

**TOWNSHIP OF WEST MILFORD
PLANNING BOARD**

MINUTES

September 26, 2019

Regular Meeting

Chairman Christopher Garcia opened the September 26, 2019 regular meeting of the West Milford Planning Board at 7:05 p.m. with a reading of the Legal Notice followed by the Pledge of Allegiance.

ROLL CALL

Present: Matthew Conlon (7:27), Linda Connolly, Ada Erik, Chairman Christopher Garcia, Warren Gross, Douglas Ott, Geoffrey Syme, Board Attorney Thomas Germinario, Board Engineer Mark Denisiuk, Board Planner Jessica Caldwell.

Absent: Steven Castronova, Scott Leonescu, Councilman Luciano Signorino, Glenn Wenzel.

Chairman Christopher Garcia advised that a quorum was present to hold this regular meeting.

PUBLIC PORTION

The public portion was opened by Chairman Garcia. The following addressed the Planning Board members:

Richard Randazzo - 278 Wooley Road, expressed concerns about issues with water during a recent drilling of a well at the [former Braemar] subdivision. He referred to the recent Council review of a draft Airbnb ordinance and cautioned that illegal short term renters would not be aware of the need to conserve water in the same way as the residents of the Township. He suggested that any Airbnb ordinance considered by the Township should require well and septic testing.

With no remaining members of the public wishing to address the Board, the public portion was **closed** on a **motion** by Ada Erik with a **second** by Douglas Ott.

Ada Erik advised that a revised version of the second draft of the short term rental ordinance is still under review by the Governing Body. She had raised the issue of water use during discussions with fellow Council members on this matter. Chairman Garcia advised that the Planning Board drafted, reviewed, and revised the ordinance numerous times before it was referred to the Governing Body for consideration.

APPLICATIONS

PENDING APPLICATIONS – None.

NEW APPLICATIONS

JOSHUA CUTUGNO

Major Soil Movement Permit #PB-07-19-02

Block 8802; Lot 49

65 Vreeland Rd; R-2 Zone

Seeking: Major Soil Fill Permit approval to import 1,234 CY of soil to level the rear yard which will include stone retaining wall(s) along the rear of the property, with a maximum height of 4 feet.

The applicant, Joshua Cutugno, represented himself in this matter, and was accompanied by his engineer, Tyler VanderValk P.E. of Houser Engineering. Both the applicant and his engineer were sworn in for testimony by Board Attorney Thomas Germinario, and Mr. VanderValk provided his qualifications for the Board. He advised that comments from the Board professionals received just prior to the last meeting, when this matter was originally scheduled, resulted in revisions to the major soil movement plan. He testified that the rear yard of the subject site sloped steeply from the foundation of the house and was not suitable for use by the family. The intent of the soil movement project was to import fill to level the property and bring the slope closer to the property line. The revised plan includes a 4 foot retaining wall with a 3 to 1 slope close to the property line, before leveling out. Mr. Vandervalk noted that the original plan included two retaining walls and required more fill. They have scaled back the fill,

included an interceptor or curtain drain which will empty to a trench, and wrap around the bottom of the slope with a swale created. The rear of the property slopes to the west to a low area that forms a valley between the applicant's and the neighbor's property, so there will be no discharge unto the adjacent property. There is no septic system or well, and the public utilities are located in the front, with a paved driveway also in the front of the property. Trucks would be able to enter the driveway at the front and there is a wide area to the east of the house to access. The HEPSCD certification was received, and a silt fence will be installed on the downslope side of the disturbance and around the stockpile, with compaction testing by the soil conservation district. Mr. VanderValk testified that the soil movement calculations amount to just over 1200 cubic yards, which is about half of what they originally proposed. Chairman Christopher Garcia opened the matter to the Board members, but there were no inquiries regarding the engineering testimony.

Mr. VanderValk referenced the report from the Board Engineer, Paul Ferriero, dated September 20, 2019, and proceeded to address the comments, beginning with the timeline, noting that this project will entail a much longer period of time to complete than originally anticipated. The applicant plans to perform tree removal initially, depending on the cost and the weather, and fill would begin to be brought to the site before a freeze. If the weather conditions are not conducive, then the fill would be brought in during the Spring. Trucking would amount to about two – three trucks a day, at most, depending on the availability of the fill from the contractors. With regard to sealed surveys, he brought them to this meeting for submission to satisfy the requirements. Addressing #3 regarding the delineation of the property lines, the applicant had no issue complying, and he noted that there may be corner stakes already installed. Regarding a Building Dept. permit requirement for walls over 4 feet, they will comply if the walls exceed 3'9", and the imported soil will be tested to certify that it is clean fill. As to the route for trucking, Mr. VanderValk suggested that the route would be the same distance from either access road, since the applicant's property lies basically in the center of the two routes. The route that would most likely be taken would be Macopin Road into the development to Arundel, then Bradrick to Vreeland. Mr. Germinario inquired if this would minimize the impact of the trucks on the [Old Milford Estates] residential development, and Mr. VanderValk stated that most of the traffic would be coming from Macopin Road. The soil will be coming from various locations, but fairly local sites, including Ringwood and West Milford, and all soil would be documented and tested. With regard to fencing along the top of the retaining wall that is part of the landscaping, they will comply if it is required, but they have found nothing to indicate that it would be. Mark Denisiuk, the Board Engineer, suggested that it can be a condition of approval to include a note on the plan that fencing or railing will be installed if required by the building code. Mr. Denisiuk observed that this is a rear yard, and with a 4 foot wall, steep slope, and children at this location, it may be required. Mr. VanderValk stated that an updated/revised soil erosion and sediment control plan will be submitted to HEPSCD for certification.

The exhibits that were submitted in conjunction with the testimony included A-1 Property Survey-Boundary Survey, dated 01-10-19, A-2 Partial Topographical Map, dated 05-07-19, A-3 HEPSCD, dated 08-05-19. Continuing with testimony, Mr. VanderValk referred to #9 in the Board Engineer's report, a comment also noted in the Board Planner's report, regarding a 100 foot buffer requirement between the applicant and neighboring properties with relation to a soil movement project. Mr. VanderValk requested a waiver of this requirement since the subject site is only 120 feet in width, and they are not creating a soil mining activity with 1200 CY of soil. Mr. Germinario noted that the Board Engineer recommended screening of the soil. Mr. VanderValk stated that the applicant had no issue with this or with posting a bond. Board member Geoffrey Syme inquired about the distance from the edge of disturbance to the property line, and Mr. VanderValk stated that the required width for a buffer does not exist. Mr. Denisiuk agreed that it would be impossible with the existing width of the property, and he suggested landscape screening, if the Board agreed to this. He also suggested that, with tree removal that is planned, there is an opportunity for the fill slope to accommodate some trees. Regarding the screening stock, Mr. Denisiuk recommended that it be consistent with the local trees and shrubs. Chairman Garcia inquired about the lower portion of the slope, and the Board concurred that the applicant's engineer can work this out with the Board Engineer. Addressing the report of the Board Planner, Jessica Caldwell, Mr. VanderValk referenced item #1 regarding stabilization, and stated that they have supplied the soil erosion details on the plan and have received

certification on the original plan, but they will get that re-certified. If they add plantings, it may be sufficient for stabilization given the proposed slope change of 3 to 1. With regard to the comment #3, which referred to details on the original plan, the plan has been revised, and they have also pulled the limit of grading back from the property line to insure that a work area can be created. Restoration includes leaving the slope in a more natural state, but the level area in the rear yard will be maintained as a lawn area and supplemented with plantings. Regarding #5, the applicant has requested approval of the project to make the site more amenable for family use. As to the types of equipment that will be used at the site, there will be dump truck deliveries that will be spaced out over several months, and the typical backhoe for soil movement. With regard to sound and hours of operation, sound should not be an issue, and they will comply with time restrictions for operation of machinery, as well as to control dust that may result from the soil movement activity. Ms. Caldwell remarked that if there is a problem, it will be reported and addressed.

Referring to the Environmental Commission's memo, Mr. VanderValk said that the intent is not to damage the public roadway and/or curbing, and they understand that they will be subject to the Engineering Dept. inspections. The Commission recommended photos of the road and curb before the activity commences, and Mr. Denisiuk advised that the Engineering Dept. and applicant should both take photos in case there is an issue. Mr. VanderValk suggested to the applicant that he take photos of the roads from Macopin to Vreeland. Mr. VanderValk was advised that Suez will also be involved in major construction projects in the development, so it may be tricky to pin down who is responsible if any damage occurs. Board member Matthew Conlon commented that Suez will be working in the roadway in limited locations for hydrant repairs. The applicant requested that the inspector take that into consideration when assessing any damage to the roadway. Board member Ada Erik commented that the applicant should take lots of photos. Referring to the Commission's comments regarding the use of mud mats, Mr. VanderValk testified that the slope adjacent to the house will have to have stone, but mud mats will be used. Although there is not that much truck traffic anticipated at any given time, they will comply with the cleanup of the road and respond to any issues when there is truck or soil movement activity. Mr. VanderValk commented that Mr. Cutugno was the first applicant that they had who came for an engineering plan before the work was started. Board member Linda Connolly inquired about the truck route and suggested that it might be tight for trucks to enter and exit Macopin to Arundel. She suggested that Ridge Road might be a better alternative as it is less traveled during the day. Ms. Erik commented that Ridge Road to Vreeland is very steep with lots of angles. Chairman Garcia expressed hope that the trucks respect the fact that this is a residential neighborhood.

The hearing was opened for public comment. With no one present from the public wishing to address this matter, the public portion was **closed** on a **motion** by Ada Erik, with a **second** by Matthew Conlon.

Geoffrey Syme made a **motion** to **approve** the Major Soil Movement Permit application for Joshua Cutugno, PB #07-19-02 with the conditions noted, **seconded** by Warren Gross.

Roll Call

Yes: Matthew Conlon, Linda Connolly, Ada Erik, Chairman Christopher Garcia, Warren Gross, Douglas Ott, Geoffrey Syme.

No: None.

Motion approved.

KINGWOOD FLEX, LLC

Preliminary & Final Site Plan & Bulk Variances #PB-03-18-03

Block 6401; Lots 1 & 3

1592 Union Valley Road; CC Zone

Seeking: Approvals for a Preliminary & Final Site Plan with Bulk Variances for the redevelopment of an existing mixed use commercial building including the partial demolition of the building and construction of a 5,449 SF building addition to house a Dollar Tree retail store. Associated site improvements include parking areas, grading, landscaping, lighting and utilities.

Robert Moshman, Attorney, was in attendance to represent his applicant, Kingwood Flex, LLC. He advised the Board that the Engineer, Architect, Traffic Specialist, Planner, and owner of the subject site were in attendance to testify for this hearing. He

introduced Matthew Bersch, P.E., of Dynamic Engineering, who was sworn for testimony by the Board Attorney and qualified as expert witness for the applicant. Mr. Bersch reviewed the proposed building expansion at 1592 (1590-1610 Union Valley Road) that will house a Dollar Tree retail establishment. He then reference Exhibit A-1, an Aerial Map, dated 03-01-19 of Block 6401; Lots 1 & 3. He indicated the developable area that is on the westerly side of the site, New Jersey Ave and Union Valley Road, and testified that this application consists of a two story mixed use facility that contained a dry cleaner store, nail salon, tattoo parlor, pizza restaurant, etc. The three driveways to the site were all from New Jersey Avenue, with a one way for exit and two dual drives for entrance/exit. The site sloped approximately 5 ft down to Belchers Creek. Exhibit A-2, a Site Plan Rendering, dated 09-26-19, was a combination of the site plan and proposed landscaping plan, denoting existing and proposed building elements and parking. Mr. Bersch testified to the existing size of the building, the proposed addition, and noted that this addition will be located on the southern half of the building. The existing mixed use will continue as commercial, residential, and office use. The current tenants will remain in the section of the building that is not renovated. With regard to the Dollar Tree retail business, he noted that there will be multiple items priced at \$1, and the hours of operation will be 9am to 10 pm, with reduced hours on Sundays. The Dollar Tree store plans to have approximately 8–10 local employees. The items associated with the new addition for the Dollar Tree includes a new trash enclosure, and two new driveways in the same area as existing, with the elimination of the third driveway. He noted that the rear driveway was used more for truck circulation, but there is adequate circulation in the new plan for the trucks. Mr. Germinario inquired what type of trucks would be using the site, and Mr. Bersch responded that they would be WB 67 modifieds, which are 53 ft trailers with cab, delivering one to two times per week. The existing tenants will use box trucks for their deliveries. Mr. Bersch noted that included in the site plan were calculations for truck and vehicle maneuvering. He testified that the applicant is requesting a variance for 75 parking stalls, and although 86 are required, he noted that the 75 spaces will only result in a 12-13% deficiency in spaces. With the existing number of stalls there is a 25% deficiency, so the increase in number is more in compliance with the ordinance requirements. A variance is requested for one large loading zone for the one truck that will be delivering goods one to two times per week, as opposed to the three loading zones that are required by ordinance for this site. The sidewalks will supplement what is existing and will be located along the Dollar Tree frontage on New Jersey Avenue and also along Union Valley Road frontage.

With regard to lighting, the applicant is proposing five new light poles and a remount of six existing light poles, for a total of eleven. The fixtures will be LED and freestanding. Five new LED wall packs will be installed by the Dollar Tree façade, and the existing light units will remain. Mr. Bersch testified that there are 130 new plantings proposed which will consist of multiple varieties including evergreens, shade trees, ornamentals, and deciduous shrubs. These will be located along New Jersey Avenue, with some of the existing landscaping to remain. The well will be abandoned and a new well will be relocated and drilled on the north side of the property. The existing septic system in the center of the parking area will continue to be upgraded. Mr. Bersch testified that the applicant is proposing to reduce the impervious surface on the site and will meet stormwater requirements. He stated that the applicant will obtain the necessary permits from the NJDEP for the flood hazard area encroaching on the property and the wetlands buffer. Referring to the signage, the existing sign is free standing and will remain, but Dollar Tree will replace a panel to identify their business. There are two façade signs proposed, with one on the western side and one on the south at the entrance. One will be 42.33 sf and one will be 99.6 sf; they both meet the ordinance requirements. Board member Douglas Ott inquired about the truck circulation, and Mr. Bersch referred to the vehicular circulation plan on sheet 15 from the site plan and provided an explanation to the Board. Board member Matthew Conlon inquired if there would be any impairment to the existing tenants or businesses and Mr. Bersch stated that the loading zone was outside of the tenant area. Board member Linda Connolly inquired why one large loading zone was proposed and Mr. Bersch responded that one was proposed for less impact rather than three separate loading zones. Chairman Christopher Garcia requested an explanation of the loading zone operation, and Mr. Bersch explained that a conveyor belt would move products off of the truck, with no fork lifts used, and the process would take about one hour.

Chairman Garcia inquired about installing sidewalks on New Jersey Avenue, and Mr. Bersch noted that they were not proposing them since New Jersey Avenue was a dead end road with no other access. He testified that the sidewalks are proposed along the building and in the front. He did not think that there was much foot traffic for a sidewalk from Union Valley Road, but they will add it if the Board feels it is necessary. Chairman Garcia stressed that there should be safe ingress and egress along Union Valley Road. Board member Geoffrey Syme commented that the Township had an approved Streetscape Plan and inquired how this would apply to the proposed development. Mr. Bersch did not believe that the Streetscape overlay zone encompassed this site. He noted that four street trees were required, with one on Union Valley, but with the utilities along the road it will be difficult to provide full sized trees. Mr. Syme commented that it would be nice if the applicant were able to incorporate some of the streetscape features, and Mr. Bersch said that they can review the streetscape plan and possibly consider working with the Board Engineer on this. He stated that they could not say whether they can, or cannot, comply with this request since they were not sure what is included in the streetscape plan. Board member Ada Erik stated that the sidewalk along Union Valley Road was not currently ADA accessible and there is a pole in the middle of the sidewalk. Mr. Bersch responded that the pole will be moved and the sidewalk will go around the pole. With regard to signage, Board member Linda Connolly questioned the size of the signs and suggested that they should be consistent with the signage on other retail businesses, referring specifically to the Walgreens project that reduced the size and type of their logo sign to accommodate the Planning Board's request. Mr. Ott commented that the Township did not need a Route 46 sized sign, and the applicant should conform more to the surrounding businesses near the subject site. Chairman Garcia inquired about the provisions to be taken so as not to disturb existing businesses during construction, and Mr. Bersch advised that the applicant himself will address the Board regarding this matter. The Board members made inquiries about the well, the proximity to the creek, the grease trap plan, and manhole relocation, to which Mr. Bersch responded.

Board Planner Jessica Caldwell inquired about the landscape plantings and Mr. Bersch noted that on 50 feet along the street frontage they cannot meet the requirements due to the location of the utilities. She further inquired about a sidewalk to connect the site, and Mr. Bersch responded that there was no room for a pedestrian walkway, sidewalk or alternate route as there wasn't sufficient space at the site. As to ADA accessibility, Mr. Bersch advised that there would be two ADA stalls near the Dollar Tree and two other for the back entrances, with a third that was proposed for another location on the site. As for the pedestrian striping for a crosswalk, Mr. Bersch agreed that this can be applied to the southern ADA stalls. Ms. Caldwell requested testimony on the buffer requirement for a lot that is over 5 acres, and noted that the parking is in areas where it is not supposed to be. Mr. Bersch advised that the parking is seven feet from the property line, which is an existing condition in one location. The applicant is proposing a variance for the condition on the other side of the site. He reviewed some options with the Board Engineer with regard to a dedication along New Jersey Avenue, and that may reduce some parking, but it is under consideration.

Board Engineer Mark Denisiuk advised that there may be issues with the parking stalls at 8.5 feet, and an option may be to reduce parking from 20 to 19 spaces. Ms. Erik inquired if New Jersey Avenue can handle the anticipated truck traffic, and Mr. Bersch stated that the applicant can make improvements to New Jersey Ave. to accommodate the trucks. Mr. Denisiuk commented that there is a transition from pavement to gravel that needs to be addressed, but this would result in over an acre of disturbance, and if this were a major stormwater development, a different NJDEP requirement would be necessary. He further commented on the project area, the parking and restoration of the site. Mr. Bersch advised that the applicant had a pre-application meeting with the NJDEP and they want to make improvements, but the disturbance calculations may be an issue. If the NJDEP permits are issued, they will make the improvements. Returning to the parking space, Mr. Denisiuk advised that the horizontal parking must be 22 feet long, so a parking space may be lost along the front of the site. He suggested that the ADA can be reduced, and discussed removal of another stall for a total of 74 spaces. The Board Engineer recommended the trash enclosure to be masonry instead of a chain link fence enclosure. Mr. Bersch stated that they will comply with the Fire Marshall's recommendations, but noted that they did not receive any comments following his review. Mr. Denisiuk requested that Mr. Bersch go on record that they agree to the Board Engineer's comments in his report to the Board. Mr. Bersch stated that the ADA

spaces will be concrete, but they agree to the rest of the comments, adding that most of them are technical in nature.

Mr. Denisiuk requested clarification on the hours for lighting, and Mr. Bersch stated that with the existing residential units, the lighting will be 24 hours, if possible, since the access to the apartments is in the rear. Ms. Connolly inquired if the lighting will be down facing, and Mr. Bersch testified that the lights will be new LED fixtures, with internal halide shields, and it shouldn't be an issue to direct them down. Mr. Denisiuk inquired if the temperature of the lighting will be reduced to 4000 kelvin or lower, and Mr. Bersch agreed to comply, adding that with regard to the sign lighting, the existing signs are internally lit and will remain. This item must be added to the plans. Board member Warren Gross requested some clarification on the lighting, noting that the plan indicated changes in foot candles and light levels and Mr. Bersch provided an explanation on the foot candles and the relationship between the lighting and illumination to other fixtures and light sources, maintaining that one area of light could not be compared to another depending on other light sources at the site. He stated that the lighting is consistent with commercial lighting, adding that there will be higher foot candles closer to the Dollar Tree store. Mr. Gross inquired if the electrical power lines will be underground or overhead, and Mr. Bersch stated that they are proposing underground, but that would be up to the electric company. Mr. Gross inquired about the height of the building and Mr. Bersch stated that it would be just under 29 feet, and that the existing second floor would remain, but there was no second floor proposed for the Dollar Tree store portion of the building. Chairman Garcia inquired about the façade sign lighting, and Mr. Bersch stated that the sign lights can be adjusted to the hours of operation and be consistent with other retail stores in town. Mr. Syme inquired about the size and location of the signs, and Mr. Bersch testified that the larger façade sign is proposed for the southern side by the front entrance to the Dollar Tree along New Jersey Avenue. Although there is no entrance on the west side, there will be a smaller façade sign fronting along Union Valley Road. All signs comply with the ordinance. Mr. Ott stated that the Board did not want Route 46 lighting, especially after hours, and requested that a lighting analysis could be conducted. He suggested that the applicant move in the direction of Walgreens with regard to signage and lighting, adding that the lighting cannot change after it is installed. Mr. Bersch responded that the applicant has agreed to reduce the temperature of the lighting from 5000 to 4000 kelvin to create a softer illumination, and the fixtures that are currently at the site will be replaced. Mr. Denisiuk commented that the parking lot lights comply with the ordinance, and softer lighting was recommended in the Board Engineer's report.

Ms. Connolly inquired about NJDEP requirements, and Mr. Bersch advised that wetlands flagging has been done, and they will file for an LOI and flood hazard area permits. Mr. Syme inquired about dedicated residential parking, but was advised that there was nothing noted at this time. There will be 8 dedicated parking spaces for the employees, but the residential parking will be arranged with the tenants. Mr. Ott inquired about the parking stall width and requested that they be increased in size, to which Mr. Bersch explained that the spaces will be 9x18 ft or 9x20 ft to comply with the ordinance. The Board Engineer advised that sometimes spaces are 10 ft wide, but it is not required in the Township ordinance. He noted that if the spaces were increased to 10 ft, the applicant would lose more parking spaces, but he agreed that parking can be tight, especially with trucks. The applicant's attorney, Robert Moshman, stated that if the Board would grant a variance for one less space, they could increase the size of the remaining spaces.

Mr. Moshman introduced Jose Santos, Architect, who was sworn for testimony and qualified for the Board. Mr. Santos reviewed the plans for the first floor, including the demolition of the 7500 sf former Kor Fitness location, construction of a portion for the Dollar Tree store, and relocation of the dry cleaner and another tenant. With regard to the inquiry about cart storage, Mr. Santos stated that they will be maintained by the Dollar Tree employees. He testified that there will be two ADA bathrooms located in the Dollar Tree store, and there will be no second floor above this portion of the building complex. Mr. Santos further testified that there will be four apartments and two office spaces, with the stairs to the offices to be reconfigured. Sheet A-3, denoting the exterior elevation of the main entrance, will consist of earth tones with a green Dollar Tree logo on New Jersey Avenue. Sheet A-4 indicates a total of five wall packs. Chairman Garcia requested clarification on the façade material, and Mr. Santos responded that stucco is proposed, and Mr. Syme suggested that a cultured stone façade would be a better choice. Mr. Santos testified that the building will be block construction and is not sprinkled.

The applicant will have to install a sprinkler system or provide a 3-hour fire wall between the Dollar Tree and the other units. Mr. Gross inquired who would determine the installation of a sprinkler system, and Mr. Santos replied that it would be a decision that he and the applicant would make. Ms. Connolly inquired if a sprinkler system can be installed with a well as the main water supply, and Mr. Santos responded that he did not have that information. Mr. Santos testified that the remaining portion of the building would be upgraded with paint, but has not discussed the particular finishes with the owner. Mr. Santos provided an overview of the Dollar Tree retail space, noting that he tried to maintain the existing roofline with the 12 foot ceiling required by Dollar Tree. Only one tenant will be located over a small nine foot portion of the Dollar Tree store, but there will be no second story on this portion of the building. Mr. Santos testified that the carts for Dollar Tree are small and will be stored in the Dollar Tree retail space, not in canopies outside. Ms. Connolly inquired about the paint finishes on the exterior and suggested that the colors chosen should complement each other. Mr. Santos noted that the building complex contained two distinct architectural designs, but the Dollar General will be the anchor. The exterior finishes will consist of wood siding, shingles, etc. and the finishes would not clash. Mr. Syme opined that the Board would prefer a building that would reflect the small-town aesthetic. Chairman Garcia suggested that a stone clad façade would be more compatible with the architecture of other local commercial and retail sites. Mr. Santos stated that cultured stone could be substituted. Chairman Garcia also requested that earth tones be considered to blend in with the surrounding locations and establishments in the Township.

Mr. Moshman introduced the Traffic Expert, Andrew Jafolla, who was subsequently sworn for testimony and qualified for the Board. Mr. Jafolla addressed parking issues, noting that he has had personal experience with parking spaces in a shopping center in his home town. He noted that the Dollar Tree generally had a high turnover of customers, with more than normal retail traffic. He understood the Board's concerns regarding the parking stalls, and suggested that if the number of spaces was reduced to 70, they can address the widths of the parking stalls to approximately 9.5 ft. Mr. Jafolla observed that the number of spaces, even at 70, were more than what currently exists. He referred to the Institute of Traffic Engineers, and testified that the average demand for this project is 55 spaces, below the 70 that they are now proposing. Chairman Garcia inquired if this takes into account the residential use, and Mr. Jafolla replied in the affirmative, adding that office space usually has a higher requirement. Ms. Erik requested that the ADA parking spaces not be reduced, and Mr. Jafolla noted that they would be 12 foot width with an 8 foot aisle. This would impact the 9.5 ft that they are now proposing for the other spaces. Ms. Erik noted that the Township has an active ADA Committee. Mr. Jafolla and Mr. Denisiuk discussed various options with regard to the parking, and Mr. Jafolla stated that they will address comments and increase the size of the spaces, noting that there are more SUVs and pick up trucks in West Milford. Mr. Jafolla discussed the circulation of the traffic, the number of stalls typical for the proposed retail space, truck traffic, the proposed loading zone, required space for circulation of fire apparatus, and turning access. Mr. Denisiuk suggested reversing the one-way aisle and Mr. Jafolla said that this was something they considered and it will be reflected on the revised plan, adding that this would not affect the parking space numbers.

Mr. Moshman introduced the applicant's planner, John Leoncovallo, P.P. to the Board and he was sworn in as an expert witness and qualified for the Board. Mr. Leoncovallo testified that the site consisted of two lots in the CC zone, was approximately 60 years old, and contained two stories on a portion of the site, with mixed use of residential and retail. The area surrounding the site was mainly commercial. He reviewed the square footage, noting that the overall footprint would be reduced by about 20%. He testified that the Dollar Tree store is a variety store with a large amount of turnover. Mr. Leoncovallo reviewed the nine variances that were requested by the applicant and noted that the proposal was for modification of the existing conditions, but did not include very substantial changes. He reviewed the requirements for the granting of variances, and stated that the benefits of this project far outweigh the detriments. A c-2 variance would be appropriate since the project would reactivate a large vacant retail space, reduces the stagnation of empty retail space, the branding gives a fresh new look to the site, and the renovation will double the life of the complex. Foot traffic will be stimulated, job generation will result with the use of local residents and students, the impervious surface was to be reduced, and the project proposes improvements to the aesthetics and functionality of the site. With regard to the detriments, Mr. Leoncovallo testified that

there would be no substantial adverse impacts, and the relief would be minimal. Mr. Denisiuk inquired if the two lots would be merged, and Mr. Leoncovallo stated that there would no issues with merging the two lots since the lot line currently goes thru the parking lot.

Mr. Moshman introduced Raymond Eshaghoff, the principal owner of the properties, to the Board. Mr. Eshaghoff was sworn in for testimony by Mr. Germinario. Mr. Eshaghoff testified that he is the managing member of the entity that owns the subject site. He stated that he had been struggling with the site and has tried various concepts, including the proposed Dollar Tree retail concept that he has been working on for three years. He has been working with the NJDEP regarding the options for the site, considering the septic requirements. They received Highlands approval, and met previously with Township and Planning Board professionals, and have adjusted the plans to address any concerns that have been raised. They will limit the nighttime lighting, and the far end of the parking lot lights may be dimmed, a stone façade will be included, and they will try to limit any disturbance to the existing tenants. The retailer will utilize local residents for the positions that they will have available. Mr. Eshaghoff testified that the site has had a vacancy rate of 50% for the past three years. Ms. Connolly inquired about the smaller signage, and Mr. Eshaghoff stated that they will definitely look into it, but they will need the consent of the Dollar Tree corporation.

Following the testimony from the applicant's expert witnesses, the hearing was opened for public comment and the following addressed the Board:

Richard Castronova, 1635 Union Valley Road, former owner of the subject site, expressed concern about environmental issues that were present at this location. He stated that he had to prepare an Environmental Impact Statement with regard to air and ground water contamination at the site. He was forced to sell the property in June 2013 after he had completed phase 1 of the remediation process, but provided the new owner with all the documents regarding the contamination. He maintained that nothing has been done since then to address the environmental problems. He noted that a dry cleaner located in one of the units used chemicals that leached into the ground water and septic system. Mr. Castronova referred to a hurricane that resulted in water that rose to three feet in the parking lot. He stated that phase 2 of the environmental clean up was estimated at 400,000. and he did not have the resources to complete it. Mr. Germinario inquired if this information was supplied to the NJDEP and noted that they would have required a follow-up. Mr. Castronova did not know if they were involved in the matter. Chairman Garcia stated that a case file would have been opened, and Mr. Castronova responded that he did not know if one had, but phase 1 only included test holes to determine the extent of the contamination.

Nick Havtek, 32 New Jersey Avenue, expressed concern about the truck traffic that will be at the subject site, and felt that the value of his house will decrease. He testified that the lights in the parking area are dim now, but the proposed redevelopment of the site will open the door to more problems. He maintained that he wants seclusion, and the increased traffic and lighting will impact how he lives. He expressed concern about truck traffic safety and increased garbage.

With no one else present from the public to address the Board, the public portion was **closed** on a **motion** by Ada Erik and a **second** by Matt Conlon.

The Board Attorney referred to an item in the Health Dept. report dated August 22, 2019 that identifies groundwater contamination, and they requested that the applicant provide documentation from the NJDEP that they are satisfied that the site is safe. Mr. Eshaghoff stated that the site has contamination, and nothing had been done for years by the prior owners to correct this up to the time that he purchased the properties. He hired a licensed LSRP who assessed the site, installed several monitoring wells, and a receptor evaluation and vapor tests were conducted in 2014. He noted that there are stringent standards for assessing indoor spaces. He receives quarterly monitoring and the contamination is gradually decreasing. They have continued to meet the requirements of the NJDEP, a remedial evaluation was conducted, and a remedial action report will be prepared before the NJDEP can close this case. With regard to lighting, Mr. Eshaghoff requested to meet with the resident of New Jersey Avenue to address his concerns for lights, and will consider installing shrubs and limit lighting at certain hours near the back of the lot, although they must take safety into consideration. Mr. Germinario inquired if Mr. Eshaghoff will agree to a condition that all NJDEP requirements will be met until the closure of this case, and Mr. Eshaghoff said that they will satisfy all requirements and agree to this condition, adding that they have been

working on this issue for five years and will continue to. Mr. Germinario advised the applicant and Board that this condition will not stop the project from going forward. Mr. Bersch stated that the applicant will agree to improve New Jersey Avenue to the end of their property, and Mr. Denisiuk clarified that this would be sixty foot wide paved road up to the last driveway. With regard to the monitoring wells on the site, Mr. Denisiuk noted that the DEP and LSRP makes a determination on this.

Mr. Denisiuk concluded that he was satisfied with the comments and issues that were addressed and that they will be complied with. The width of the right of way may not be able to be resolved, but he will work with them. Plan revisions are required, and approval from outside agencies should be a condition of approval. Ms. Caldwell advised that the applicant had agreed to the comments and recommendations of the Planner and Engineer, but suggested that additional trees be installed to shield the neighbor from the commercial site. Mr. Germinario provided a summary for the Board and outlined the revisions or additional items that that applicant will comply with, including the merging of the two lots.

A **motion** was made by Matthew Conlon, with a **second** by Ada Erik to **approve with conditions** the application for a preliminary and final site plan with bulk variances for Kingwood Flex, LLC, #PB-03-18-03.

Roll Call

Yes: Matthew Conlon, Linda Connolly, Ada Erik, Warren Gross, Douglas Ott, Geoffrey Syme, Chairman Christopher Garcia.

No: None.

Motion approved.

Mr. Germinario advised that he would have the resolution prepared for memorialization at the October 24, 2019 meeting.

MEMORIALIZATIONS – None.

ORDINANCES FOR INTRODUCTION – None.

ORDINANCES REFERRED FROM COUNCIL – None.

BOARD PLANNER’S REPORT – None.

BOARD ATTORNEY’S REPORT – None.

BOARD ENGINEER’S REPORT – None.

NEW OR ONGOING BUSINESS

Prior to adjourning, Chairman Christopher Garcia advised that the next regular meeting was scheduled for October 3, 2019. With no new applications scheduled for a hearing, the Board members concurred that this meeting should be cancelled.

MISCELLANEOUS

Invoices

The invoices for the month of July-August from the Planning Board professionals were **unanimously approved** on a **motion** by Matthew Conlon with a **second** by Geoffrey Syme.

MINUTES

The Minutes from the August 22, 2019 regular meeting were **unanimously approved** by the Board members who were present at that meeting, on a **motion** by Ada Erik and a **second** by Geoffrey Syme.

CORRESPONDENCE RECEIVED:

The following correspondence items were reviewed by the Board:

Highlands Water Protection and Planning Act Correspondence

1. Municipal Stormwater Infrastructure Mapping sessions for municipal stormwater coordinators and compliance personnel at the NJ Highlands Council, Chester, NJ, 09-26-19.

2. Highlands Applicability Determination, dated September 12, 2019, received for Robert Hamilton regarding property located at Oak Ridge Road, Block 15903; Lot 1, advising that the minor site plan dated 07-08-19 prepared by Dykstra Walker Design Group indicates that no building is proposed and therefore does not meet the definition of a major highlands development and does not result in the disturbance of 1/4 acre of forested area or increase the impervious surface by 1/4 acre or more.

NJ Department of Environmental Protection Correspondence

1. Classification Exception Area/Well Restriction Area (CEA/WRA) correspondence received from the NJDEP, PI # 000391 dated August 9, 2019, regarding Westbrook Friendly Service, 1205 Westbrook Road, Block 10901; Lot 8, with respect to groundwater contamination associated with this site (BTEX), with the expected expiration date of 07-26-2049, at which time the Ground Water Quality Standards may be attained.
2. No Further Action correspondence received from the NJDEP, PI #814335 dated August 15, 2019, regarding 34 Struble Lane, Block 13203; Lot 10, with respect to the removal of a 1000 Gal #2 HO UST.
3. No Further Action correspondence received from the NJDEP, PI #815960 dated September 6, 2019 regarding 29 Lakewood Road, Block 2004; Lot 12, with respect to the removal of one 550 gal #2 HO UST.
4. Suspected Hazardous Substance Discharge Notice, NJDEP Case # 19-08-18-1703-14, regarding 112 Continental Drive, dated August 19, 2019, advising of discoloration of water and presence of sediment, iron and manganese, with 150 dwellings affected. Suez is conducting maintenance on the water pipes and potable water trucks are available for the resident's to use.

Miscellaneous Correspondence

1. Notification of Ordinance #20-2019 – An Ordinance of the Borough of Bloomingdale Amending Chapter 92 “Zoning”, Article II “Zone Boundaries”, Section 92-5 “Zoning Map” of the Code of the Borough of Bloomingdale, August 20, 2019.
2. HEPSCD Certification, dated August 5, 2019, for the soil erosion and sediment control plan received for Cutugno Soil Movement, 65 Vreeland Road, Block 8802; Lot 49.
3. HEPSCD Certification, dated August 5, 2019, for the soil erosion and sediment control plan received for VanDecker Lakeside SFD Demo & Rebuild, 364 Lakeside Drive, Block 3107; Lot 7.
4. HEPSCD Certification, dated August 20, 2019, for the soil erosion and sediment control plan received for Walsh Lone Pine SFD, 42 Lone Pine Lane, Block 5306; Lot 4.02.
5. NJ Tree Foundation Fall 2019 Newsletter.
6. ANJEC Annual Environmental congress, October 4, 2019, West Windsor, NJ.
7. City of Paterson Historic Preservation Commission's Annual Historic Preservation Awards Event, 09-25-19, The Brownstone, Paterson, NJ.
8. NJ Planning Officials 2019 Fall Mandatory Training Programs: 09-22-19 – Bergen County-Paramus Life Safety Building 9:15-2:15 pm.

ADJOURNMENT

With no other matters to be brought before the Planning Board, Chairman Christopher Garcia **adjourned** the regular meeting of September 26, 2019 at 11:00 p.m. on a **motion** made by Matthew Conlon with a **second** by Douglas Ott.

Approved: October 24, 2019

Respectfully submitted by,

Tonya E. Cubby, Secretary