

**Stanhope Land Use Board
September 8, 2014
Regular Meeting
Minutes**

CALL MEETING TO ORDER:

Chairman Maguire called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE:

STATEMENT:

Adequate notice for this meeting has been provided according to the Open Public Meetings Act, Assembly Bill #1030. Notice for this Meeting was forwarded to the New Jersey Herald and Daily Record on January 14, 2014 and was placed on the municipal bulletin board.

Furthermore, notice of the meeting time change was forwarded to the New Jersey Herald and Daily Record on July 15, 2014 and was placed on the municipal bulletin board.

In the event the Board has not addressed all the items on its agenda by 11:00 p.m., and it is of the opinion that it cannot complete the agenda in a reasonable period, the Board may exercise its option to continue this meeting at an agreed time and place, within ten (10) days of this meeting.

At this time, please turn off all cell phones.

ROLL CALL:

Nicholas Bielanowski - present	Thomas Pershouse – present
Michael Depew - present	Joseph Torelli - present
John Rogalo – absent	Michael Vance - present
Rosemarie Maio – present	Paula Zelif-Murphy - present
Andrew Orinick, Alt # 1 - present	John Maguire – present

Others present: Board Attorney Roger Thomas, Board Engineer Joseph Golden and Board Planner Scarlett Doyle.

MINUTES

August 11, 2014 Regular Meeting– On motion by Mayor Maio, seconded by Ms. Zelif-Murphy, the Minutes of the August 11, 2014 meeting were approved on majority voice vote. Mr. Pershouse abstained.

CORRESPONDENCE

08-11-14 Joseph Golden – Compliance Review I re: Milanovic Variance Appl., Blk 11006, Lot 12
08-13-14 Eric Keller – Technical Review #2 re: Milanovic Variance Appl., Blk 11006, Lot 12
08-27-14 Price, Meese, Shulman & D’Arminio – Structural Elevation, Plan & Details and letter from Reginald Jenkins, Jr, Esq. re: CBS Outdoor (Reconstruction of Billboard Sign) Appeal & Use Variance
08-27-14 Mayor and Council – Resolution Appointing Nicholas Bielanowski as Class IV member to Land Use Board
08-28-14 Lot Line Adjustment Application - Courtney & Jim Boyle, Blk 10604, Lot 4, 7 and 8

On motion by Mr. Torelli, seconded by Ms. Zelif-Murphy, and carried by unanimous voice vote, the Correspondence List was accepted and placed on file.

OPEN TO THE PUBLIC FOR NON-AGENDA ITEMS:

Chairman Maguire opened the meeting to the public for non-agenda items.

Seeing no one from the public wishing to speak, Chairman Maguire closed the public portion of the meeting.

COMPLETENESS:

14-04, Courtney & Jim Boyle

Block 10604, Lot 4, Minor Subdivision (Lot Line Adjustment)

Application Rec'd: 08/28/14

45 days: 10/12/14

Chairman Maguire stated the Completeness Review Committee has reviewed the application and recommends it be deemed complete.

On motion by Mr. Torelli, seconded by Mr. Vance and carried by the following majority roll call vote, 14-04 Courtney and Jim Boyle's Minor Subdivision Application for Block 10604, Lot 4 was deemed complete.

AFFIRMATIVE: Mr. Depew, Mayor Maio, Mr. Orinick, Mr. Pershouse, Mr. Torelli, Mr. Vance, Ms. Zeliff-Murphy, Chairman Maguire

OPPOSED: None

ABSTENTIONS: Mr. Bielanowski

Chairman Maguire stated the hearing will be held at the next meeting which is scheduled for October 20, 2014.

NEW HEARINGS:

14-01, CBS Outdoor, LLC

Block 11701, Lot 11 "D" Variance

Deemed Complete: 02/10/14

120 days: 06/10/14 (extension granted)

(Mayor Maio and Council Representative Mr. Depew stepped down from the dais.)

Reginald Jenkins of Price, Meese, Shulman & D'Arminio representing the applicant came forward. Mr. Jenkins stated there are two parts to the application. The first is an appeal of the Zoning Officer's determination with regard to the billboard sign that CBS Outdoor owns in the Borough of Stanhope and then, depending on the Board's review of that part of the application, may lead to the alternative portion of the application which is for a use variance. Mr. Pershouse asked if the Mayor and Council Representative are permitted to participate during the appeal portion of the application. Attorney Thomas responded that unless done separately, they are inter-related and if the applicant advises they will segregate it and simply have the appeal, the Mayor and Council Representative can participate in the hearing. Attorney Thomas stated in many instances they tend to be inter-related and integrated into one case which is cause for concern. Mr. Jenkins agreed there will be overlapping proof with regard to the repaired sign showing it was made no larger than the previous sign and that the setbacks were unchanged. There will be an aspect of that testimony that will be in both the appeal and use variance application. There will be some blending of the facts. Attorney Thomas stated if the applicant presents the appeal case first, separate and distinct from the application, then the Mayor and Council Representative would not be excluded from participating. Mr. Jenkins spoke with his client and they agreed to do two separate applications with the first being the appeal.

Attorney Thomas advised that the Mayor and Council Representative may return to the dais and participate in the portion of the application that deals with the appeal only.

Attorney Thomas advised that the first part of the application will be exclusively for the appeal with regard to the Zoning Officer's decision and therefore, the proofs presented will be related to that issue alone. At some point a vote will be taken on the appeal and, depending on the outcome of the vote, there will either be the second part of the application dealing with a "d" variance or the case may end.

Mr. Jenkins briefly outlined the appeal. The billboard is owned and operated by CBS Outdoor and is a 25 x 12 square foot sign that is located in the C-3 General Commercial Zone. Chairman Maguire clarified it is a square sign that is 25 x 12 feet, not square feet. Mr. Jenkins stated the billboard has existed at that location since 1957 and was severely damaged by Hurricane Sandy. The billboard was not completely destroyed; much of it was salvaged, particularly the sign face which is the largest single portion of the billboard. Mr. Jenkins acknowledged that the applicant did not apply for a permit; however that was not an attempt to "get around" the zoning ordinance. The cost of the repairs was under 75% of the assessed value of the billboard. Under the Borough's ordinance if the repair cost for an existing, non-conforming use that is damaged is less than 75% then it is permitted. Mr. Jenkins expressed his opinion that because the repair cost did not exceed the 75% threshold there was no violation.

Mr. Jenkins stated he will be calling the following three witnesses to testify on this application: Greg Lance, the construction official for CBS; Matthew Jarmel, who will speak to the engineering of the site, more particularly the structural integrity of the structure, in response to a report filed by the Board Engineer after the appeal was filed; and a planner who will speak to the planning issues.

Gregory Lance, with offices at 185 U.S. Highway 46, Fairfield, NJ was sworn in. Mr. Lance stated his position with CBS is the Director of Operations for the northeast region. He has been with the company for 41 years and he oversees all activities in the northeast region relating to operations. Mr. Lance testified he is familiar with the sign and location that is the subject of this application. He is also familiar with the construction operations of the company including the repairs that were made to the sign that is the subject of this application. Mr. Lance stated he is in agreement with the opening statements made by Mr. Jenkins including the fact that the sign was originally built in 1957. Mr. Jenkins presented a copy of an Advertising Lease dated November 10, 1957, marked as Exhibit A-1, and asked Mr. Lance if he is familiar with the document. Mr. Lance responded in the affirmative. Mr. Jenkins stated this is proof that the sign dates back to 1957 and not 1965 as was indicated in their first submission to the Board. Attorney Thomas said he assumes the lease on the billboard is no longer at \$50.00 per year. Mr. Lance responded in the affirmative. Mr. Jenkins asked Mr. Lance if he would describe the sign as 12' x 25'. Mr. Lance responded the sign is 10' 5" x 22'. Mr. Lance described the sign as it existed during Hurricane Sandy. It was a wood pole structure having a face and wooden platform. Mr. Jenkins presented a picture marked Exhibit A-2 and asked Mr. Lance if it was a depiction of the sign as it was prior to Hurricane Sandy and was rendered by CBS Outdoor. Mr. Lance responded in the affirmative. Chairman Maguire asked if there was an approximate date of the picture. Mr. Jenkins responded he does not have that information. Attorney Thomas asked Mr. Lance if it is his representation and verification that the photo marked Exhibit A-2 is an accurate representation of what the sign looked like prior to the events of Hurricane Sandy in October of 2012. Mr. Lance responded in the affirmative. Mr. Lance testified that he is not aware of any problems or violations issued from the construction of the structure until 2012. Mr. Lance spoke about how the structure was damaged and the steps taken to address the damage. During Hurricane Sandy, the wind load was too much for a sign of that age, and it was knocked off the ground. Crews were brought in, first to make sure there was no danger to the public. The contractor cleaned up the debris and using the face and platform, rebuilt the structure. They tried to replace it with the wood pole, but at that time, there were no wood poles available due to the storm. Therefore, they were not able to make the structure look exactly as it had before the storm.

Chairman Maguire noted the previous comment that the face was intact and he asked Mr. Lance to describe in detail what was not intact. Mr. Jenkins presented a picture of the repaired sign, marked Exhibit A-3 and he asked Mr. Lance if it correctly depicts what the sign currently looks like. Mr. Lance responded in the affirmative. Mr. Jenkins asked Mr. Lance to describe what was done to repair the damaged sign. Mr. Lance stated they dug 4' deep holes, put in 3' x 3' angle irons with plates on the bottom so they could not lift then poured concrete and attached 4 x 6 uprights for strengthening. The structure is very sound. Mr. Lance stated this type of structure has been around since the 1950's and there have not been problems with it. Mayor Maio said the structure, as it is now, is changed from how it was originally. Mr. Lance acknowledged the structure was altered. Chairman Maguire asked if the change was in response to the Board Engineer's report. Mr. Jenkins responded that in response to the Board Engineer's request, it was looked at and plans that were submitted subsequently to the application show the suggestions. The picture presented shows what is currently at the site. Mr. Jenkins noted Mr. Lance testified that when the sign was originally up, it was on wooden poles, but after the storm they were no longer available because there were many people in New Jersey, attempting to repair damage they suffered during the storm, that were looking for the same poles, resulting in the poles not being available. Mr. Jenkins asked Mr. Lance to explain the steps taken when the exact type poles were not available. Mr. Lance stated he ordered other material that, from his experience over the years, he knew would erect the sign safely and securely. Mr. Pershouse asked if the poles and existing footings from the original poles were all removed. Mr. Jenkins responded that the original poles were not removed. Mr. Pershouse questioned the footings of the original poles not being removed and, noting the poles snapped at grade, asked if they were removed from that point. Mr. Pershouse also asked if in order to replace the face of the sign they had to start with new footings, supports and a new structure. Mr. Lance answered in the affirmative. Mr. Lance testified that the sign that was ultimately repaired was the exact same sign face and was also on the exact same platform. The sign face and platform were not damaged when the structure fell over during the storm. Chairman Maguire again asked if the picture presented reflects the changes to the sign that the Board Engineer requested. Mr. Jenkins responded in the negative and noted the picture reflects what is currently at the site. The strengthening that is to be proposed is included in the plans submitted. Mr. Jenkins presented two invoices on the cost of the repairs, which was marked Exhibit A-4. Mr. Depew stated the testimony given states repairs to the sign; however the pictures show brand new wood and he questioned if the sign was rebuilt, not repaired. Mr. Lance stated the structure was rebuilt but they repaired the face and platform which are the bulk of the sign. They reconstructed the frame but they reused the face and the platform. Mr. Jenkins noted the sign was not completely destroyed. There were significant components of it that were retained. Mr. Jenkins noted that the sign face that is the single largest and most significant component of the structure was not damaged. The structure was redone out of necessity.

Chairman Maguire noted the ordinance states 75% of the assessed value and the question in this case if the face cost more than the structure and the construction of the supports. Attorney Thomas asked Mr. Jenkins to clarify that they are telling the Board they used the old sign face that is 22' 8" x 10' 5" and that structure is now part of the sign that is up and all the support structure is new. Mr. Jenkins responded Attorney Thomas is correct. Attorney Thomas noted Exhibit A-3 and he asked Mr. Lance if it shows the sign and a support structure with a platform in front of the sign. Mr. Lance responded in the affirmative. Attorney Thomas then directed Mr. Lance to Exhibit A-2 and asked him if he is testifying that the platform that is shown on Exhibit A-3 is present in the photograph marked Exhibit A-2. Mr. Lance responded that it is not the same platform. Attorney Thomas asked if, in addition to the structure, the platform is brand new. Mr. Lance responded Attorney Thomas is correct, it is not the same. Attorney Thomas asked if he was correct in stating what they have is the original sign face and everything else is new. Mr. Lance responded in the affirmative. Chairman Maguire again noted the

Borough's ordinance states assessed value and he questioned the approximate value of the sign face as opposed to the material used in the construction of the support and the platform. Attorney Thomas read the following excerpt from the Borough's Ordinance 101-143 relevant to this application: "If any non-conforming building shall be destroyed by reason of windstorm, fire, explosion or other act of God or the public enemy to an extent of more than 75% of the assessed value, as recorded in the records of the Tax Assessor, and such destruction shall be deemed complete destruction, the structure may not be rebuilt, etc." Attorney Thomas noted the assessed value is the value that is recorded in the office of the Borough's Tax Assessor. Mr. Pershouse asked if they had the amount. Attorney Thomas suggested deferring Board questions until after Mr. Lance has completed his testimony.

Mr. Jenkins asked Mr. Lance if he is familiar with the invoices marked Exhibit A-4. Mr. Lance responded in the affirmative. Mr. Lance stated the invoices are from Caldwell Sign Repair, who is the contractor that did the work. One invoice is in the amount of \$2,665.00 and the other is \$2,600.00 for a total of \$5,265.00. Mayor Maio asked if the invoices include the cost for the new platform. Mr. Lance responded the invoices are the contractor's cost for labor only. Attorney Thomas noted, for the record, that the applicant has provided invoices from Caldwell Sign Repair that has been marked as Exhibit A-4. Mr. Jenkins asked Mr. Lance if he is familiar with the material costs. Mr. Lance responded in the affirmative and stated the cost of the material was \$1,320.80. Mr. Lance noted the cement work was done with bags of cement. Mayor Maio asked if the platform is included in the material cost. Mr. Lance responded in the affirmative. Mr. Lance spoke of the labor performed as outlined in the invoices. Mr. Lance stated he does not have individual invoices for the job. They purchased bulk material because they had so many signs being done and he broke down the cost for each job. Mayor Maio asked for clarification of Mr. Lance's testimony that he does not have documentation showing the cost of the materials specifically for this job and that he is estimating the cost based on a bulk purchase. Mr. Lance stated he knows what materials were used on the sign and the cost of those materials. Mayor Maio asked Mr. Lance to provide a list of materials used and the cost. Chairman Maguire asked the size of the footings. Mr. Lance responded the footings are 2' x 2' x 4'. Chairman Maguire noted the size of the footings is 16 cubic feet per hole and there were 8 done using bags of cement. Engineer Golden noted the work involved and he questioned how it could be done in only two days. Mr. Lance responded the contractor had 6 men working on the project and he explained how the work was done. Engineer Golden asked if, looking at Exhibit A-3, the post closest to them, is in concrete. Mr. Jenkins asked to be permitted to finish Mr. Lance's testimony before answering questions from the Board. Chairman Maguire agreed that questions from the Board should wait until after the testimony is completed. Mr. Vance stated he has a question relative to what the Board Engineer is bringing up that he would like to address. Mr. Vance stated Engineer Golden seems to be questioning the curing time of the footings. Engineer Golden agreed with Mr. Vance's comment. Mr. Vance noted there were 8 footings and he asked Engineer Golden the recommended curing time for footings. Engineer Golden responded he would need to check the type of concrete used but it would take at least 24 hours from when it was set. Engineer Golden stated an example is a concrete sidewalk would take about 7 days. Engineer Golden asked Mr. Lance to explain the footings being replaced. Mr. Lance responded the proposed plans are as submitted. Engineer Golden asked if the structure will be coming down a second time and have new footings. Mr. Jenkins responded in the negative and stated their engineer will speak to that more fully. Chairman Maguire asked Mr. Lance to again speak to the footings, noting they were 2' x 2' holes. Mr. Lance stated they used a hand auger, drilled holes with a 2 foot auger 4 feet deep in 8 different locations. They put a 3' x 3' angle iron with a site that was welded on and then concrete was put into the holes. The 4 x 6 was bolted to the angle iron. Mr. Lance stated there are some that are above the grade. Engineer Golden stated the work done was substantial and he noted the need for the cost estimate. Chairman Maguire stated the information on the bill marked Exhibit A-4 does not provide good detail of

what was done. Ms. Zelif-Murphy commented that the bill reflects what was done and not what is going to be done. Chairman Maguire agreed, noting what is “going to be done” is part of the “d” variance what is being presented is on the appeal. Chairman Maguire read from the invoice that indicates on the first day they installed one pole, loaded material on the trailer, buried one pole and 2 men worked at shop fabricating materials. The next day, Friday, they buried poles. Chairman Maguire asked if that was the remaining 7 poles. Mr. Lance responded in the affirmative. Chairman Maguire noted there was one pole that sat overnight which he believes answers Mr. Vance’s question. Chairman Maguire also noted the invoice indicates they were stopped by the County to clean up the old sign. Chairman Maguire asked if the County stopped the work after the poles were installed. Mr. Lance stated the County stopped them because they were blocking the road. Chairman Maguire asked to see more detail on the invoices. Mayor Maio asked when the rest of the structure was rebuilt. The invoice shows when they buried the poles and cleaned up the old sign, but it does not indicate when they built the structure. Mr. Lance said he cannot explain it; this is the way the invoice was written. Mr. Jenkins asked Mr. Lance if this invoice, to the best of his knowledge, represents everything that was done to repair the sign. Mr. Lance responded in the affirmative. Mr. Jenkins asked Mr. Lance if what is depicted in the Exhibits provided to the Board is encompassed by the repair bills submitted by Caldwell. Mr. Lance responded that is correct. The Board does not have a bill for the material. Mayor Maio asked if the bill for the material will be provided tonight. Mr. Jenkins stated testimony will be given to address the cost of material. Mayor Maio expressed her opinion that a detailed bill covering labor and material is needed in order for the Board to make a decision on this application. Ms. Zelif-Murphy asked what the amount of \$1,320.80 previously stated by Mr. Lance is for. Attorney Thomas clarified that Mr. Lance made representation to the cost of the material being \$1,320.80. The Board has asked for, and the applicant has agreed to provide, is a more detailed analysis of those materials. Mr. Lance stated his belief that the more detailed information will show that \$1,320.80 is the correct amount of the materials. Mr. Lance testified that he analyzed the materials that were used and the cost of those materials, including the platform. Chairman Maguire asked what the platform is constructed of. Mr. Lance responded it is metal grading. Mr. Jenkins presented a copy of a property assessment that he obtained from the County Tax Board’s website which was marked as Exhibit A-5. Mr. Jenkins asked Mr. Lance what the land assessment is to which Mr. Lance responded it is \$9,100. This amount is the assessed value for the years 2011 through 2014. Ms. Zelif-Murphy clarified the amount is only for the billboard, not the land. Mayor Maio agreed, adding there is no land value. Attorney Thomas asked Mr. Lance if it is his understanding that the record reflects the fact that the land value is \$0, but the improvements are \$9,100. Mr. Lance responded in the affirmative, agreeing the amount is for the billboard. Attorney Thomas noted the applicant has offered Exhibit A-5 which is an assessment on this particular property for land and improvements of \$9,100. Attorney Thomas asked Mr. Lance if that is his testimony. Mr. Lance responded it is an assessment of the billboard and he is unsure of the land. Mr. Jenkins asked Mr. Lance if he is aware whether or not the sign currently has a DOT permit. Mr. Lance responded in the affirmative. Mr. Jenkins presented a copy of a DOT Outdoor Advertising Permit which was marked Exhibit A-6. Mr. Lance acknowledged the property is listed on the DOT permit. Mr. Jenkins asked Mr. Lance if billboards in the State of New Jersey are permitted and receive permits by the State and are under the regulations of the Department of Transportation. Mr. Lance responded in the affirmative. Attorney Thomas asked, which of the four properties listed on Exhibit A-6, is the property for this application. Mr. Jenkins responded it is the last property listed and is application number 15026. Mr. Pershouse asked the date the permit was issued. Mr. Jenkins stated he does not have the date. Engineer Golden questioned that they were able to establish the height while the structure was on the ground. Mr. Lance answered in the affirmative. Engineer Golden asked if the structure was laterally and horizontally in the same position. Mr. Lance responded in the affirmative. Engineer Golden asked if CBS Outdoor keeps records of the location of their signs and, if so, if he can be provided with a copy. Engineer

Golden noted the remainder pole shown on Exhibit A-4 is outside the footprint of the sign. Mr. Lance responded that is correct. Engineer Golden stated the sign is then not in the same position as the old sign. Mr. Lance stated the sign is as close to the old position that was possible at the time. Mr. Lance stated he is comfortable testifying that the height is the same. Engineer Golden commented that looking at the two pictures, one sign appears to be higher. Mr. Lance stated the height of the two signs shown on the exhibits cannot be compared because they were taken at difference angles. Mr. Jenkins stated the pictures were offered so the Board would have an idea what the signs looked like. Attorney Thomas addressed Mr. Lance and stated that when Engineer Golden asked him about the sign his answer was that he specifically remembers this job and he instructed the contractor (Caldwell) go out to the site and measure the sign that had fallen on the ground. Attorney Thomas asked Mr. Lance if that was correct. Mr. Lance responded it is correct. Attorney Thomas stated he also recalls Mr. Lance saying he wanted to do that to make sure the sign was going to be the same. Mr. Lance responded that is also correct. Attorney Thomas asked Mr. Lance if the sign that was on the ground on October 30, 2012 is the same sign that is shown in the picture. Mr. Lance responded it is the same face. Attorney Thomas asked Mr. Lance to explain what he means by the same "face". Mr. Lance said the face of the sign is what the advertisement is put on and the face of the sign is the exact same face. Attorney Thomas asked Mr. Lance to clarify that the structure holding the sign, which is the "face," is the same face that was on the ground the day after it fell. Mr. Lance responded in the affirmative. Attorney Thomas said it is understood that the advertisement has changed. Chairman Maguire stated the permit for 15026 reflects a back to back two-faced sign and he asked if this permit is for the applicant's sign. Chairman Maguire read the permit indicates E/S 520 ft N/O Stonegate Lane Back-to-Back and he asked what is meant by back-to-back. Mr. Lance responded he recalls the original structure had a back face that was removed before the storm because of "line of sight" meaning you could not see the face anymore. Engineer Golden asked if the Mr. Lance has documentation showing the sign is on their property. In his report he asked for a copy of the survey to show that the sign was not in the DOT right-of-way and that it is on private property. Mr. Jenkins stated they submitted the DOT permit as proof that the DOT looked at the site, determined the sign is not in their right-of-way and issued the permit. Chairman Maguire commented that the prior footings are still there. Chairman Maguire stated the permit that was submitted was issued quite some time ago because it still says back-to-back and yet the testimony just given by Mr. Lance is that the sign was put back in the same place. Engineer Golden stated he is not able to determine if set back requirements are met. Chairman Maguire asked that documentation requested by the Board Engineer be provided. Mr. Jenkins stated with respect to the location of the sign, they may be off by inches, not feet. Chairman Maguire stated it appears the DOT looked at the site quite a while ago, but not recently. Engineer Golden asked if they would be provided with a survey. Mr. Jenkins responded that in light of the DOT's review a survey is not necessary. Chairman Maguire noted the DOT review was prior to the storm and they have not been provided with any documentation indicating that the DOT review was current.

Planner Doyle stated notwithstanding that the proposed sign shows spacing between the two uprights of 8 feet on Exhibit A-3, she asked about the spacing between the two current uprights. Planner Doyle asked Mr. Lance if he agrees that there seems to be a cut-off telephone pole at the bottom and in between the two upright structures. Mr. Lance agreed with Planner Doyle's statement. Planner Doyle asked if Mr. Lance agrees that when the sign was originally erected there was not the present "super-structure" arrangement. Mr. Lance agreed. Planner Doyle stated the actual face of the sign that is on the "super structure" is forward on the slope from its original location. Mr. Lance responded in the affirmative, noting it is forward by approximately four feet. Planner Doyle asked the surface material of the old structure and the surface material of the new one. Mr. Lance responded they used a vinyl material; there is no paper on the present board and there was no paper on the prior board. Planner

Doyle she asked if the Lease presented gives the applicant authority to stretch the footings or was it constructed so the applicant has a "right of poles." Mr. Lance stated he does not know the answer to the question. Planner Doyle asked Mr. Lance if he ever saw the permit applications for the DOT permit. Mr. Lance responded in the negative. Planner Doyle stated since Mr. Lance did not see the application, he would not be aware if it was required to have distances and square footages. Mr. Lance stated he has no knowledge of the application so he cannot testify to the information on the application. Planner Doyle asked if, during construction, they provided for conduits of any kind for electric, etc. Mr. Lance responded they did not provide for electric because it is an unilluminated location and there is no power at the site. Planner Doyle asked if there is any provision in the design for solar lighting to which Mr. Lance answered in the negative. Planner Doyle asked if the sign is expected to have solar lighting illumination at night to which Mr. Lance answered in the negative. Planner Doyle noted they concluded that the composite of the super structure is not the same as the original; the walkway is not the same; and that the sign is the original one that fell down and she asked if the "3706" and "CBS" mounted on the walkway are the same because they look different to her. Mr. Lance responded it is a decal that was used. Planner Doyle asked if the size of the decal is the same on both walkways. Mr. Lance responded he is cannot testify to the answer. Planner Doyle asked how they confirmed that the elevation of the sign on the ground is the same as the present sign based on the fact that the poles were broken and could not be measured. Mr. Lance responded they took the measurement of the poles that were on the ground and the portion that was still standing. They measured the pole closest the road to give them the height. Mr. Lance explained the placement of the sign on the poles. Planner Doyle asked if the top of the pole is also the top of the sign. Mr. Lance responded in the affirmative. Planner Doyle asked if any clearing of vegetation was done. Mr. Lance stated he believes there was some clearing done.

Engineer Golden stated there is a strong possibility that the sign is in the DOT right-of-way. Mr. Jenkins stated it is their understanding that it is not in the right-of-way because the location of the sign is the same and if it was in the right-of-way the DOT would not have issued the permit. Attorney Thomas stated the Board can request proof that the sign is not in the DOT right-of-way. Mr. Jenkins spoke of an application before a Board in Ocean County in which similar information was requested and the court determined that it was not within the scope of what the Board is charged with doing. If it is in someone else's right-of-way, it is the holder of the right-of-way to question, in this case being the DOT. Chairman Maguire stated the Board is asking when the permit was issued to determine if the DOT is aware of the location of present sign. Planner Doyle said it is importance for the Board to know what the NJDOT approved, such as what was the size and what were the parameters approved. Attorney Thomas agreed with the comments and advised Mr. Jenkins that it would be helpful to provide the date when the sign permit was issued and if there is an application attached to the permit, the Board would like a copy of it and any additional material such as a map. Mr. Jenkins objected to the request and asked, if the application is approved, that a condition to the approval be that the DOT is satisfied with the sign. Attorney Thomas asked Mr. Jenkins to provide him with a copy of the case he quoted and proof that the DOT has no objection to the location of the sign.

Mr. Jenkins asked Mr. Lance, with regard to the repairs made to the sign and the structure put in, if the structure is wider than the original one in relation to the sign face. Mr. Lance responded in the negative. If is still contained within the dimensions of the sign face. Chairman Maguire clarified the picture submitted showed three telephone poles held the sign originally. Mr. Lance stated none of the poles go outside the parameters of the sign face. Chairman Maguire stated the depth from the sign face is considerably further back. Chairman Maguire asked the dimensions from the front pole of the sign face

to the back pole. Mr. Lance responded the distance is 8 feet. Chairman Maguire noted the depth of the structure increased by 8 feet.

Mr. Pershouse asked if there would be before and after pictures of the site on "Google Earth." Engineer Golden responded in the affirmative, noting it would give an aerial of the site.

Attorney Thomas asked Mr. Lance if the sign a couple of feet more forward than the face of the original sign. Mr. Lance responded in the affirmative.

Chairman Maguire opened the meeting to the public for comments and questions for Mr. Lance. Seeing no one from the public wishing to speak, Chairman Maguire closed the public portion of the meeting.

Mayor Maio asked when the Board will receive the list of materials they requested. Attorney Thomas asked Mr. Lance how long until he provides the Board with the detailed analysis of the list of materials. Mr. Lance said he will work on getting the information when he returns to the office. Mr. Jenkins stated they will provide the information to the Board as soon as possible. Chairman Maguire stated the information should be provided prior to the next meeting.

Craig Brinster, 185 U.S. 46 West, Fairfield, NJ was sworn in. Mr. Brinster testified he is presently the Vice President of the Northeast Region for the Real Estate Department of CBS. He is familiar with the real estate practices of the company and is familiar with the permit applications made to the DOT. Mr. Jenkins asked Mr. Brinster, to his knowledge, if there is any impediment to or regulations in the lease as to how CBS is to construct any particular sign on this property. Mr. Brinster responded in the negative, adding the lease is very broad with regard to building or rebuilding a structure. Mr. Jenkins asked if the lease dictates what type of sign is to be placed on the structure. Mr. Brinster responded in the negative. Mr. Brinster gave a broad overview of the DOT review process with regard to billboard signs. The DOT has a two-sided form that is completed which states the location of the sign and the municipality of the sign. It also asks for a mile marker and certain feet from a landmark that they might use from the end of the road and the distance between the landmark locations. Mr. Brinster stated it is his understanding that the DOT visits each location and looks at the distance between any sign that may be on the property and the location to the right-of-way. Mr. Brinster testified that the DOT will inform an applicant if the sign is in the right-of-way and the applicant will have the opportunity to set the sign back further. Mr. Brinster also testified that during his tenure he is not aware of any issues the DOT had with regard to the sign. Mr. Jenkins asked if permits are reviewed yearly. Mr. Brinster responded in the affirmative. Mr. Jenkins asked Mr. Brinster if he is familiar with the permit information presented to the Board. Mr. Brinster stated the information was obtained from the DOT website and would not have been listed on the website if it was not current. Mr. Brinster noted the information was printed on 8/7/2014. Mr. Brinster stated they have no knowledge that the permit is not valid. Chairman Maguire said the information on the permit submitted shows a back-to-back sign and Mr. Lance testified that it was a considerable amount of time before the storm that the back face was removed. Chairman Maguire noted Mr. Brinster is saying the DOT recently inspected the sign and found it to be acceptable. Mr. Brinster stated the sign is qualified and allowed for 600 square foot so if the township would allow and the sight distance would allow, they could have, as per the State, a 300 square foot sign on either side. The State does not lower the square footage allowed if you reduce the size of the sign. The qualified square footage is only changed if an applicant applies for a larger or smaller size sign. Mr. Jenkins noted what is allowed and asked Mr. Brinster if they can do anything up to the allowable size without having to alter the permit. Mr. Brinster responded in the affirmative. Mr. Brinster added that a permit issued by the DOT for a new application would contain a condition requiring approval of the municipality. Mr. Brinster noted the sign was originally built in 1957 and may have precluded any DOT regulations or

permits. Engineer Golden asked if there is proof that the sign was, at any time, approved by the municipality. Mayor Maio stated the billboard was grandfathered in after the new ordinance was adopted.

Planner Doyle asked how long since there was a two-sided sign. Mr. Brinster responded he does not know that information. Planner Doyle noted Mr. Brinster has been with the company for 9 years and asked if it has been longer than his employment. Mr. Brinster responded he does not know when the sign was removed for visibility purposes, but the in-house records would show that information. Planner Doyle asked Mr. Brinster to provide that information to the town. Planner Doyle noted testimony that the DOT conducts yearly inspections and asked if they customarily make note that a change was made, i.e. the removal of the two-sided sign. Mr. Brinster responded the permit remains the valid because they are qualified a total of 600 square feet and it does not matter to the DOT that they removed the two-sided sign. Mr. Jenkins asked if it was necessary, is there a current ability to put in the type of poles that were in the sign before the storm. Mr. Brinster responded in the affirmative, noting testimony that the type of poles previously used was not available at the time. Mr. Brinster said if the Board decided, for aesthetic reasons, and to be more in compliance to what the sign used to be, they could put it back on the original style poles; however it would be up to Mr. Lance to determine if it could be put back in the original holes. Attorney Thomas asked if the DOT permit is renewed annually. Mr. Brinster responded in the affirmative adding they pay an annual renewal fee and changes are noted. They are not required to complete the two page application for a renewal. The DOT sends the current run and they eliminate anything taken down during the prior year. Attorney Thomas asked if Mr. Brinster has the application that was submitted to the DOT for this sign at some point. Mr. Brinster responded he does not know but will check his records. Attorney Thomas asked if Mr. Brinster has regular access to communication with the DOT. Mr. Brinster responded in the affirmative. Attorney Thomas asked if Mr. Brinster would be able to obtain either the original or whatever modified sign application that was submitted by the company to the DOT. Mr. Brinster responded he will request from the DOT the documents submitted by his company.

Matthew Jarmel with offices at 42 Okner Parkway, Livingston, NJ was sworn in. Mr. Jarmel listed his credentials. He has a Bachelor's Degree in Architecture, a Master's Degree in Business Administration with concentration in real estate development and land use. He is registered in the State of New Jersey since 1994 and has testified before many planning and zoning boards throughout the State. He has also testified in Superior Court on land use design. He has testified and been accepted as an expert in the area of architecture, building design and structure. Mr. Jarmel stated he listened to the testimony given and he gave a brief recap of the events including the construction of the billboard in 1957. Mr. Jarmel noted Mr. Lance's testimony that the original sign was re-used but modified by the platform. On October 29, 2012 the sign was blown over by the hurricane and the poles snapped. The poles were cut down and part is still in the ground. There is no concrete in those poles. Mr. Jarmel stated that because of the conditions throughout the State due to the storm and the large number of billboards damaged, they the exact same material for the poles were not available. Had it been different circumstances, they would have been able to put the sign back on the exact same type of poles. Mr. Jarmel stated the current sign meets all building code requirements. Mr. Jarmel testified that if required, today they could restore the structure to exactly how it was prior to the storm. Mr. Lance has the poles available and the cost would total about \$2,000 to restore the billboard exactly as it was prior to the storm. Mr. Jarmel noted discussion regarding whether the structure was rebuilt, was it destroyed, was it altered, etc. Mr. Jarmel said that because it is an existing structure, it falls under the rehabilitation construction sub-code. Mr. Jarmel read an excerpt from the New Jersey Administrative Code, Uniform Construction Code, Chapter 5:43-6.1 Subchapter 6 called "Rehabilitation Sub-code" specifically the definition of "Repair." Mr.

Jarmel stated, in terms of the legal definition, it is his opinion that the work was a repair, not a reconstruction. Mr. Jarmel noted there is a visual difference from what was done and what was there. The existing structure, prior to the storm, did not have concrete footings. The repair required footings which is the foundation of the structure. The footings and the lattice are new to the structure. Mr. Jarmel testified the work done is qualified as a repair. The repair that was made from a structural standpoint is comparable to what was there. His engineering/structure department was at the site and did a structural analysis. Mr. Jarmel testified his department ran calculations on the structure and those calculations show that the board was comparable to what previously existed which was allowed under the building code. In response to the Board Engineer, Mr. Jarmel presented a document marked S-1 "Structural Elevation and Plans" and stated the document shows a proposed reinforcing that has not been done, but will bring it up to current code and make it stronger than what it was and what it is today. Mr. Jarmel noted discussion on whether or not the repairs fall within the 75% threshold. Attorney Thomas noted Mr. Brinster indicated that it is possible and they may offer to replace what was already done on an emergency basis and revert back to the three telephone poles ten feet deep. Mr. Jarmel responded Attorney Thomas' understanding is correct. Attorney Thomas asked if the work would meet building code standards. Mr. Jarmel responded in the affirmative. Mr. Jarmel stated they would prepare and submit drawings for a building permit and since he is the design professional, he would be signing off on the drawings. Mr. Pershouse noted that the authority having jurisdiction would have to agree that it needs a repair. Mr. Jarmel stated if the structure was identical to the original, it would be categorized as a repair. Attorney Thomas asked for clarification that, if it could be done, it would be wood telephone poles as opposed to some type of steel pole that would give it greater strength. Mr. Jarmel responded it could be done identical and be in compliance and if it were steel it may only be two poles.

Engineer Golden asked what the footprint of the original sign was. Mr. Jarmel noted previous testimony that it was 18 feet in depth and he believes the sign face is between 20 and 24 feet. Engineer Golden asked if it is correct that the depth of the present structure is 12 feet. Mr. Jarmel responded in the affirmative. Engineer Golden asked if it was fair to say there is a significant increase in the footprint of the sign from what was originally there. Mr. Jarmel responded it is presently a lattice structure as opposed to what was previously there; it is clearly a different type of structure.

Attorney Thomas asked if the Board or anyone from the public had questions for Mr. Jarmel. No one questioned Mr. Jarmel.

Mr. Jenkins noted the Board has requested a number of items and he asked, if the Board granted the appeal, would they grant the appeal subject to the submission of the requested information. Attorney Thomas responded in the negative noting the Board has indicated that in order to make a decision they would like the material in advance so they can make an informed decision. Attorney Thomas listed the material requested by the Board: a detailed list of the cost of the materials; the date when the DOT permit was issued and a copy of the application for the DOT permit. Attorney Thomas stated he would like a copy of the case Mr. Jenkins referred to regarding the right-of-way. Attorney Thomas noted it was also requested that a survey be provided; however providing that document is up to the applicant.

Engineer Golden noted the structure is now 12 feet deep and he asked if it constitutes an expansion of a non-conforming pre-existing use. Attorney Thomas responded that is a legal issue and they must refer to the ordinance. Additional information is needed and they must review the ordinance in terms of a pre-existing non-conforming use.

Mr. Jenkins noted there are two issues before the Board. The first issue is the analysis of where you have an ordinance that sets as the benchmark the assessment what goes into looking at that. The second

is whether the structure in question encroached onto a State right-of-way. Mr. Jenkins voiced his opinion that such an issue is between the State and the property owner.

Attorney Thomas read the following excerpt from Engineer Golden's report dated March 9, 2014: "In the appeal letter, the applicant states CBS is entitled to the repair and restoration of its billboard by right. The letter further states Section 100-139 allows continuance, however this section allows continuance for structures in existence on September 5, 1957." Attorney Thomas questioned the significance of September 5, 1957. Engineer Golden responded he recalls reading that the ordinance allows continuance for structures in place before that date.

Attorney Thomas stated the applicant must address the issue on whether this is a valid pre-existing non-conformance use. Attorney Thomas stated he is not sure when the zoning ordinance was put in place in Stanhope. He noted that Mr. Jenkins indicated the structure came into existence in 1957. The date that zoning was put in place will be a factor in determining the status of the structure as a valid pre-existing non-conforming use.

Mr. Jenkins stated they have a structure on the site that has been in existence since 1957 without violations and that has been operating open and notoriously. Given the length of time since the original structure was erected, the actual approval may not be in the file; however they will look for the document. Mr. Jenkins added the applicant has a structure which the municipality has known about and which has never been called into question so that alone should show that it was put up correctly. If it was not done correctly, the municipality would have shut them down. Attorney Thomas stated although Mr. Jenkins statements are correct, they do not relate to the zoning issues at question. The issue of adverse possession do not apply and his impression of the case law indicates a municipality does not waive its rights by inaction. Attorney Thomas gave as an example: if this was done illegally, or as a pre-existing non-conforming use, because the zoning in the borough did not go into existence until possibly 1960, then you could have done whatever you wanted and as long as you did not change it you had the right to remain which is the argument in terms of a pre-existing non-conforming use.

Attorney Thomas advised that this matter will be carried to the next meeting, being October 20, 2014 at 7:00 p.m. with no further notice required.

OLD BUSINESS

Mandatory Training - Chairman Maguire advised Mr. Bielanowski that he has 18 months to attend the mandatory training class. Chairman Maguire stated Mr. Rogalo was to attend training class by July 2014. Attorney Thomas said he does not anticipate holding a class until the spring and he suggested Mr. Rogalo contact the Board Secretary about a list of courses being sponsored by the New Jersey Planning Officials. The New Jersey Planner listed a number of courses being held in September.

Olivo Application – Mr. Pershouse advised that he is close to issuing a permit to Mr. Olivo. He will inform Mr. Olivo that he will need to post escrow to have Engineer Golden do the final review and/or site inspection prior to issuing a Certificate of Occupancy. Mr. Pershouse stated he spoke to the Borough Administrator who prefers that this be under the jurisdiction of the Board Engineer rather than the Borough Engineer because it is no on Borough property. Mr. Pershouse also stated that Mr. Olivo will be subject to COAH fees of 1-1/2% of the assessed value of the structure as determined by the Borough's Tax Assessor. Mr. Pershouse also advised the Board that the plans Mr. Olivo submitted are for a stick house, not a modular house which was in the testimony. Mr. Pershouse did not see any reference to modular house in the resolution. The house presented has a similar look, but it is a stick

house. Chairman Maguire stated although it is a different type of house, it is similar and if it passes the building code, there should be no issue. Mayor Maio noted the need to be “tighter” in the resolutions as to what was approved so there are no questions by Borough officials. Attorney Thomas agrees to an extent but noted when dealing with a residence, what the house is constructed of is under the construction official’s jurisdiction, not the Board’s jurisdiction. Mayor Maio expressed her opinion that if the Board was to grant a variance based on testimony and a presentation of plans, then the resolution should be specific as to what was presented. Chairman Maguire said it was originally submitted as a modular home, but was changed to a stick home and as long as it meets or is less than what was submitted, there is no issue. Mr. Pershouse noted the footprint of the house is the same as what was originally submitted. Chairman Maguire recalled the applicant coming before the Board because he wanted to make the house smaller and at that time the Board had no issues because he was decreasing the size. Mayor Maio again expressed her opinion that resolutions should be more specific as to what the Board approved. Chairman Maguire spoke about the need for Board members to closely read a resolution before it is approved. Mayor Maio asked if an applicant receives approval to put a new roof on an existing structure, is he permitted to tear down that entire structure and rebuild it with a new roof. Attorney Thomas said if an applicant receives a variance, they can build something different as long as it is conforming to the code.

NEW BUSINESS

Master Plan – Planner Doyle reminded the Board that the Master Plan review must be done every ten years and she questioned when the last review was done. Mayor Maio responded the Master Plan review is due in 2016.

Planner Doyle suggested, based upon this evening’s discussion, the Board consider changing the word “building” to “structure” in the code because a building is occupied and a structure is not.

BILLS:

	Dolan & Dolan	
07/31/14	Re: Milanovic	\$184.61
	Golden & Moran	
08/26/14	Re: Milanovic	\$100.00

On motion by Mr. Torelli, seconded by Mr. Pershouse, the aforesaid bill was approved on the following unanimous roll call vote:

AFFIRMATIVE: Mr. Bielanowski, Mr. Depew, Mayor Maio, Mr. Orinick, Mr. Pershouse, Mr. Torelli, Mr. Vance, Ms. Zelif-Murphy, Chairman Maguire

OPPOSED: None

ABSTENTIONS: None

ADJOURNMENT:

On motion by Mayor Maio, seconded by Ms. Zelif-Murphy, it was the consensus of the Board to adjourn the meeting at 9:32 P.M.

Respectfully submitted,

Ellen Horak, Board Secretary