles mentioned closer to 5%. Mr. Alfieri asked what has electrical needs. Mr. Miles stated the motor on the dredge which will be supported by the panels. Mr. Book asked since it's dredged to depth if there were no solar panels what happens to that lake. Mr. Miles stated the area has to be restored and restoration can consist of the lake itself and it will remain a lake however the area disturbed outside the lake is to be restored with a vegetation cover, and the area remaining above water will be landscaped. Mr. Book mentioned if water stands still it will be polluted or acidic, without the panels is that a concern. Mr. Miles advised the primary reason there is no stagnant issues is because of the amount of water in those ponds, they are a bright blue, there is no stagnation there is a large service area and because the panels are a small portion there should be 0 impact for that. Mr. Gertner asked if there is a relation to septic. Mr. Miles stated septic needs to be above ground water and there is a distance from the septic to the ground water. Mr. Najarian asked what is the acidity of this. Mr. Miles mentioned that the PH of the water 7 is natural and low PH is high acidic and the PH in this area is around 4. Mr. Najarian mentioned there should be fish to control mosquitoes. Mr. Miles stated these are deep ponds with a lot of water and the habitat is not there for mosquitoes.

Christine Cofone- Professional planner and has been for 25 years in NJ and has been qualified here in Jackson and is an affordable housing special mater- credentials accepted- sworn- Mr. Alfieri asked for testimony with regards to the site seeking D-1 relief. Ms. Cofone stated the use purpose is not permitted in the zone and the site is seeking D-1 use variance and that D-1 identifies burden of proof and some uses here the applicant provides positives, and this is a beneficial use, and this still needs use relief however this does study the suitability and the identification of the public needs to be addressed and this is a large site with 750+ acres, and based on impacts given the size of the site with 900' to the nearest neighbor there would be no detriment, and the saturation burden of proof has been met and there is no substantial detriment. Mr. Book asked if there are any issues with the testimony given. Mr. Peters advised there is no exception taken to the testimony that was given and agrees this is beneficial use.

Opened public comment;

Thomas Smith- 520 Whitesville Road- sworn-said it seems that the solar array across the pond will benefit to infiltrate the recharge, and ground water loss will be slowed down, and it will reduce evaporations, with all infiltration basins built and recharging the ground water the solar panel will reduce the speed in recharge

Seeing no one else use the "raise hand" function, public comment closed

Mr. Hurley made a motion to grant the application if it's an inherently beneficial use, the positive criteria and negative criteria is that there is a service to the general welfare and based on that it supports a less of a drain on the electrical grid and it's clear that these types of facilities are beneficial, and the positive has been satisfied and it serves a purpose in the land use law and serves the general welfare.

Motion to approve by HURLEY/ Najarian. Yes: Costanzo, Fritch, Hurley, McIlhinney, Comello, Najarian, Book.

Recess taken at 9:01 p.m. reconvened by Mr. Book at 9:15 p.m.

3. Paul Fornicola/ 534 Whitesville Road, LLC, Block 22401, Lot 15, 534 Whitesville Road- Sal Alfieri- Attorney for the applicant- stated this was presented at an earlier meeting and since that time it was asked that he fill in and there was a letter provided, and since the last meeting there was a submission to the Board and the planning testimony was done at the last meeting and it will be asked that the testimony be summarized.

Ian Borden- President of professional design services- sworn- Mr. Alfieri asked if Mr. Borden was still a planner. Mr. Borden said yes. Mr. Alfieri advised there was a letter submitted to the Board on February 19, and asked what was presented and what is that presentation for. Mr. Borden advised it was asked at the February hearing to do some research of different items and it was the result of the work done, and there were 7 items that were investigated, and there was a variance plan resulted and there is one dated February 16, second was the question of violations for the diesel mechanic use and the Board will recall that is the source of the relief requested, and for the past 20 years there were none on site and it was asked to refine and expand the operations purposed and that is believed to be done and that was included in the letter, and lastly was the request for the septic systems and there is a septic that services the site and the site has been around for 73 years and there was an OPRA request done with the Ocean County Health

Department, which showed that there was repair to the septic bed in 2007 and it was asked how the building is assessed, and it appears there is only assessment to Jackson Township not Toms River. Mr. Borden continued stating the Township boundary was raised and it was discussed with the licensed land surveyors and that was provided and while the survey was done to the municipal boundary line that can only be required as an approximate unless its established by a client or the Township, and the Township is not the client and the line is accurately survey's, and there was testimony on the existing use on the street and an OPRA was done for that, and the copy of the file was submitted and in 1974 a garage and office use was applied for, and in 1981 there was an approval, and in 1997 there the Pinelands and Township had an issuance of a complaint to a disturbance in the back and there was a violation following up on that later on and to the diesel repair business, and the follow up email shows the OPRA response was the comprehensive one and on the 25th there was another email sent and there was one letter that was not included in the earlier response, and the letter shows that in 1991 the garage use is permitted. Mr. Alfieri asked going back to the February 19 hearing, there was the variance plan which is shown. Mr. Borden showed sheet 2 which shows the property and the survey along with the setback line and parking. Mr. Alfieri asked if the variance plan was labeled and the applicant is not purposing site improvements. Mr. Borden advised that was correct and there are C variances sought based on the existing site. Mr. Borden stated the boundary line goes through the building. Mr. Alfieri mentioned the third document was the statement of operations, summarize what was added. Mr. Borden stated all the work was on diesel and auto repair use and the items of repairs were listed which there are 10, and there were items that were testified to such as the fuels being stored and picked up by licensed recycling centers and the hours are 6 a.m-7 p.m. 7 days a week. Mr. Alfieri asked what is the relief being sought. Mr. Borden stated if the Board recalls, this is in the PM-1 zone and the building is 73 years old and it's operated as a multi-tenant building and only 1 use does not conform to the zoning ordinance and that use is being proposed, and the site is suitable and since the site is built near Whitesville road, the uses do not generate significant sewage flows and this site does not have public sewer, and all the surrounding sites are in the PM-1 zone, and the use is consistent to what is surrounding. Mr. Alfieri asked if the C variance that was requested that has been testified too, is there anything expanded to or exacerbated. Mr. Borden advise there are not, those are all due to existing property issues, and to remind on the D variance, in the ordinance there is permitted use 11 that may be permitted. Mr. Alfieri asked in terms of other agencies having jurisdiction have over this such a pinelands and Toms River. Mr. Borden stated no, as there are no improvements. Mr. Alfieri asked if there has been an application submitted to Toms River. Mr. Borden advised there has been applications, and this use does not occupy tom's river. Mr. Alfieri asked if all activities are in Jackson. Mr. Borden stated that is correct and this use is permitted in Toms River and its not to be appropriate however any directions given will be followed. Mr. Alfieri mentioned there is a letter that was submitted by Mr. Smith. Mr. Gertner stated Mr. Smith followed the letter and the submission has been received and there can be testimony should there be and the points should be addressed. Mr. Alfieri asked if the points be addressed. Mr. Borden advised that there was a series of questions asked, 1. Who prepared the wetland delineation, and has it been submitted, and the pinelands submission is required and there is a finger of wetlands that is showed on the plans and it's between this and Mr. Smith's house and there was delineation done 12 years ago and has been with the applicant for 14 years and there was submission for clarification in 2008, and it's not required to have verification because that's a tool for the applicant, and there a 175' wetland buffer and the opposite side faces the building. 2. The pinelands commission indicates there are no submittals an there is 5,000SF filled and there are records of previous violation, and the only violations is the Toms River citation for the use violations and the EIS shows no violation, and there was some disturbance shown on the variance plan and the direction as given to remove activity from the buffer which was done and it was a recommendation to have a survey and state the buffer and the stakes are still in the ground. 4. Why aren't any historical areas being addressed, and it's been addressed as testified it's been staked and flagged. 5. The current omits noise and smoke, and cannot speak to personal knowledge and a diesel engine will run and they run up and down the street all day long and the client was met with and he was not aware of any, and the owners of the diesel repairs shop are not doing that. 6. This goes to the open violation case pending in Toms River, this is the violation about the outdoor land use portion and there is a pending application and it's the obligation to provide a variance plan and that will be done once Jackson is met with. Mr. Gertner stated it was suggested that this Board need not apply condition to Toms River approval and since there is application to Toms River where the site as a whole is impacted wouldn't it behoove the Board to assure each Board knows what's going on. Mr. Borden stated the diesel use here doesn't occupy Toms River. Mr. Gertner advised that the building is totally assessed by Jackson, there needs to be a formal resolution which has not been found. Mr. Borden mentioned it should be recalled that there was contact asking if Toms River would give access to Jackson over the land use, and Toms River said no they will retain jurisdiction over the land. Mr. Gertner stated that leads to the conclusion that an action should be coordinated with tom's river. Mr. Alfieri advised there is no objection. Mr. Gertner asked if it would behoove the applicant to address each municipality formally, would it not serve both municipality and the applicant, should the Board agree there will be a resolution that as a condition of approval both municipal offices would need to be met with so there is no continuation of the back and forth. Mr. Alfieri sated there is no issue with the condition nor is there an issue to see who would control zoning however beyond that there is no control over the outcome. Mr. Hill mentioned the septic capacity was done and there was Board of Health information and the septic was repaired in 2007, and there is question of the repair was, and what did it entail. Mr. Borden stated it was replacement of the stone, and mentioned if the Board recalls the previous use was a larger use. Mr. Hill asked what was the flow in the bed. Mr. Borden stated the size of the bed was shown, and the daily flow is 750 gallons per day. Mr. Hill asked if that is less than or equal to the design flow based on the current and purposed use. Mr. Borden advised it's more then. Mr. Hill asked where is the tank located. Mr. Borden stated outside the pavement, there is no visible man hole cover. Mr. Hill stated the wetlands delineation may not be modified at this time but can be confirmed with the Pinelands. Mr. Borden stated that was correct. Mr. Hill noted that is important, and there are temporary stakes to avoid encroachment on the Pinelands and the Board should consider a more substantial barrier once that buffer is verified and that could be a chain-link fence. Mr. Alfieri stated that's acceptable. Mr. Hill stated this is here for a specific use and both towns need to know what was approved and the indentation of emergency access isles should be subject to no further use or tenant. Mr. Book stated there are series of questions that would like to be heard however the mechanic that is going to be utilize this space should testify and the burden is not a diesel mechanic, and not that he would elaborate the expert testimony, he should be heard to expand upon the operations. Mr. Alfieri advised the tenant is not present. Mr. Borden noted there has never been a tenant present to testify. Mr. Gertner stated since the use is specific weather the person is a tenant the use is being spoken towards. Mr. Hill stated it was discussed that there were numerous tenants that have come before the Board. Mr. Borden advised there was an approval of the use in the zone right up the street. Mr. Alfieri asked what were the zone standards then and now. Mr. Borden advised they have remained unchanged. Mr. Hurley stated with reading the statement of operations the D-1 variance is for the diesel and auto repair and truck and storage outdoor only, and the ordinance as it relates and in section 244-97 is the pinelands manufacturing zone, the diesel repair does allow for similar repair however if the uses were known there might be able to interpret the ordinance or that the ordinance complies within the plan however the outdoor storge sounds like a principal use. Mr. Borden stated the intent is not intended to be an accessory use, it's for the tenants of the building, this is a multi-tenant building that have permitted uses. Mr. Hill noted the operations state storage of equipment. Mr. Borden stated the equipment would be backhoes, a skid steer, excavator, those types of machines. Mr. Borden stated there are multiple uses in the building, 1 an office who is cyber mediation engineer with equipment, 2. A landscaper who would park his vehicles and tailor with a lawnmower. 3. There is a building framer who might park a truck or trailer. Ms. McIlhinney mentioned that the parking was testified for tenants and it was asked if only the tenants would be

parking and tonight it's being said again it's for tenants. Mr. Borden stated there are no spaces being rented. Mr. Hurley noted that the storage impact needs to be shown. Mr. Peters stated to follow up on Mr. Hills point the pinelands issues were brought up and it was said that there was correspondence in 2008 however the OPRA information submitted shows a letter from the pinelands from 2011. Mr. Borden stated that is not on this site, an OPRA was requested to see if that use was approved. Mr. Peters stated there has been a lot of testimony and asked what is the use being approved because the original application was paraphrased and there was a D-1 use variance for multiple uses and the use not permitted in the zone. Mr. Alfieri stated this application is asking for a D-1 variance to that mechanic. Mr. Najarian noted it was a point to have a tenant available and there was echoed to the chairman last time an there is no one here. Mr. Alfieri confirmed this will not be coming back without the tenant

Opened public comment;

Thomas Smith- 520 Whitesville Road- sworn- said the property owner benefits and there are issues with a non-conforming use in the pinelands and this has 17 residential uses in the zone, and there is paving equipment on site and there was no paving company mentioned another issue is the 25 or more cars there on an any day and given the number of people, there is also materials stored outside that are visible for the residence

Davis Visconi- 441 Whitesville Road-sworn- asked if the leech field is in the back of the building
Mr. Borden advised it's in the front

Davis Visconi- 441 Whitesville Road- said the perimeter fence was suggested, and it was suggested that there be an improvement on a chain link fence such a board on board.

Seeing no one else use the "raise hand" function, public comment closed

Mr. Alfieri asked for a new date to continue this applicant, and there are a few weeks that is necessary to obtain the information needed, at least 30 days. Mr. Purpuro suggested the May 5, 2021. Mr. Alfieri stated that was acceptable. Mr. Gertner announced for members of the public this matter is being carried to the May 5, 2021 date.

Motion to adjourn by Costanzo at 10:31 pm. Yes: Unanimous by all those present.

Respectfully submitted,

Danielle Sinowitz,
Zoning Board Recording Secretary

