

Stanhope Land Use Board
July 12, 2021
Regular Meeting Minutes

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CALL MEETING TO ORDER:

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

PLEDGE OF ALLEGIANCE:

Chairman Maguire invited all those present to stand in a salute to the colors.

STATEMENT:

Adequate notice for this meeting has been provided according to the Open Public Meetings Act, Assembly Bill #1030. Notice for this Regular Meeting was forwarded to the New Jersey Herald and Daily Record on January 12, 2021 and was placed on the municipal bulletin board and the official website of the Borough of Stanhope.

Furthermore, notice of the change in the meeting location was sent to the New Jersey Herald and Daily Record on June 24, 2021 and was placed on the official bulletin board in the Municipal Building.

In the event that the Board has not addressed all the items on its agenda by 10:00 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.

At this time, please turn off all cell phones.

ROLL CALL:

James Benson - absent	John Rogalo – present (arrived at 7:03pm)
Nicholas Bielanowski - absent	Joseph Torelli - present
Najib Iftikhar, Alt #1 – absent	Michael Vance - present
Rosemarie Maio – present	Paula Zeliff-Murphy - present
Thomas Pershouse - absent	John Maguire – present

Others Present: Board Attorney Glenn Gavan, Board Engineer Eric Keller and Substitute Secretary Linda Chirip

APPROVAL OF MINUTES

June 14, 2021 Regular Meeting – On motion by Mr. Torelli, seconded by Ms. Maio, the Minutes of the June 14, 2021 meeting were approved by a majority of the following roll call vote:

Roll Call:

James Benson - absent	John Rogalo – absent
Nicholas Bielanowski - absent	Joseph Torelli - yes
Najib Iftikhar, Alt #1 – absent	Michael Vance - abstain
Rosemarie Maio – yes	Paula Zeliff-Murphy - abstain
Thomas Pershouse - absent	John Maguire - yes

CORRESPONDENCE

- 06-15-21 Virginia Liotta, Esq. – Extension of Time for Board to act on application Re: Juntos Holdings, LLC, Block 11205, Lot 1 and 4.01
- 06-23-21 Ellen Horak, Clerk – Proposed Chapter 100 Ordinance; Ordinance 2021-12
- 07-06-21 Sussex County Planning Dept. – Subdivision and Site Plan Re: Juntos Holdings, LLC, Blk 11205, Lots 1 and 4.01

On motion by Councilman Vance, seconded by Mr. Torelli, 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 this public portion of the meeting.

NEW HEARING:

20-03 Juntos Holdings, LLC (*Extension Granted by Applicant*)
Block 11205, Lots 1 & 4.01 Site Plan Variance Application
Deemed Complete: 11/09/2020 120 Days: 04/09/2021

As a property owner within 200 feet of the applicant's property, Ms. Zeliff-Murphy stepped down from the dais.

Glenn Gavan, Board Attorney, stated the matter was heard last month and the Board granted the use variance to permit parking in a residential zone as long as the parking is in conjunction with the commercial use already existing in the next adjoining lot. Therefore, without the use variance on the table, the restrictions of five votes is no longer applicable. This will be a simple majority vote to grant the site plan. The witnesses are still under oath.

Virginia Liotta, attorney for the applicant came forward. Ms. Liotta stated there are still questions regarding the existing parking. Mr. Gavin asked Ms. Liotta to provide an overview of the site plan. Ms. Liotta asked Mark Shourds, Engineer and Planner for the applicant to review the parking issues. Mr. Shourds referred to Exhibit A1, which was marked at the last meeting, for Block 11205 Lots 1 and 4.01. The majority of the site is Lot 4.01 which contains the warehouse and office spaces which were discussed at the end of the last meeting. The applicant purchased Lot 1 which is a strange configuration. The applicant wants to merge the two lots and develop new parking areas to meet the standards as far as size, aisle width, curbing requirements, etc. As was discussed last time, there is no parking that can be developed on the site that meets all of the code requirements, such as the 25-foot setback from the zone line or a property line. No parking can be provided on the site to Lot 3. There is no room to develop because of setbacks from the roadway. The applicant will be asking for design waivers. The applicants do not want to expand the building. They want to bring the lot more into compliance with the Borough code which requires 45 parking spaces. At the last meeting, the number of existing parking spaces was

not discussed. Mr. Shourds entered Exhibit A3, consisting of four pages and Exhibit A4, which is a drone survey photo showing where the current parking exists. These existing spaces do not conform, set back wise or aisle widths, but they were existing spaces. Exhibit A3 shows two major areas on Plane View Street where parking has existed and has been utilized. The applicant is not proposing any changes except for those located near the loading docks. A3 shows the four loading docks, which on prior documentation is referred to as loading "Area B". The middle loading area is "Area A", which is no longer relevant. Area B has 10 existing parking spaces which co-existed with the loading area. One of the proposals was to expand that parking toward the property line and still have ten spaces there. Mr. Shourds stated the Board Engineer has stated in his letter that the loading and parking spaces cannot be in the same spot. The applicant would like to utilize the loading area for parking when trucks are not scheduled to be at the building. Loading Area A has a combination of stone and paved areas as shown on the third page of Exhibit A3. On the third page of A3 two parked cars are shown on a crushed stone area. On the fourth page there are 7 parking spaces shown. The dimensions are 9' x 18' and the drive aisle which accesses that is paved. The width of the drive aisle is not to the standards but it has been utilized for parking. On page three of A3 there are three asphalt parking spaces which are 20' x 9' in that area. There is another parking spot on the site with crushed stone. There is a railroad tie area on the ground off the photo to the left. Currently, in Area A there are 11 spaces which exist and are used today. Loading Area B has 10 spaces. These spaces could not be utilized when loading was taking place. The Plane View Street side has a total of 21 spaces. The Plane Street side parking is not delineated. The proposal is to add 14 spaces to the 4 spaces which exist right off of Plane Street. The overall total of parking spaces is 39. The Borough code requires 45 spaces. Mr. Shourds stated his client is trying to make the property conform for the current tenants and for those in the future. The applicant will give further testimony to describe the current tenants and their use requirements and if things change what that might look like and how she contemplates the project moving forward. Councilman Vance asked if the proposed locations by the dock are stone dust? When deliveries are made where would the vehicles utilizing those spots park? Mr. Shourds replied the owner will speak with regard to the number of trucks and how the scheduling will be handled. The areas will be paved and storm drainage will be addressed to comply with the requirements. Scheduled truck deliveries will be very important because the spaces cannot be used when people are parked there. The owner will testify that the number of trucks over the past year has decreased. Mr. Shourds stated on page 2 of Exhibit A3 the 5 parking spaces in red extend to the property line and they would be paved. The impervious coverage issues would be discussed with the Board Engineer. Mr. Shourds stated they would like the Board to say the spaces are existing, being utilized and are grandfathered and can still be used.

Mr. Keller, Board Engineer, asked Mr. Shourds if the gravel area spaces were part of the original site plan. Mr. Shourds stated he can only speak to what is on the surveys from when his client purchased the property. Mr. Keller stated he has worked for the Borough since 2006 and that area was always open and useable but it was lawn not gravel, as he noted in his December memorandum. What is the relevance to existing parking? Going forward we need a plan that is functional and meets the needs of the applicant and/or the tenants of the building. This is our parking standard and the Board has to review it. If 45 parking spaces cannot be provided then a "C" variance has to be submitted outlining why it cannot be achieved. A resolution may be needed if they cannot conform. Chairman Maguire stated there is a great deal of reference to gravel areas. Chairman Maguire asked if these areas would all be paved and drainage and lighting would be provided. Mr. Shourds stated as part of the site plan which has been submitted, and provided before the Board, no improvements are proposed on the existing areas on Plane View Street. Some of the spaces are paved and some are not. Chairman Maguire asked what the Borough requires. Mr. Keller stated the design standards require the parking areas to be paved. From a stormwater perspective, it does not matter if the area is asphalt or gravel, it is still impervious coverage

under the rules. Gravel is not as impervious as pavement, but it is still considered an impervious cover. Chairman Maguire asked if there is a stormwater plan in place for water runoff. Mr. Shourds stated there is nothing that controls the volume of runoff. There are controls as it relates to directing the runoff into the storm drain system such as all the roof areas have gutters and pipes. There is nothing that retains stormwater from these existing impervious areas. Chairman Maguire asked what size pipes are in that area. Mr. Keller stated there are existing pipes in the street which are probably 12 or 15 inches. Mr. Shourds stated they are 15" from the storm pipe and the system which runs under the curb line is 10" corrugated metal pipe. Chairman Maguire asked if the 15 spaces to be added would be paved, along with the now gravel area and pitched toward the road and are there stormwater capabilities in the road. Mr. Shourds confirmed this and stated the initial proposal contained inlets and drywells connected by pipes. The Board Engineer has pointed out there are areas where water would flow directly out of the parking areas without being picked up. Mr. Shourds suggested trench drains across the driveway areas for the entrances and exits along with another section in order to recharge as much as possible. There would be two portions to the system because this would be further downhill. There would be a drywell and when that reached capacity water would flow out of the grate and continue in the same direction that it has always gone. The system would be backed up by a direct connection, at the request of the Board Engineer, to tie in to the inlet across the street. This would prevent a surface swell. Once it reached its maximum capacity from the drywell, the drywell would discharge into the system so it would not go to the surface. Chairman Maguire asked Mr. Keller if trench drains require maintenance. Mr. Keller stated drains do require maintenance. Trench drains can be used with grates which can be removed for maintenance. The new 7th Heaven gas station has installed trench drains with grates. Mr. Keller stated he is of the opinion this would be an appropriate design. There are storm drains on Plane Street which flow across New Street and discharge on the south side of Plane Lane. It then runs down in the ditch alongside Plane Lane into the river.

Chairman Maguire stated the truck traffic has decreased substantially and asked how the number of 45 required parking spaces was determined. Mr. Keller stated it is calculated by square footage by use. Mr. Shourds stated the office is 2,296 sq.ft. and the storage and warehouse area is 26,972 sq.ft. which, based on the ratios contained in the Borough ordinance, requires 45 total parking spaces. Mr. Gavan stated a clause would have to be included in the resolution in the event of a use change. Mr. Gavan asked Ms. Liotta if the litigation issue has been settled. Ms. Liotta confirmed this.

At this time, Shari Spiridigliozzi, the owner of the property, came forward and was sworn in by Mr. Gavan. Ms. Liotta asked Ms. Spiridigliozzi, as the owner of both properties under application, to explain Juntos Holdings. Ms. Spiridigliozzi stated Juntos Holdings owns the building which is rented to Breaking Games which is a publisher and distributor of board games and card games and she owns both companies. Steve Race, the prior owner of the Kelly Street property, had a warehouse for rent and she had rented it for six months which went well and was set up for distribution. Mr. Race decided to sell the building and she purchased it in 2017. Ms. Liotta asked if a Zoning Permit was filed. Ms. Spiridigliozzi stated yes it was filed for office use, light assembly, light warehousing and distribution. The games are sold to Walmart, Target, Barnes & Noble and several other larger clients and they started to fill orders and filled the warehouse. The large companies control their own distribution schedules and rules. If you are late or not ready when the trucks arrive you are fined. This is a time critical operation and there was a high learning curve in growing the business. Currently, the distribution is no longer being done from Kelly Place. Another location has been acquired at 200 International Drive, Suite 2 in the Trade Zone which is a 100,000 sq.ft. warehouse with offices and the distribution was moved there. Ms. Spiridigliozzi stated when she moved into the Kelly Place location and found out there was a problem she promised to move as soon as possible. She kept her word and moved the operation as soon as she

was able to find the location. By March or April of 2020, the operation was moved completely to the new location. It did take a while to move because of COVID. Only a few people could work in the building at the same time. Currently, her main office for Breaking Games is located at the Kelly Place location along with a room which is used for podcasts and multimedia production to help the game business which is taking off and looking to expand, and light warehousing is being done. Due to the fact distribution is no longer being done from the building, and there is an interest for the multimedia use, more parking spaces are needed for the media, audio, video recording business. This type of business for example could be utilized by high school orchestras to record. Customers will need parking spaces. A business cannot be run without parking spaces. Deliveries of equipment would be made to this location for the multi media center. Bands could rehearse and record here and may have a truck with their equipment. This may occur two times per month but these would be scheduled. It would not be like the situation with Walmart and Target. Ms. Spiridigliozzi stated she would control the deliveries and they would be done on her terms. Most of the time the trucks would be small, not the 53' long tractor trailer trucks. Chairman Maguire asked if the trucks would utilize the loading dock at Area B. Ms. Liotta confirmed this and stated we are calling it "B" but we are keeping with the original delineation in the resolution where the upper portion is referred to as "A" and the lower portion is "B". Chairman Maguire asked which loading dock area would be utilized for the trucks now. Ms. Spiridigliozzi stated they would utilize the middle loading dock. Mr. Gavan stated that is area "A". Mr. Gavan asked if the 4-bay area would be utilized. Ms. Spiridigliozzi stated it is possible that the lower warehouse could be used as a sound stage and trucks would use that area. Ms. Spiridigliozzi stated in the past there were sometimes three trucks per day. The number of trucks will be much less but she does not want to give up the right to have trucks come in and out. The business use that is being requested is a multi-media arts facility. There is a similar business located at the Tannery. Ms. Spiridigliozzi stated she has contacts with Broadway Shows and they may use the facility for rehearsals. This use would fit the neighborhood much better. Chairman Maguire asked about noise levels. Ms. Spiridigliozzi stated the building would be sound proofed. The number of people in the building at any one time would be limited and there would be strict rules about leaving the building late at night etc. The request is to have a 24-hour business with caveats in place. Most people record and mix recordings at night and often times sessions run late. Any noise will be controlled. Ms. Spiridigliozzi stated she is willing to invest in the property if the Board will support the business.

Mr. Keller stated the property has a non-conforming use for the building. This is a change from what the historic use has been before March of 2020. Mr. Gavan stated this is a different use than the case law and the applicant's case would be to prove the use is less obtrusive than the warehouse and industrial use. Getting ahead of ourselves here, but the win for the town is that the approval could then kind of ignore Judge Stanton's opinion. Then this would be the use and the prior use is then abandoned and cannot revert back to. Mr. Keller stated a new use variance application would be required. Ms. Spiridigliozzi stated the brewery use is still not out of the question but the pandemic put that on hold. Mr. Gavan stated that was a conceptual use which was well received. Ms. Liotta stated that is not the focus of tonight's application. The focus is on what was submitted back in August. Mr. Gavan stated then tonight's hearing should not have any testimony regarding the media use. It is beneficial to hear, but it adds a whole lot more questions. Ms. Liotta stated they would be making a formal application to change the use. As of today, the building is still being used for office and storage for Breaking Games. Mr. Gavan stated the tractor trailers are no longer an issue and the only trucks at this time going in and out are small box trucks or FedEx trucks. Ms. Liotta confirmed this to be true. Mr. Gavan stated the music/media issue is for the future and the truck usage would be delineated with that application. Ms. Liotta stated Juntos has another property which is another piece of this but with the court order they were not permitted to do everything all at once. Mr. Gavan stated, with the history of this, he does not

fault the applicant. They have been doing everything they can to keep this moving forward. The court settlement will be critical to all of this. When the court settles a case like this it has to come back to the town and the Board to be approved. Mr. Gavan stated he is of the opinion it will be more than acceptable based on the Borough Attorneys efforts. This has to come back to the Land Use Board which will outline the requirements. Ms. Liotta stated the judge has dismissed the case with prejudice. The draft is just being circulated. Mr. Gavan stated what happens now, and as a part time litigator he finds it frustrating, the courts dismiss cases before they are ready to be dismissed. Ten years ago, this case would not have been dismissed until the paperwork was in order. Now the courts dismiss with prejudice with the unwritten rule that it has to be agreed upon. When the settlement is received by the Land Use Board, an Executive Session will take place to review, discuss it and approve it or not. Rarely does a Land Use Board not approve a court settlement. Chairman Maguire asked for confirmation of the use, which is not music. Ms. Liotta stated the use is light warehouse, light assembly and offices.

Ms. Liotta asked Ms. Spiridigliozzi what the current use of the building is. Ms. Spiridigliozzi stated Breaking Games has office space, storage and media use. People are still working from home and from the Trade Zone.

Mr. Shourds, who was still under oath, asked some additional questions regarding the parking issues. The Board Engineer has asked for several things in the review for the parking lot. The stormwater and the permeability of the soils need to be verified. The contractor who removed one of the buildings on the property has some knowledge of soils and where stone locations may be. Soil samples have not been taken to date and permeability studies have not been done which are needed to confirm the designs. Mr. Shourds stated the Board's Engineer has asked if the landscaping islands can have more screening for properties across the street. If the islands were to be expanded, four parking spaces would immediately be lost. The whole purpose of this is to try and gain parking spaces. Mr. Shourds stated he does not like to design dead end parking lots and wants to keep circulation so no one pulls into the lot and has to back up if there are no available spots. No additional screening can be done without losing parking spaces. Lastly, The Board Engineer has asked that the slope across the parking lot be reduced. Mr. Shourds stated reducing it to 6%, is the best he can do. All these items affect the parking. The client will have to come back with a new application which will have to be advertised and this will take time. Mr. Shourds stated he does not want to do the engineering twice and asked if the Board could provide a sense of what would be acceptable. He will address the slope and stormwater. Mr. Gavan stated he agrees with Mr. Shourds request but the Board needs to hear from the public and then the Board will be able to make their comments.

Mr. Gavan stated at this time the public should have an opportunity to speak. Chairman Maguire opened the meeting to the public on this subject only.

Kathy O'Bitz, 19 New Street, stated parking issues and drainage are an issue. The area with the gravel near the road was put in after the owners purchased the property and to her knowledge it was done so for the neighbor across the street and it was used by their employee. There was no existing parking there, it was just part of the grass. The loading dock with the 7 spots and gravel was not a parking area when Mr. Race owned the property. The area was for loading and unloading only. In 2011, the other four bay area was put in when Mr. Race had the pole-vaulting facility. There were no trucks coming in or out and it was less obtrusive on the neighborhood. As Mr. Keller stated, the area was always grass and the new owners put in gravel because the employees were getting stuck. The parking now goes up to the oil tank and butts up to the State property. Mrs. O'Bitz stated with the drainage, the water now runs down from the corner of their property runs down through the catch basin, under the road and goes through her

property. Because the town took out the pipe which was on the other side of the catch basin on Plane View Street, the water goes directly in front of her driveway and she has erosion issues. A few years ago, when Ms. Maio was on the Council, she and others from the Council went to view the problems at her property. People from the State also visited but nothing was ever done. Ms. Maio did confirm she had looked at the property. Mrs. O'Bitz stated issues began at her property when a pipe was removed when New Street was repaved. Now when it rains, it is like a raging river. Mr. Gavan asked Mr. Keller if the pipe that was taken out was on the applicant's property? Mrs. O'Bitz replied it was not. Ms. Maio stated the pipe was removed when New Street was paved which was done prior to Mr. Keller's appointment as Borough Engineer. Mrs. O'Bitz stated she has asked for the pipe to be replaced over the years but now there is talk of trenches, additional water and drains etc. Mr. Keller stated the applicant will be responsible for any increase in impervious coverage. Including the loading dock of Area B and the gravel area by Ms. Zeliff-Murphy's residence. Mr. Keller stated he was not aware of the areas on Plane View Street so he will review the aerial views which date back ten years ago. Mr. Keller stated he has been here for 16 years and nothing has ever been done on Plane View Street. Chairman Maguire asked about the pipe sizes. Mr. Keller stated there are a variety of different pipe sizes that were historically installed in that area. Chairman Maguire stated there are areas which were shown during the testimony which are gravel and will remain as such. Mr. Keller stated that it is not his intent. Mrs. O'Bitz stated Mr. Race was already exceeding the impervious coverage.

Chairman Maguire asked Mr. Shourds what the intent is for the parking. Mr. Shourds stated the site plan does not include any changes to Plane View Street. However, in order to address the Board Engineer's comments, 5 spaces may have to be paved. Mr. Gavan asked why the spots on the left of the 4-bay area will be gone. Mr. Shourds replied on Exhibit A3 page 2 the area with the 4 loading bays is 12' wide and 60' long in accordance with the Borough code. Those are the loading areas for the 4 bays shown on the first page of A3. Mr. Gavan stated two bays will be blocked and the hope is to move the other parking into the grass area and open up 2 bays. Mr. Shourds stated, shown on the sketch on page 2, there is 29' between the two parking areas. The Borough ordinance calls for a 24' drive aisle. Mr. Shourds stated, if not utilized for loading, but in order to properly get 10 spaces in that area it has to be expanded which is part of the proposal. The Board Engineer has asked where impervious coverage can be removed from in order to compensate. The applicant needs parking for any use for this building. As the property owner has indicated, some parking spaces may or may not be grandfathered. Mr. Gavan stated he never heard of parking spaces being grandfathered. Mr. Keller replied that parking spaces can be grandfathered. Mr. Keller stated the distance from the corner of the building across the loading docks scales 48', which is not a conforming parking module for 90-degree parking with a drive aisle. This would need a minimum of 60' and therefore the area is 12' short. Just because an area is stiped does not mean they are acceptable spots. Mr. Keller stated we are approving a site plan and that site plan has to have at least some basis in reality. Mrs. O'Bitz stated they were put in when the pole-vaulting business was there so people did not have to park on the street and the bays were not being utilized. The 5 parking spots butt up against the State property. Is there a danger of contamination from the vehicles leaking into the forestry area? Ms. Maio stated she is of the opinion contamination would not be an issue in that sense. Mr. Gavan stated people are always going to need to park and spaces need to be available. Any contamination issues can be addressed. The goal is to avoid as much on street parking as possible. Mr. Keller stated, as per his review memo of May 6th when discussing the variances, under the State Stormwater Regulations, water quality only becomes a factor if there is an increase of a quarter acre of new impervious or more. Knowing what was there prior is an issue. Not all of the gravel had been added. It has to be designed by the applicant's engineer to pitch toward the State property to the woods or it needs to be collected and the Board will then review it. Mrs. O'Bitz stated the drainage in general affects her property and the catch basin. Mr. Gavan stated part of Mrs. O'Bitz's problem needs to be

addressed by the Borough. The applicant can only be responsible for a certain amount of water. Mr. Keller stated water cannot be diverted to other properties. Mrs. O'Bitz stated the Board needs to look long term down the road. Things change. Chairman Maguire stated the Board is aware that things do change and provisions can be put in place to address those issues. Mr. Gavan stated Judge Stanton's decision has the Board on hold right now. If a change of use is approved, it could null and void the property from ever becoming a warehouse again which would be less impact. Mrs. O'Bitz stated she disagrees that there would be less impact. Mr. Gavan stated twenty years ago Judge Stanton ruled if they want to distribute and run trucks in and out, the Borough cannot stop it.

Chairman Maguire stated, short of repaving roads, something needs to be put in place to prohibit the tractor trailers. There are weight limits for the roads and he is not in favor of tractor trailers. If trucks can be controlled for a media center, then they should be able to control what goes in and out now. Councilman Vance stated that is not the case at this time because the large retailers are the ones determining the trucking schedule and types of trucks going in and out of the facility. Breaking Games has no control over that. Ms. Maio stated Breaking Games can control the trucks for their business but not the scheduling of the trucks for the larger companies and that is not the use which is being presented to the Board. The use is office, storage, light distribution and light assembly. Mr. Gavan stated the music/media use is not being presented now. Right now, the only trucks which occasionally go in and out are FedEx type trucks and an occasional 48-foot truck which is what they testified to. Ms. Liotta stated that is the overall size, in the sense of the settlement. Mr. Gavan stated we are getting ahead of ourselves. There is litigation which has not been settled yet. Discussions are taking place regarding uses which are not on the table yet. Mr. Gavan stated all that is before the Board right now is a site plan for parking, which the engineer stated himself and Mr. Gavan believes, we are not in a position to approve or deny. After listening to the rest of the public, the Board needs to determine if the gravel is sufficient or not. If paved and lined parking is required. Then the engineering has to be done to see if this all works as drawn.

Mr. Keller stated as of today a settlement agreement is still pending and there is Judge Stanton's ruling from 20 years ago which still governs. Mr. Gavan confirmed this. Mr. Keller stated the testimony from this evening stated no distribution is being conducted, which is where the really big trucks came in. Mr. Gavan stated because no one from the Board was involved in the litigation, he cannot tell them what was agreed to or not. Hopefully the number with regard to the size of the trucks in the agreement will be acceptable by the Board, but if it is not, there are problems.

Chairman Maguire asked Mrs. O'Bitz if she had any more questions. Mrs. O'Bitz stated drainage and parking are her areas of concern and how will they affect her property and the State property.

Paula French, 27 New Street, stated she is confused as to why parking for the current use is an issue if the use may not remain. Why is this being discussed when a better location has been found. Why is a site plan needed? Mr. Gavan stated the site plan occurred because zoning violations were filed. The site plan that was approved for the previous owner, Steve Race, did not follow what should have been done. Therefore, that site plan was null and void from a legal point of view. Mr. Gavan stated when a whole new use was discussed, that changed everything and we are in effect wasting our time. We are here now with an application before us and we are doing the best we can. Mrs. French stated the owners will have control of the vehicles that come in. But there are musicians who often have giant buses. What will be going on in the buses while others are recording? Mrs. French asked about the number of 45 required parking spaces. Mr. Keller stated currently on Plane View Street there are 21 parking spaces. There are 19 parking spaces on Plane Street. The building is short on a few parking spaces for the current use.

Mrs. French stated when she wanted to add on to her house she was told she could not exceed 1/3 of impervious coverage. This impervious coverage is already a lot more than that. Councilman Vance asked Mrs. French if she filed an application for a variance with the Land Use Board for the addition. Mrs. French stated she chose not to because she was not close to the 1/3 requirement.

Ms. Spiridigliozzi asked what would everyone like the building to be? Mr. Gavan stated that question cannot be asked in a public meeting. Ms. Spiridigliozzi stated no one wants to support any use. There is a settlement with no settlement. The Board seems reasonable and she wants to work together to move forward. Chairman Maguire stated over the years there have been various businesses in this building such as Kelly Beverage and Dover Handbag. In today's world we have to make it work. Chairman Maguire asked the Board if they have any questions. Mr. Gavan stated legally the comments should state whether you want gravel or paved parking spots, drainage and marked spaces. Nothing can be voted on now. Councilman Vance stated he is of the opinion the gravel spaces should be paved and lined and the drainage on and off the property needs to be addressed. He is willing to accept having only 39 spots out of the required 45 parking spots. Chairman Maguire stated he concurs with Councilman Vance's opinion and the Board's Attorney. The drainage plans need to be acceptable to the Board's Engineer. Mr. Gavan stated definitive truck traffic use needs to be set. Ms. Liotta stated the present use has no truck traffic except for an occasional delivery. Mr. Gavan stated when he brought up truck traffic earlier, there was mention of large trucks. Mr. Gavan stated he is of the opinion this got confused with the proposed settlement number which was mentioned and the potential use. The testimony may be justifiable but it needs to be heard. Mr. Torelli stated the formal parking needs to be clearly marked, whether it is gravel or pavement and delineated so people know where to park. Ms. Maio stated she agrees 39 parking spaces overall is acceptable. The parking spaces need to be paved and marked. The more definitive the better so people park where they are supposed to. Mr. Rogalo concurs that there needs to be definitive parking and the stormwater runoff needs to be slowed wherever possible. He also agrees 39 parking spaces is acceptable.

Mr. Keller stated his memo stated the parking spaces should be paved and striped. The code says 45 parking spaces are required. The testimony has not been given as of today for the use that currently exists if that number is necessary. Some towns do provide the opportunity to bank parking spaces. There is only so much the applicant can do with stormwater. If the spaces are not needed, then do not pave them. We asked Mr. Shourds last time to show us where people can park and where they have been parking. This does not mean that they need those spaces. Mr. Gavan stated the testimony needs to be presented as to what is needed. Ms. Liotta stated her clients are here because they are under a court order to do so with what they have. Mr. Gavan stated testimony regarding the use of spaces and truck traffic and the engineering needs to be given. Mr. Keller stated the applicant and the engineer need to present what they need for the operation in place today. Show us banked parking and what can be done. Less impervious coverage is best. If they will need more parking in the future, the stormwater facilities will have to be in place to support that. The applicant needs to tell us what they want to do. It seems clear that the Board is in favor of parking spaces being paved, stiped, lights and landscaping to the extent possible. The house that was on Plane Street was in the right of way. Ms. Liotta asked for a 60-day timeframe to have time to amend the application. Mr. Gavan agreed and stated that Mr. Shourds had stated he will need more than a month to prepare. If the spaces by the State land are banked, they could be used for bus parking in the future. Ms. Liotta stated there is another property owned by the applicant. Mr. Gavan stated this is a tough situation for the applicant and he granted an extension for 90 days without prior notice. If the applicant is ready before that time they can come back to the Board sooner. A letter is needed from the applicant and the case will be carried every month. Mr. Keller stated ten days

ADJOURNMENT:

On motion by Mr. Rogalo, seconded by Ms. Maio, it was the consensus of the Board to adjourn the meeting at 8:58 P.M.

Respectfully submitted,


Linda Chirip