

BOROUGH OF NEW MILFORD
PLANNING BOARD
PUBLIC SESSION
December 20, 2011

Chairman DeCarlo called the Public Session of the New Milford Planning Board to order at 7:35 pm. The Chairman read the Open Public Meetings Act. All recited the Pledge of Allegiance.

ROLL CALL

Chairman DeCarlo	Present
Mayor Subrizi	Present
Council Liaison Berner	Present
Secretary Castronova	Present
Vice Chairwoman Grant	Absent
Ms. Hudak	Present
Ms. Sirocchi	Absent
Mr. Santino	Recused
Mr. Pecci	Present
Mr. Loonam, Alt. 1	Present
Ms. Prisendorf, Alt. 2	Present
Mr. Neiss - Attorney	Present
Mrs. Batistic – Engineer	Present

Chairman DeCarlo welcomed everyone on the first night of Hanukah.

OFFICIAL MINUTES

Motion by Ms. Hudak, seconded by Mr. Castronova, and carried by all, to approve the October 18, 2011 minutes as submitted.

2012 SCHEDULE OF MEETINGS

Motion by Mrs. Prisendorf, seconded by Mr. Pecci and carried by all, to approve the 2012 schedule of meetings to include changing the work session to October 23, 2012. Chairman DeCarlo said it was agreed to change November's combined session in order to not conflict with the League of Municipalities.

OLD BUSINESS

Application # 11-02 Gospel Fellowship Church

Mr. Gerald Tyne, the attorney representing the applicants recalled Mr. Neuls, the engineer to answer the three outstanding questions from last month's hearing. Mr. Neuls said he has researched a Board member's question with regard to the overflow of ground water and how would the applicants would address that. Mr. Neuls said the overflow pipe connecting to a 15" storm sewer pipe which was originally proposed to go to Harvard

Street and continue onto the river was being redesigned due to the Board and public concerns. Mr. Neuls said he still felt that proposal was safe however they proposed to not choose that option. He said instead the overflow pipe would connect into the 42" pipe located on Henley Avenue. He said they would have to run more pipe than the previous option however they would not be disturbing any residential neighborhood with the new proposed option. Mr. Tyne said to be clear the previous plan was approved by the Board in 2008 however his client was willing to make that correction due to the concerns raised at the last meeting.

In answer to Mayor Subrizi who asked if a pump would be used to get the water to Henley Avenue, Mr. Neuls said no it would be gravity fed from the overflow pipe. He said it is designed in the event that the dry well system overflows and doesn't function properly. Mayor Subrizi asked if he knew what the pitch would be. He said he didn't know the pitch at this time but he would design it in accordance with the Board Engineer. Chairman DeCarlo asked if they met with the Board Engineer to see if this could be done. Mr. Neuls said yes they had a meeting approximately two weeks ago with the Board Engineer and discussed this option.

Mr. Neuls said the Board also had concerns with the amount of low lining ground water. He said originally when the plans were approved there was tests done in November 16, 2007 which showed the ground water to be approximately 7' below grade. He said the test was done where the proposed dry wells would be constructed. He said he was unable to answer if Boswell Engineer was present during those tests. He said they are willing to preform new test holes where Boswell Engineer would be present for that test to compare to the current results to the 2007 test results. In answer to Chairman DeCarlo the test results would go to the lab to check the permeability. Mr. Neuls said the permeability which resulted excellent results in 2007. Mayor Subrizi asked if that test has been scheduled and would it be done prior to the ground freezing. Mr. Neuls said yes it could be scheduled within the month.

Mr. Neuls if they were to run into problematic shallow ground water. He said another option would be to construct a series of pipes with approximately 4 pipes running 115' long, instead of constructing the dry wells. He said they would be buried under the parking lot and would be unnoticeable to the public. He said that would provide the same level as provided in the dry wells. He said an additional option would be a custom dry well which would be located next to the building and fully landscaped. He said typically larger projects use this option. He said it would take up ground space but it would collect the additional water. Mayor Subrizi asked if the applicants were aware that even with all these proposed recommendations, nothing will protect them from the Hackensack River raising four feet above the ground level of the building, which it has done, in the past. Mr. Neuls agreed with the Mayor. He said if there was a substantial flooding event of the Hackensack River any system will fill with water and will not function. In answer to Mayor Subrizi, he said his clients were aware of that fact. In answer to Mrs. Priesendorf, Mr. Neuls said if the ground water test would come back and be located directly under the gravel of the proposed dry well they would make the determination to use the ground pipe method. Mayor Subrizi said that is why she asked if the test could be done as soon as possible because the ground was already soggy from the voluminous rainfall that has happened this year. She said she would rather have a test done during the worst case scenario. Mr. Neuls agreed to have the test done as soon as possible.

Chairman DeCarlo said the pipe system shows a solid pipe. Mr. Neuls agreed with the Chairman. He said he designed the pipes to be solid to contain the water and allow the water to travel to the existing storm system. He said pipes with holes would still allow infiltration and he didn't recommend that due to shallow water. Chairman DeCarlo asked if that recommendation would comply with the town's storm water management plan by allowing the water to flow into the storm drain and not containing it on the property. Mr. Neuls said it meets it because it provides the reductions. Mr. Neuls said the requirement is to reduce the present flow by 50% in the 2 year storm, 75% in the 10 year storm, which can be provided by proposing a detention system with a controlled outlet, or to reduce the amount of flow leaving the pipe, or infiltrating some of it. He said any way you do that is acceptable. Chairman DeCarlo said the flow rate needs to be reduced and not the volume. Mr. Neuls said that is correct.

Board Attorney marked that plan recommendation that Mr. Neuls referred to as A-28. Mr. Tyne asked Mr. Neuls if he knew of any other property that dealt with ground water. Mr. Neuls said no. Mr. Tyne asked Mr. Neuls to refer to A-30 which was a document from Boswell Engineer dated November 16, 2011. Mr. Neuls clarified how the parking was reduced from 118 parking spaces to 115 parking spaces to comply with the fire advisory board's request and the garbage disposal area. Mayor Subrizi asked if parking space 29 was going to be removed to comply with a variance needed. Mr. Neuls said no it was still on the plan. Mr. Neuls said they have a surplus of the 107 required parking spaces if the Board would like space 29 removed they would agree to as a condition to an approval which would result in 114 parking spaces left. Mr. Neuls said the applicant is willing to comply with the Borough Engineer's letter. In answer to Mr. Tyne, Mr. Neuls said there is nothing in the Borough Engineer's letter that addresses the traffic on River Road and Henley Avenue.

Motion by Mayor Subrizi, seconded by Councilman Berner and carried by all open the meeting to the public for any questions pertaining to the engineer's testimony.

Terry Macmakin, Madison Avenue, questioned the location of the additional parking. Mr. Neuls showed Mr. Macmakin the plans and the location of the additional parking spaces. Mr. Macmakin was shown where the wetlands were delineated on the plans. Mr. Neuls said the DEP has approved the parking lot plan. In answer to Mr. Macmakin, Mr. Neuls said it would be required to reduce the water accumulation for the additional impervious coverage. Mr. Macmakin was concerned with the water pipes underneath Henley Avenue and if they could sustain the weight of the additional traffic being added by the church and a possibility of a blowout. Mr. Tyne said it has been established from the traffic expert there would be less traffic than the previous racquetball club. In answer to Mr. Macmakin, Chairman DeCarlo said it was already established the applicant's engineer would be retaking the percolator test.

Ulysses Cabrera, 659 Columbia Street wanted to know about the status about the pipe previously being connected to Harvard Street. Mr. Neuls explained the new proposal of connecting to the 42" pipe connected to Henley Avenue. Mr. Cabrera asked if anymore than 42 trees were being removed. Mr. Neuls said no. Mr. Cabrera said that he was concerned of water runoff continuing onto Columbia Street. Mr. Neuls said the existing land will remain higher and not runoff onto Columbia Street which was lower. Board Attorney asked if the elevation was being changed. Mr. Neuls said no, the existing site is

higher and no additional soil will be added.

In answer to the Mayor, Board Engineer said all the DEP permits are still valid. In answer to Mrs. Prisendorf, Mr. Neuls said there will not be a pump to connect to the Henley Street storm drain. Mrs. Prisendorf had serious concerns with regard to flooding in the area, and was concerned with the pipe connected to Henley could fill up with water and blow up. Chairman DeCarlo asked Mr. Neuls if he knew if the pipe that was being added could potentially back up into any other branches connected to the pipe on Henley Avenue. Mr. Neuls said he was unaware of any other branches going downstream towards the river.

Mr. Habib, 595 Columbia Street asked a question if there was any pipes from the site were currently tied into the Henley Street storm drain. Mr. Neuls said no, currently an existing pipe connects to Harvard Street.

Lou Denis, 353 Luhman Drive who stated that his business is located on top of the hill on Henley Avenue and after last weeks flood he viewed water sitting in his dry well. He said he is aware that the water table was only 6 feet below grade at his location. Mr. Denis was concerned and questioned if the proposed plan would exacerbate the current situation going into the 42" main pipe on Henley Avenue. Mr. Neuls said no, they are required to reduce the water flow. Mr. Denis stated that he believed the water didn't just flow down Henley, the water also came up from the ground.

Frank DeBari, 120 River Road, stated when the previous owner came before the Planning Board in 2007 the proposed plan was only to supply 3 seepage pits. He said the Planning Board members required the applicant to put 8 seepage pits. Mr. DeBari questioned the proposed plan to have a solid pipe instead of a pipe with holes; he was concerned how the water was going to get into the pipe. Mr. Neuls said the pipes would be connected to the seepage pits and the water would travel to the 42" main on Henley Avenue. Mr. DeBari asked if it was being designed to collect the shallow ground water. Mr. Neuls said no. Mr. DeBari said he was aware of a current business owner who dug down and witnessed water on his site being only 2 feet down. Mr. DeBari said he agreed with the Mayor who required a new perk test to be preformed.

No one else wished to be heard.

Motion by Mr. Castronova, seconded by Councilman Berner and carried by all close the meeting to the public.

Mr. Loonam questioned why the perk test was not preformed prior to this meeting. He felt that would be incredible, valuable, information to have instead of waiting for a vote and then preforming the test. Mr. Tyne reminded Mr. Loonam this plan and application was approved by this board in 2008. Mr. Loonam disagreed and felt it was a different application and a similar plan. Mr. Tyne said the only modifications made by the applicants were at the request of the present board. Mr. Tyne said technically his clients did not have to change a thing, only to testify as to what the building would be utilized for.

In answer to Councilman Berner, Mr. Neuls said the State mandates the applicants are required to reduce storm water for the 2 year, 10 year, and 100 year storms. Mr. Neuls

said he showed how they would comply with the drainage report submitted to the Board Engineer. In answer to Mr. Berner, Mr. Neuls said the when the heaviest rainfall hits the site the system will preform. However, it will not preform if the Hackensack River raises to a level where then it will impact the system. He said it will provide a benefit and it is required. He said there is really no way to address widespread flooding from the River.

Ms. Hudak asked if the pipe system will provide more drainage then the dry wells system. Mr. Neuls said no, both systems are designed to handle the same volume, the only reason to use the second option would be if the perk test that will be preformed showed the water table being higher.

Chairman DeCarlo thanked Mr. Neuls for his testimony.

Board Attorney swore in Mr. Elkin, 19 Park Avenue, Rutherford. Mr. Elkin's credentials were accepted by the Board as a professional architect. Mr. Elkin's referred to his plans which was already marked as A-11.

Mr. Elkin described the layout of the proposed church. In answer to Mr. Tyne, Mr. Elkin said the only footprint change would be the addition of a small storage area with only an outside access. Mr. Elkin said they would be adding an elevator to access the second level. He said currently there is not an elevator. He said the bath areas would remain in the same area except the showers would be removed. He said on the south side would be the main sanctuary, and on the north side would be a kitchen, multi-purpose room and youth room. Chairman DeCarlo asked if there has been any modifications from the original plans dated September 8, 2011 that was presented at the work session. Mr. Elkin said no. Mr. Elkin said the second floor would consist of an existing corridor which would look down onto the sanctuary room below. He said on the north side, would be the Sunday school classrooms for younger children with sliding walls that separate the classes.

In answer to Chairman DeCarlo, Mr. Elkin said there is an existing single bathroom on the second floor. In answer to Mrs. Prisendorf, Mr. Elkin said the bathrooms on the first floor would service the second floor. Councilman Berner agreed with the Chief of Police report dated September 13, 2011 in which he stated he had concerns with the younger children being located on the second floor. Councilman Berner said the Police Chief's concerns were in the event of an emergency and the rescue attempts of removing four and five year old children from the second floor could be a time consuming event. He would prefer to have the younger children located on the ground floor. Councilman Berner said he had to agree with the Police Chief that the plan was not designed in the safest matter in which it could be. Mr. Elkin disagreed. He said he could understand the concerns if the children were there seven days a week. He said they would only be located upstairs on a Sunday for approximately one to two hours. Mr. Elkin said the plans are designed in accordance with the building code. Mrs. Prisendorf asked if there was a reason why the clients prefer to have the youngest children upstairs rather than downstairs where she felt it would be safer. He said the clients preferred the layout as submitted. In answer to Chairman DeCarlo, Mr. Elkin said he has designed and received approvals for plans for other churches where children were located on second levels as well as in basements. In answer to Chairman DeCarlo, Mr. Elkin said the building would have a full sprinkler system and two means of egress which is to code. Chairman DeCarlo said testimony was

received that approximately 100 children was currently enrolled in the congregation. He asked Mr. Elkin if that second floor one stall bathroom could accommodate them. Mr. Elkin said they were not all younger age children, some children were youths and teenagers. Mr. Elkin said yes to the Chairman's question if the downstairs bathroom could accommodate the entire congregation. Mr. Elkin said the existing bathroom stalls will be renovated to code with all the emergency hardware for safety issues. He said no new stalls would be added. Mr. Tyne asked Mr. Elkin if he was aware of exhibit A-18, a letter dated September 26, 2011 from the Construction Official to the Planning Board members. Mr. Elkin said yes, when Mr. Tyne asked him if the Construction Official said the plans were in conformance with the building code. In answer to Mr. Tyne, Mr. Elkin said the Construction Official asked the plumbing official to review the plans with regard to the second floor bathroom. He said he attached a copy of the code which stated the bathroom met the requirements. He said a more detailed plan would have to be submitted and reviewed by all the inspectors in the building department prior to receiving a permit. Mr. Elkin said if the inspectors found inconsistencies with the plan they would revise the plans to fully comply with all the building codes.

Mayor Subrizi said previous testimony was given that the youth room downstairs would have an area designated for children to play basketball and a hoop would be added. Mr. Elkin said yes, the room was designed where the older children could run around and play some games. He said it was not designed to be a full basketball court. He said the objective was to keep the children in the building while waiting for the services, which their parents would be attending, to be completed.

Mr. Elkin said the windows would be redesigned and painted and looks a lot more presentable than the present conditions. Chairman DeCarlo referred to the September 27, 2011 letter from the Fire Advisory Board stating concerns with not knowing the occupancy requirements. He said they had strong concerns for emergency evacuations with the egress exits and the second story bible study classes. Mr. Elkin said that is a building code requirement and if the egress exits do not meet the code they will address it and comply with the code. Chairman DeCarlo said the plans were designed with the current congregation occupancy totals, he questioned if the congregation grows. Mr. Elkin said the occupancy is determined by the square footage of the building and they cannot exceed it. Mr. Tyne said the clients were willing to relocate the younger children downstairs in order to avoid any concerns from the police chief, fire department or Board members. Chairman DeCarlo said he appreciated and thanked Mr. Tyne and his clients for relocating the younger children downstairs because he felt it was a matter of life safety issues.

The Board Attorney questioned Mr. Elkin if the occupancy was determined by the square footage, then the occupancy would be the same as the racquetball club since the footprint is remaining the same. Mr. Elkin said no, the occupancy is determined by different uses and a church could be different, he said other issues come into play such as travel distances to egresses and widths of exits. In answer to Board Attorney, Mr. Elkin said no, he did not provide the occupancy for the church on the plans. Mr. Elkin said he felt the exits were sufficient, but if after the building department determines the occupancy load and they are in need of more they would comply with the requirements. Mr. Elkin agreed with Chairman DeCarlo who asked if an outside emergency means of egress would be added if the building department determined the church was a more intensive use than the

racquetball club. Mr. Tyne said yes they would comply.

In answer to Mayor Subrizi, Mr. Elkin said the occupancy requirements will be on the plans submitted to the building department. In answer to Mayor Subrizi, it was advised that the Fire Official determines and enforces the occupancy requirements for the Borough. Councilman Berner asked how a determination is made for the occupancy with the usage of portable folding chairs instead of fixed seating. The Zoning Officer said there is a Borough zoning code which states the Borough's requirement of 40 seats per square foot if there is no fixed seating in an assembly use. In answer to Councilman Berner, she said typically the architect submits the plans to the building department and the fire and zoning officials determine if it meets the code.

Chairman DeCarlo referred to the letter dated September 27, 2011 from the Health Officer with regard to the kitchen. In answer to Chairman DeCarlo, Mr. Elkin said the plans would also have to be submitted to the health department to meet the commercial kitchen requirements. Chairman DeCarlo wanted to clarify for the records what the intended usage would be for the commercial kitchen. Chairman DeCarlo asked if the kitchen would be utilized for only the congregation or intended to be used for weddings or other events. Mr. Tyne said mostly it would be used after services for the parishioners. He said if a parishioner would liked to be married it could possibly be used for that as well. Mr. Tyne said the pastor testified that he would like to open this to the entire community. He said that offer was for a civic minded intention and he was not offering the space to be rented. He clarified the applicants were not actively seeking to offer the kitchen space however if a civic organization wanted to utilize the kitchen they would generously offer it. Mr. Tyne said they are not seeking to use the space for a catering hall or banquet facility. Chairman DeCarlo said the record needed to be clear because that would change what code applies usage to this building. Board Attorney wanted to be clear that the intent of the Board was to limit the amount of large gatherings even though he was in agreement with Mr. Tyne that a fixed figure could not be established at this time. Board Attorney said he was thinking ahead with regard to preparing a resolution and needed clarity on the intent of the kitchen facilities. Mrs. Prisendorf had serious concerns with the size and volume of the kitchen and the testimony that it would mostly be used to prepare rice and tea. Mr. Castronova felt there was a possibility the magnitude of opening the church to the community could lead to 50-60 times a year that the church would be used for outside functions. He said on one hand there has been testimony that the intent was to keep the church to a small congregation, and yet on the other hand they wanted to open their doors to the community. Mr. Tyne said if the Elks or Rotary Clubs, etc., would like to have usage of the kitchen they would allow it, however they are not soliciting outside events to occur at the Church. Mr. Tyne said he wanted to make it clear for the record that his clients were not looking to have weddings, but to offer to groups who benefit the community such as girl scouts, boy scouts and such. Chairman DeCarlo asked if they knew the approximate cost of the kitchen. Mr. Elkin said approximately \$50,000.00. Chairman DeCarlo said to Mr. Tyne that he hopes he could understand the concerns of the board members, for spending that much money on a kitchen that would be used for something other than cooking rice and tea. After much discussion, Chairman DeCarlo asked Mr. Tyne if the intent to offer to open the doors to the community was mainly for gatherings or meetings and not necessarily weddings and or functions of celebrations. Mr. Tyne agreed. Chairman DeCarlo said as long as the building can accommodate them. Chairman DeCarlo said he wanted the record to be clear so Mr.

Neiss could reflect in the resolution what the boards intent would be if an approval were to be granted. It was decided that anything other than a civic group's gathering or meeting the applicant would have to reappear before board. Board Attorney clarified it would be the Zoning Officer who would enforce and make that determination.

Motion by Mr. Berner, seconded by Mr. Loonam, and carried by all to open the meeting to the public to question the architect on his testimony.

Mr. Terry McMakin, 400 Madison Avenue, questioned how many bathrooms stalls were being proposed. Mr. Elkin said 1 bathroom stall upstairs, 5 water closets and 5 sinks for the downstairs ladies restroom, and 2 water closets and 2 sinks in the downstairs men restroom. Mr. McMakin was concerned about the additional waste water being added. Mr. Elkin said there would be less because the racquetball club currently has showers and they are not proposing any shower stalls. In answer to Mr. McMakin, the Mayor said as of January 1st, 2012 all tax-exempt property owners would have to contribute to the Borough's sewer fees.

Mr. Frank DeBari, 120 River Road, understood that the building was being designed to hold the current 400 membership of the church, but he was concerned if the egress and stairwells could accommodate future growth. Mr. Elkin stated all 400 people would not be attending at the same time they would be staggered. He was confident the egress and stairwells could accommodate future growth. He said he would recalculate and make sure the plumbing fixtures could accommodate future growth. Mr. DeBari asked if the single bathroom upstairs would be ADA compliant. Mr. Elkin said no, because it is not required to be. He said the downstairs bathrooms would be ADA compliant. Mr. DeBari said the planner testified that there would be minor construction work preformed. He felt that was untrue, as an elevator would have to be constructed, new walls, new windows, new bathrooms and a kitchen would be renovated he felt that was major interior construction. Mr. Elkin said he believed the Planner was testifying to the work being structurally minor in nature because there would be no additional square footage being added or a knockdown wasn't being proposed, basically just interior work. Mayor Subrizi asked if any load bearing walls were being removed. Mr. Elkin said no. Mr. DeBari made a comment that the word wedding and catering was used an extensive amount during these proceedings.

No one else wished to be heard.

Motion by Mr. Pecci, seconded by Mr. Castronova, and carried by all to close the meeting to the public.

Chairman DeCarlo and the Board members thanked Mr. Elkin for his testimony.

Mr. Arthur Latz, principal owner of the property on 111 Henley Avenue formerly Riverview Racquetball Club, was sworn in by the Board Attorney. Mr. Latz said that he was the owner of the property for approximately 31 years. In answer to Mr. Tyne, Mr. Latz said at the height of his business there was approximately 3000 members, and about 75% were active members. In answer to Mr. Tyne he said there was always a parking problem that is why they went to the board in 2007 to ask for an approval for the parking plan. Mr. Latz said that at his peak times there were approximately 126-180 people inside the building. In answer to Mr. Tyne, Mr. Latz said there was never a problem with

the Police, Fire or Building Department regarding traffic or building violation issues. Mr. Latz said he had numerous tournaments and parties. Mr. Latz said he had approximately 1-2 tournaments per year. Mr. Latz said he when times changed he converted to a health and fitness club to try to sustain the business. He said he ordered a lot of machines to compete with the larger health clubs on the highways. He said he had approximately 25-50 people always in the building. He said he offered a babysitting service while the mothers worked out, he offered karate classes and there were always numerous vendors or service people in the building. In answer to Mr. Tyne, Mr. Latz said when he ran some tournaments you couldn't fit people through the front door; the church will have nowhere near that amount of people. He also added that the church will only have people on Sundays whereas he had people coming and going seven days a week. In answer to Mr. Tyne, Mr. Latz said he did enter into a contract of sale with his clients pending Board approval of the application. Mr. Latz said he felt a church use would be a less intensive use than the former racquetball club. In answer to Chairman DeCarlo, Mr. Latz said the DEP took one year to approve the plan that Hubschman Engineering originally submitted.

Motion by Mayor Subrizi, seconded by Mr. Castronova, and carried by all to open the meeting to the public to question Mr. Latz.

Ronny Kavner, 651 Columbia Street asked if Mr. Latz had 3000 members and 75% were active and he never had to expand the parking lot, he asked why would a church with 300 members need to have the parking lot expansion. Mr. Latz said the church applicants were not the original purchase buyer for the property; he had a previous buyer who would only purchase the property if he had additional parking provided. Mr. Kavner was very upset with all the building going on. He said he has experienced numerous flooding and he felt the additional building would cause more flooding for him and his neighborhood.

Mr. Ulysses Cabrera, 659 Columbia Street, asked how long a typical tournament would last. Mr. Latz said typically 10:00 am- 2:00 pm. In answer to Mr. Cabrera, Mr. Latz said most of the times the kids would have parents and grandparents viewing them. He said it wouldn't be unusual to bring in 100 folding chairs per tournament for each different time of the event. He said sometimes they had 5-6 events in a day. In answer to Mr. Cabrera, Mr. Latz said the most members resided from Dumont, secondly from New Milford, a large amount from Bergenfield, he said it was random towns after that. In answer to Mr. Cabrera, Mr. Latz said he did open his club to the High School for events, Policeman and Fireman parties, New Year's Eve. parties, and many children birthday parties.

Ms. Sandy Aab, 680B River Road, owner of New Hair Concepts, located in the vicinity of the Riverview Racquetball club. She said when they had tournaments it was mass bedlam. There was parking all over from Burger King and throughout all the businesses in the nearby neighborhood. She said she didn't remember that many cars during the week, only when a tournament was held.

Mr. Lou Denis, 710 River Road, said Mr. Latz is a wonderful community member. He said he wants Mr. Latz to sell his building, but he felt the change would be not beneficial to the area with regard to traffic issues.

In answer to Chairman DeCarlo, Mr. Latz said the business started to decline approximately 10-15 years ago. He said he tried to diversify by adding the fitness club but he eventually closed in 2009.

No one else wished to be heard.

Motion by Mayor Subrizi, seconded by Mr. Castronova and carried by all to close the meeting to the public.

Mrs. Prisendorf asked Mr. Tyne if he had an answer to her question from last month's meeting on how many congregates resided in New Milford.

Mr. Tyne recalled Mr. Lee, who is an Elder for the parish. Board Attorney said Mr. Lee has already been sworn in, and he was still under oath. Mr. Lee said there was currently 300 congregates. He said his Pastor resides in New Milford, and three other families. Mrs. Prisendorf asked how many people. Mr. Lee said approximately ten people. Mrs. Prisendorf said does that include the Pastor's family. Mr. Lee said yes. Mr. Tyne wanted to clarify for the record that 200 members are adults and 100 are children.

Motion by Mr. Berner, seconded by Mr. Loonam and carried by all to open the meeting to the public for general comments and concerns regarding the application.

Mr. Ronny Kavner, 651 Columbia Street, asked if it is the Mayor and Council's intention to ever open up Columbia or Harvard Street. Chairman DeCarlo said this Board doesn't have jurisdiction to answer that question. He said that question should be directed at a Mayor and Council meeting.

Mr. Terry McMakin, 400 Madison Avenue who said he is not an engineer but he doesn't believe that paving more ground does not contribute to more flooding. He had serious concerns with regard to flooding. He said he did not agree with the traffic expert who testified that there would not be an impact with regard to the traffic. He wanted to know if there would be compensation for the existing business owners who might be affected by the extra burden of the additional traffic even if it is for only one day during the week. He asked the Planning Board members to take into consideration that the applicant will be removing a lot of trees and shrubbery. He felt that was detrimental to the environment. He said the Mayor and Council bought farms and properties to maintain open space and keep land from being built upon. He voiced his opposition that the applicant will be destroying a lot of existing green space to build additional impervious coverage. Mr. McMakin said the town would also be losing a ratable.

The audience applauded. Chairman DeCarlo thanked Mr. McMakin for his comments. Chairman DeCarlo wanted to make clear to the members of public that purview of this Board was not to determine whether or not they can control if a ratable remains in the town. He said the application is a permitted use according to the ordinance, and it is impermissible for the Board Members to base their vote on losing a ratable. Mr. McMakin asked if this use was allowed under the Master Plan. Chairman DeCarlo said this was a permitted use on a private piece of property.

Mr. Frank DeBari, 120 River Road, asked if a structural engineer would be needed from the Borough to check the status of the existing building. Board Engineer said no, it is their building and they would have to comply with all the building codes and inspections for safety of the building. He said he would have hoped the applicant would understand this building has been under water at least 5-6 times since 1999 and he would hope they

would hire a structural engineer to check the safety of the building. He said he would hope the applicant would have someone tell them that the building was safe for mold issues. He felt the Board should ask for professionals to make sure the buildings condition was safe prior to granting any approvals. Chairman DeCarlo said it is not under the Board's jurisdiction. He said this is a site plan application and the applicants would be responsible to bringing the structure up to code with the building department, health department and many other departments for health and safety issues. Mr. DeBari said the word wedding, catering hall term has been used numerous times and he felt the rental of the hall this would change this application into a profit making facility. He felt it should not have that classification of non-profit. He strongly disagreed to the testimony that the \$50,000.00 kitchen being installed would only be used to serve rice, tea and finger sandwiches. He said instead of losing the \$54,000.00 ratable he asked the Board to consider offering it to them as a pilot program. He said there are 5 group homes in town that do not pay real estate taxes, but they do pay into a pilot program which is payment in lieu of taxes. He felt the Church should pay their fair share of taxes for having a banquet facility. Mr. DeBari disagreed strongly that the Planner and traffic expert did not have traffic issues with the application. He felt there would be traffic issues for the remaining businesses to the north and felt that the traffic would impede the ten existing businesses in the area that are open on Sunday. He felt the traffic expert offering a lift gate in the parking lot at the church would only make the congregates mad to not be able to leave the church. Mr. DeBari also opposed to having the electric moved up four feet, he felt that was unsafe for the congregates children. Chairman DeCarlo said they would have to comply with the building department with regard to the electric. Mr. DeBari said he had good faith in the building department. Chairman DeCarlo thanked Mr. DeBari for his comments.

Mr. Lou Denis, 101 Henley Avenue was opposed to the application. He said there were only one way in and one way out of Henley Avenue. Mr. Denis said there is a lot of accidents that happen at that intersection and that ties up traffic for hours. He said there is going to be emergencies that happen. He stated a school bus fell over and the street was closed for a month. He felt the safety issues would burden the municipality's emergency crews with regard to evacuations. He said all the existing houses of worship in the town have more than one way in and one way out into a main road. He said he wants Mr. Latz to sell his building however he was opposed to the application for safety and the extensive traffic issues it would cause on the town and existing businesses. He said he would like to see another church in town however he felt this is not the right location.

The audience applauded. Chairman DeCarlo thanked Mr. Denis.

Mr. Habib, 595 Columbia Street, asked the Board members how they could consider allowing something to be built that could possibly cause more flooding. He said the town isn't making anything off of approving this application. The Mayor said it is a private piece of property being sold to another entity. They do not need the Borough's permission to expand the parking lot, in which they already have that permission granted in 2008. In answer to Mr. Habib, She said the Board is powerless to prevent the sale of a private piece of property. In answer to Mr. Habib, she said she is asked numerous times why another nail salon in town, why another bank, she answers the Mayor and Council, Planning or Zoning Board cannot choose who can buy a piece of property to have a similar businesses in town. It is their right to own and establish a business for the benefit

of the community. She said the governing boards are powerless to stop them. She said Mr. Latz has that right to sell his building.

Mr. Mike Cafferelli, 596 Columbia Street asked if the Mayor and Council could pass a resolution to not allow building in low lying typically flooded areas. He was opposed to the removal of trees, shrubs and relocating the soil. Mayor Subrizi said the applicant did make and received an approval from the DEP to build on the property. She said there are also restrictions the DEP made where they could not build. She said unless the Borough owns a piece of property, they cannot restrict any construction; they could only make sure it is built to code.

Ms. Miriam Krausner, 571 Columbia Street said she has lived in her home for 52 years and she has been flooded 3 times with over 12' of water each time. She said she has been to numerous meetings for the flood victims where it has been mentioned the homes on Columbia Avenue should have never been built there. Mrs. Krausner said her heart went out to the applicants. She said she was concerned for their families and children who would be in their house of worship when the next flooding event happened. She said the cost is enormous, and she felt bad for the money that was going to be spent to get the house of worship ready for the parishioners, just to know the outcome will be devastating when it floods. She couldn't explain how horrific it has been to see waste water floating in her home. She said that building is going to be flooded again, and she was afraid it wasn't going to only happen once. She said she was told that her home would continuously flood. She said she wasn't against any house of worship being built, but the location will continuously flood. She also was concerned she might flood again due to additional building on that flooded site.

Mr. Ulysses Cabrera, 659 Columbia Street, said he works for a Korean company and had a lot of Korean friends. Board Attorney stopped Mr. Cabrera. The Board Attorney said he felt this to be inappropriate. He said these people are here as applicants and their heritage, background, or correlations are not part of the consideration of this Board. Mr. Cabrera apologized and said he didn't mean to offend anyone, and that wasn't his intention. Mr. Cabrera asked the applicants to reconsider building on the site. He didn't want any other family to go through what his family has gone through by being flooded. He felt it would only get worse. He said the 100 year flood, no longer exists. He said United Water isn't neighborly and will open the flood gates again and the property will flood continuously. He wished the applicants would reconsider purchasing the property, he felt it would not be a sound investment. He had concerns that many lives would be in danger.

Mayor Subrizi said the 100-year flood does not mean the property will flood one time in 100 years. She said that terminology meant that in any given year there is a 1% chance that you will have that type of flood.

No one else wished to be heard.

Motion by Mr. Berner, seconded by Mr. Loonam and carried by all to close the meeting to the public.

At 10:22 pm the Board took a five minute break.

Mr. Tyne said during the break he had the opportunity to talk to his clients and their intent

was to open the house of worship to all civic groups for gatherings or celebrations. He said he didn't want the Board to have any concerns, and his clients wanted to limit weddings to only their parishioners and they were willing to be bound by that representation. He wanted no misunderstandings that this church was a true non-profit corporation.

Mr. Tyne thanked the Board for their time and diligence. He said he never seen a Board go to such lengths to have all their questions answered to their satisfaction. He said his clients were deeply appreciative. He said his clients should also be commended for being extremely receptive to the Boards suggestions. He said his clients agreed to all of the Board's recommendations. He said the plan has been approved by this Board in 2008. He said there is nothing in the approved Resolution that indicated a traffic problem. Mr. Tyne said his clients only had to appear before the Board to let them know of what the use of the building would be. He said they introduced the architect and let the Board know how the existing building would be renovated. He said that is all they were required to do because a Resolution had been in place since January 2008. He felt the law was on his side with that binding document. He said notwithstanding that, his clients were willing to make amendments. He said he wanted to make clear to the public that this Boards hands are tied by the past Resolution that approved the parking lot. He said his client provided a Planner who described what the Religious Land Use Act. He said the Planner testified that a House of Worship should receive approvals in the town providing there is not a compelling interest to deny the application. He said that there has not been a compelling interest submitted. He said there has not been any expert witnesses brought forth to contradict the experts that they presented. He said they also had a traffic witness testify and he stated the impact in the area would be significantly minimal compared to the prior use of the racquetball club. He said however, his clients were willing to be bound by hiring an off-duty New Milford police officer to appear at the intersection of River Road and Henley Avenue to control the traffic. He said that the most members would be attending the 11:00-12:30 service. He said approximately 150 members would be in attendance. He said they also offered to install an automatic gate in the parking lot to control the traffic. He said an offer was also given to paint lines on the roadway. He said his clients were willing to do all three options. He said they wanted to accommodate the Board and to be a good neighbor. Mr. Tyne asked the Board to approve the application. He thanked the Board for their time and effort.

Chairman DeCarlo said on behalf of the Board he wanted to thank Mr. Tyne and his clients for the time to address the Board members concerns and accommodate the community. He agreed the Board members are bound by an already approved document, but the intensity of the use was being changed so an appearance before the Board was required. Chairman DeCarlo said there were many amendments offered he would like to make them conditions if an approval were to be granted. Mr. Tyne agreed.

Board Attorney stated that in order for a member to vote the member had to be present for all of the application or in the alternative has listened to the tapes of the proceedings and provide a statement. He said he has conferred with the Board Secretary which members will be eligible and ineligible to vote. He said when the Secretary calls the roll call to vote she will announce only the members who are eligible. He wanted to make sure the audience was aware of why some members would not be voting. Chairman DeCarlo asked the Secretary to read aloud only the members that would be allowed to

vote. Chairman DeCarlo said seven members would be voting. He announced the escrow was fully supplied.

Motion by Mrs. Prisendorf, seconded by Mr. Berner to deny the application.

Board Attorney explained for the benefit of the public that if a affirmative vote was given they would be voting to deny the application. He said if a negative vote would be given it was a vote to approve the application.

Mr. Berner	For the motion
Mr. Castronova	For the motion
Ms. Hudak	For the motion
Mr. Pecci	For the motion
Mr. Loonam, Alt. 1	Against the motion
Ms. Prisendorf, Alt. 2	For the motion
Chairman DeCarlo	Against the motion

The application was denied by a vote of 5-2.

As there was no further business to be conducted by the Board, a motion to adjourn was offered by Mr. Castronova seconded by Ms. Hudak and carried by all. Chairman DeCarlo said the Reorganization meeting will be held on January 17, 2012 at 7:30 pm.

Respectfully submitted,



Maria Sapuppo
Recording Secretary