

Approved
1/14/14

**New Milford Zoning Board of Adjustment
Work Session
November 12, 2013**

Chairman Schaffenberger called the Work Session of the New Milford Zoning Board of Adjustment to order at 7:38 pm and read the Open Public Meeting Act.

ROLL CALL

Mr. Binetti	Present
Ms. DeBari	Absent
Mr. Denis	Present
Fr. Hadodo	Recused
Mr. Ix	Present
Mr. Loonam	Present
Mr. Rebsch	Present
Mr. Stokes Vice Chairman	Present
Mr. Schaffenberger-Chairman	Present
Ms. Batistic – Engineer	Present
Mr. Sproviero - Attorney	Present
Also present	
Mr. Grygiel – Planner	Present

REVIEW OF MINUTES – September 10 and September 19, 2013

The Board Members reviewed the minutes and there were no changes.

OLD BUSINESS

**13-02 Alex and Sons Real Estate, LLC – 391 Madison Avenue - Block 1211 Lot 32
Three story 14 unit multiple dwelling with parking underneath building
Use, building coverage, front yard and height**

The Chairman stated the Board has received correspondence from Mr. Alampi's office with a letter from Ms. Sapuppo stating she walked the property and found no indication of earth being moved. The Chairman stated he walked the property and had questions. Ms. Batistic reported last month that the typographical map did not cover the entire property. The Chairman asked the engineer if she ever walked the property. Ms. Batistic did.

**12-01 New Milford Redevelopment Associate, LLC – Block 1309 Lot 1.02
Supermarket, Bank and Multifamily Residential Units
Height, stories, building and impervious coverage, use and parking**

The Board Attorney stated they have received correspondence dated November 8, 2013 from Mr. Del Vecchio advising this application was taking too long, requested weekly meetings and would not extend the time to decide the case after February 14, 2013.

There was also received correspondence from Mr. Alonso dated 11/12/13 in response to Mr. Del Vecchio's letter.

The Board Attorney stated there was an addendum to Mr. Grygiel's report dated 11/12/13. He provided an analysis of the recently decided Branchburg II, LLC v. Township of Branchburg Board of Adjustment appellate division decision. It talks of its impact on this application and how it effects the designation of the project as inherently beneficial use.

The Chairman stated the Board Members had the Schedule of Meetings for review to be voted on in December.

Motion to close work session was made by Mr. Loonam, seconded by Mr. Ix and carried by all.

**New Milford Zoning Board of Adjustment
Public Session
November 12, 2013**

Chairman Schaffenberger called the Public Session of the New Milford Zoning Board of Adjustment to order at 8:03 pm and read the Open Public Meeting Act.

ROLL CALL

Mr. Binetti		Present
Ms. DeBari		Absent
Mr. Denis		Present
Father Hadodo		Recused
Mr. Ix		Present
Mr. Loonam		Present
Mr. Rebsch		Present
Mr. Stokes	Vice Chairman	Present
Mr. Schaffenberger-	Chairman	Present
Mr. Sproviero -	Attorney	Present
Ms. Batistic		Present
Also Present		
Mr. Grygiel	Planner	Present
Mr. Tombalakian	Traffic Engineer	Present (9:00)

PLEDGE OF ALLEGIANCE

OFFICIAL MINUTES OF THE WORK SESSION – September 10, 2013

Motion to accept the minutes were made by Mr. Loonam, seconded by Mr. Binetti and carried by all.

OFFICIAL MINUTES OF THE PUBLIC SESSION – September 10, 2013

Motion to accept the minutes were made by Mr. Loonam, seconded by Mr. Stokes and carried by all.

OFFICIAL MINUTES OF THE SPECIAL MEETING – September 19, 2013

Motion to accept the minutes were made by Mr. Ix, seconded by Mr. Denis and carried by all.

**13-02 Alex and Sons Real Estate, LLC – 391 Madison Avenue – Block 1211 Lot 32
Three Story 14 Unit Multiple Dwelling with parking underneath building
Use, Building Coverage, Front Yard and Height**

Mr. Carmine Alampi, representing Alex & Sons, stated he would recall Mr. Burns because there had been a discussion where there were allegations that soil was removed or there was importation of soil which the applicant has denied. He said they addressed it with the Board Engineer in August with a partial topographical survey. Mr. Alampi stated he arranged to visit and walk the site with his client and his brother, Richard Burns and asked Maria Sapuppo to

come to the site to inspect it in his presence. He also asked Ms. Sapuppo to present a letter on her findings which was forwarded to the Board.

Mr. Alampi marked the letter as Exhibit M-1 - letter which addressed that Ms. Sapuppo reviewed the property and found no disturbance.

Mr. Alampi said they did testify that there was a house, garage and other structures on the property that was demolished. The basement, foundation and footings were excavated and the replacement of soil to cover it because by law an open hole could not be left on the property.

Mr. Alampi marked as Exhibit A-13 - Existing Conditions Map dated 11/11/13.
Exhibit A-14 revisions to the site plan on the dumpster/parking 11/12/13.
Exhibit A-15 letter from the sanitary company

The Chairman questioned that Ms. Sapuppo accompanied him because her letter stated she visited the site in November 2011 but never mentioned being there with him. Mr. Alampi said she was referring to her initial time when she received neighbor complaints. Mr. Loonam said the letter was dated October 18th and asked if he met her at the site after that date. Mr. Alampi said they visited the site on October 17th.

Richard Burns, still under oath, stated he prepared and submitted a survey dated 9/26/13 to Ms. Batistic. They took spot elevations at various locations which was consistent with their earlier surveys. He added the initial survey was dated 2011 and there was no substantial deviation. Mr. Burns said Ms. Batistic had concerns that they did not take spot elevations on the slope. On 11/11/13, there were additional shots on the slope shown on Exhibit A-13. Mr. Burns testified that he took pictures at their October visit to the property and added some of them on the exhibit. The Engineer stated he walked the entire property, looked down the slope and saw there was no substantial change. Mr. Burns discussed the seven photos on Exhibit A-13. Mr. Alampi clarified that the new exhibit denoted the spot elevations in red done recently. Mr. Burns stated there was a difference in grade up to a 1' in the area of the house demolition. He added his client said he utilized the onsite soil to fill the basement and graded out that one area. Mr. Alampi asked about the other areas away from the footprint of the house. Mr. Burns said it did not show any change. Mr. Alampi stated the back of the property had a steep cliff, which had an approximate 20' drop and asked if he saw any areas of disturbance or fresh soil. Mr. Burns said the area of the cliff in photo 7 showed a pile of material but the prior 2011 survey showed the contour line indicated the pile was there. Mr. Burns said with the initial survey they submitted for the DEP application in 2011 they showed a wetlands line and a non-disturbance line in blue that established a line they could not disturb beyond that. He added there was no purpose for them to disturb it because they could not utilize anything north of the blue line. Mr. Burns stated the photo P6 showed the dirt pile dating back to when they did a test hole. Photos P1- P5 showed photos in the middle of the lot. Mr. Alampi asked if he had an opinion of whether there was a disturbance or importation of soil to the site. Mr. Burn did not observe any based on his observation.

The Chairman asked how deep a test hole was. Mr. Burn said 10'. The Chairman said he walked the property and asked regarding the back property line the drop off was very steep and more gradual on the sides. He said in the center there were bricks that looked like someone flattened

the property and moved things towards the line. The Chairman thought the gradual part of the slope on the far east and west of the property looked natural but in the center was a flat drop off that did not look natural. It looked like someone pushed debris up to the edge of the drop off and made it very steep, said the Chairman. Mr. Burns said it was more gradual on the sides. The Chairman asked if the house was there in 2011 and was that the condition of the property in 2011. Mr. Burns said yes

Mr. Burns referred to exhibit A-14 dated 11/12/13 stating he revised the site plan on the dumpster location and an elimination of a parking space recommended by their waste firm in exhibit A-15. The engineer said the 9x18 dumpster has been enlarged to an 18x18 concrete pad by the recommendation by Gaeta Recycling. There would be a 7 cubic yard dumpster for trash and six (6) cubic yards dumpsters for recyclables. Mr. Burns said this company has small garbage trucks with a side-loaded vehicle, which goes to small sites, does bag pick up and dumps into a larger truck at a different location. Their vehicles are equipped with alarm sensors and cameras and would back into the site and pull out. They eliminated a parking space and have now 24 spaces but the requirement was for 20.4 spaces. Mr. Burns said they also increased the width of the walk from 4' to 6' as per the Fire Advisory Committee. The DPW also wanted to see the clean out location and he added the detail and would provide the sheets to the Borough Engineer, said Mr. Burns. A stop sign and stop line was added and they cleared out the drop curb in front of the site at the recommendation of the traffic engineer.

The Chairman asked what grass pavers where on the site plan. Mr. Burns showed the detail and explained they were blocks that allow grass to grow underneath them but stabilize the ground that you could walk on them and even drive on them but it would appear to be lawn. The Chairman questioned that it was a driveway that you could not see. Mr. Burns agreed. Mr. Alampi said the fire trucks could go on it but you can't see it. The Chairman asked how the fire truck drive know where it was if they can't see it. Mr. Burns said it was just for ladders. The Board Attorney asked how far under the grass was the hard substance. Mr. Burns said a couple of inches and they were using a grass paved two-system model, which has the grass growing in between. Ms. Batistic clarified the grass does not grow on top of it but in between and you could tell they were there.

Mr. Rebsch questioned the hours of the trucks coming to the site for the garage and recyclables. Mr. Burns did not think it would be before 7 am and they were aware of the traffic situation. Mr. Rebsch was concerned they would block the street when backing in. Mr. Burns said they were smaller trucks and had the cameras to back in.

Mr. Ix thought there was testimony that it was illegal for the garbage trucks to back out of the driveway onto Madison and questioned if would be illegal to back in off of Madison. Mr. Sproviero did not think so but said it was not the optimum situation. There was no traffic prohibition that a car or a service vehicle could not back out of a driveway, said the Board Attorney. The Chairman and Mr. Denis asked if it would be a one man truck. Mr. Burns agreed.

Motion to open to the public was made by Mr. Ix, seconded by Mr. Rebsch and carried by all.

Lori Barton, 399 Roslyn Avenue, questioned testimony that soil from the property was used to fill in the basement. Mr. Burns stated his client said after they demolished the building they did not bring soil in and utilized the soil on the property. Ms. Barton questioned that the elevations on the rest of the property wouldn't change if they were taking soil from the property and filling in the basement. Mr. Burns answered they used about 250 cubic yards to fill in the basement. Ms. Barton stated Ms. Sapuppo's letter said she visited the property in 2011 and questioned if the house was still standing when the resident complained. Mr. Burns said yes the house was still standing.

Mary Ann Milligan, 407 Madison Avenue, clarified the house was demolished in December 2012 not 2011. The Board Attorney swore in Ms. Milligan. Ms. Milligan said they were calling Ms. Sapuppo about the problems occurring regarding vandalism, children in the house and so forth. In the summer of 2012, the house was demolished and at least 6 or 7 truckloads of fill were brought in. She stated when the house was demolished the basement was exposed and she questioned Ms. Sapuppo on how long this would take. Ms. Milligan also questioned the dirt coming in because she was not able to bring fill into her property. Ms. Milligan questioned if the fill was legal and was concerned because she felt it was hazardous.

Terence McMackin, 400 Madison Avenue, asked if he testified that the soil was pushed from the west side of the school scraped off and pushed in to fill the basement. Mr. Burns answered no his client said he graded off in the vicinity of where the building was and the pile of dirt by the school was the location of the test hole. Mr. McMackin asked how many yards of soil were needed to fill in the basement. Mr. Burns estimated 150 to 200. Mr. McMackin clarified it was taken within the property. Mr. Burns said that was what his client said. Mr. McMackin asked if anyone witnessed this. Mr. Burns did not. Mr. McMackin asked if he knew when the house was demolished. Mr. Burns said in the summer of 2012.

Richard Mide, 660 Columbia Street, asked if he saw tire tracks on the property when he inspected the property. Mr. Burns said no. Mr. Mide questioned if he was a traffic expert to testify what type of traffic would be caused from the garbage trucks. Mr. Burns said all he could testify to was that there would be a small truck that would back in and would do it off peak hours. Mr. Mide asked if he could give examples of something of that nature elsewhere in New Milford. Mr. Burns did not know offhand but would be able to pick out locations of retail stores or apartment houses in town. Mr. Mide asked if there was a study on how much traffic that would create. Mr. Burns said there would not be a study for one truck.

Mr. Varkey, 401 Madison Avenue, asked if the neighbors were informed about the demolition. Mr. Alampi said before demolition a notice must be given to the property owners adjacent to the site by a letter. The resident said he did not receive a letter. Mr. Alampi explained he has only been representing his client in 2013. The resident said he has seen 5-6 trucks loads of soil to the property. Mr. Alampi said he was not a civil engineer but was on the property and did not see anything unusual on the site but everyone had their comments. Mr. Burns asked if it was on the weekends. Mr. Varkey said after 5 pm.

Lorraine McMackin, 400 Madison Avenue, asked how many dumpsters would be on the lot. Mr. Burns said three dumpsters – one 7 cubic yard for trash and two 6 cubic yards for recyclables.

Ms. McMackin asked how many days a week for pick up. Mr. Burns said once a week for the trash and once for the recyclables.

Terence McMackin, 400 Madison Avenue, asked if the pavers were considered impervious coverage. Mr. Burns believed it was considered permeable material. Mr. McMackin asked how much it would increase the impervious coverage. Ms. Batistic said it was pervious and the openings were large enough to allow the water to go thru. Mr. Burns said the impervious coverage proposed was 32% of the site. Mr. McMackin asked if that was 8,091 sf. Mr. Burns said 15,414 sf.

Gene Murray, 425 Madison Avenue, said there was still an issue with large trucks not being able to turn around at the site. Mr. Burns agreed. Mr. Murray asked if there would be an issue with UPS trucks accessing the site. Mr. Burns said if it was a large truck they back in and a small truck could turn around. Mr. Murray stated his concerns with the middle school children walking to school and there could be children at the site and questioned about the trucks going in and out of the property.

John Rutledge, 335 River Road, said their traffic report analysis was prepared by Dolan and Dean and asked if he was satisfied with the results of their analysis. Mr. Burns said he was not a traffic engineer and did not review the independent report. Mr. Rutledge asked if anyone contacted the principal of the school next door to ask their opinion on how long the build out would take and the impact to the students. Mr. Burns had not heard anything but said they were notified of the proceedings and were not aware if they have contacted anyone.

Motion to close to the public was made by Mr. Loonam, seconded by Mr. Ix and carried by all.

Mr. Alampi recalled the planner Mr. Kenneth Ochab. The Board Attorney swore in the Mr. Ochab.

Mr. Alampi said the plans were modified to the number of units and asked if his testimony would be different because of the reduction of units. The planner answered no and said the testimony would be the same because the units were reduced but if they were increased it would be different. Mr. Alampi clarified that the criteria and analysis of zoning regulations and principals of planning would be basically the same because the building was smaller. Mr. Ochab agreed. Mr. Alampi asked if he was aware of the revised bedroom configuration. Mr. Ochab was aware of it and stated by reducing the number of units it would create less of an impact in terms of the density and because of the reduced size of the building. The planner added the reduction in the size of the building has eliminated the building coverage variance. Mr. Ochab said with the old plan, the building coverage was 21% and maximum coverage in the RA zone was 18%. With the reduction of the building size, Mr. Ochab stated they were down to 16.6% coverage.

Mr. Alampi asked if the change of bedrooms in the units affected his judgment. Mr. Ochab said it reduced the intensity of the projected population that would be incorporated into the project. The planner said the study by Rutgers University came up with demographic multipliers that could be used by planners to approximate population based on the number of bedrooms and numbers of units. Mr. Ochab used that study and the numbers showed under the old scenario of

one and two bedrooms they could project a population 26-27 people and under the new scenario they projected 19-21 people. Mr. Ochab added the Rutgers University study has been nationally accepted. Mr. Alampi asked if he witnessed projects developed that were consistent with these projections. Mr. Alampi said yes.

Mr. Alampi said in his previous testimony he offered an opinion that multi dwellings created protected guard to the wetlands in the back. Mr. Ochab explained with single-family owners that own wetlands it was difficult to monitor activities. He stated wetlands on a property could not be used for any purpose and he has found that single-family homeowners would dump leaves and fill to expand their property. According to the planner, that situation would be different with property owned by a landlord or a condo association because the maintenance of the property was controlled by another entity and not by the residents.

Mr. Ochab stated with the reduction of units there was also a reduction in the amount of parking spaces required. The applicant now has 24 parking spaces and 21 were required which met the Residential Site Improvement Standard criteria.

The Chairman asked Mr. Grygiel if he had any questions. Mr. Grygiel did not. The Chairman stated there was another application and this application would be heard first at the December 10, 2013 meeting.

Mr. Loonam certified he listened to the recordings of the meeting.

**12-01 New Milford Redevelopment Associates, LLC – Block 1309 Lot 1.02
Supermarket, Bank and Multifamily Residential Units
Height, stories, building and impervious coverage, use and parking**

Karl Schaffenberger, Ronald Stokes, Joseph Binetti and Father Hadodo have previously recused themselves from the application.

The Board Attorney stated the Board has acknowledged receipt of a November 12, 2013 supplemental review letter issued by Paul Grygiel, correspondence issued by Mr. Del Vecchio on November 8, 2013 involving the topic of more special meetings and time limits for the public members as well as correspondence issued today by Mr. Alonso in response to it. Mr. Sproviero stated the time was at a premium and noted that Ms. DeBari was not present at this meeting and would like to withhold discussion on the issues raised by these correspondences until Monday November 18th. Mr. Alonso stated he would be at a meeting on Monday but would get to the meeting late.

The Board Attorney stated the Board was open to the public on Mr. Tombalakian's initial testimony. He understood Mr. Tombalakian had additional testimony as a follow up to questions posed by members of the public.

Motion to open to the public was made by Mr. Ix, seconded by Mr. Rebsch and carried by all.

The Board attorney asked if there was anyone who had any questions of Mr. Tombalakian before we hear his additional testimony.

No one wished to be heard.

Motion to close to the public was made by Mr. Loonam, seconded by Mr. Ix and carried by all.

Mr. Tombalakian said several questions were asked regarding if the intersection of River and Demarest warranted a traffic signalization. They reviewed the traffic volumes provided in the traffic study and it was their opinion that intersection did not warrant signalization.

They also looked at the volumes from the applicant's traffic report for the intersection of Main/Madison and the traffic volumes currently met the peak hour warrant for signalization. He also spoke with the police departments in New Milford and Oradell to get their feedback on their experience at that intersection. Both departments indicated that they did not have any operational issues or exceptional traffic accident history at those locations. According to Mr. Tombalakian, the volumes were there but there wasn't an operational problem so he would not recommend signalization at this time.

There was also a question regarding truck turning at the Main/Madison intersection and if they could make the greater than 90 degree turn from westbound Main Street onto Madison. He stated the trucks could make the turn but vehicles on the Madison Avenue approach back up a bit to accommodate them. Mr. Tombalakian said it was a conflict but it was something that happens in most towns on a regular basis and felt it was workable.

Mr. Tombalakian stated he was able to find testimony in the October 2012 minutes that indicated the ground floor of the store was 42,000 with an 18,000 basement rounding up to a 61,000 sf store.

According to Mr. Tombalakian, based on the NJ transit timetable there were five trains in the morning peak hour, three during the school peak hour and five during the afternoon peak hour. There were two bus stops on River Road in the area which would support three routes and that information was from the NJ transit website.

There was also a question on the validity of the applicant's traffic counts so they did a spot count at River/Madison and found the traffic volumes of the applicant's counts were consistent with the data they collected. The Board Attorney asked when they did a spot count. Mr. Tombalakian said it was done after the last meeting.

The Board Attorney asked if there was anything that he wanted to add by way of the analysis of the warrant for a traffic control device at the Main/Madison intersection. Mr. Tombalakian said one of the things that the manual indicated was that meeting one warrant doesn't mean they must install a traffic signal but it requires a further study that incorporates volumes, delays, crashes, operational safety and other site factors. Mr. Tombalakian said while the volumes do exceed the threshold in the manual, there doesn't appear to be an accident history or any basis for pushing

forward to have that intersection signalized. He added the intersection was in Oradell so that would be an Oradell matter.

Mr. Loonam clarified he was representing the interest of the Borough on an application and he was not for or against an application. Mr. Tombalakian agreed. Mr. Loonam asked if the applicant incurred the cost of the spot count. The traffic engineer answered that the issue of a spot count was not objected to by the applicant but if the Board was to ask for a full complete count of all the intersections that would be where the line would be crossed by who would pay. Mr. Loonam asked what time and day was the spot count done. Mr. Tombalakian said it was done on October 30 and 31st 6:30am –930am from 2-6:30pm. Mr. Loonam asked why he determined the location of River/Madison to be the best place for the spot count. Mr. Tombalakian answered that was the location that he testified to that had an adverse effect. Mr. Loonam asked if he was present for the spot count. The traffic engineer said he did an observation but a member of his staff sat in a car.

Motion to open to the public was made by Mr. Ix, seconded by Mr. Rebsch and carried by all.

Mr. Louis Flora, Counsel from the firm of Giblin and Giblin, 2 Forest Avenue, Oradell, NJ on behalf of Oradell asked what he meant by an adverse effect. Mr. Tombalakian said they indicated that the traffic report done by the applicant showed an increase in delay on the southbound approach at the River/Madison intersection during the school peak hour of 10 seconds with the improvements. According to Mr. Tombalakian, this would be an adverse effect. Mr. Flora asked if he recalled that Mr. Luglio also had the same concern on River/Madison. Mr. Tombalakian did not recall. Mr. Flora asked if he would agree that there was no cost effective mitigation that could be imposed at that intersection to improve performance. Mr. Tombalakian could not say that at this time because no one has looked at all the alternatives that might provide adequate mitigation. Mr. Flora asked what where some of those alternatives. The traffic engineer answered a combination of widening and changing the signal timing. Mr. Flora asked if widening was a necessary component of any success with mitigation at that intersection. Mr. Tombalakian had not analyzed all the options. Mr. Flora said in his report of October 15, 2012 it indicated some concerns with trip distribution and he asked for evaluation on the impact of the reopening of the Elm Street Bridge. Mr. Flora asked if he received any information. Mr. Tombalakian did not receive anything so it had not been addressed. Mr. Flora asked if he received any information from the applicant to satisfy his concern regarding support and justification on the trip distribution percentages sited in the report. Mr. Tombalakian believed it was provided in the 1/4/13 report. Mr. Flora asked if he considered Mr. Luglio's comments and his report exhibit 0-8 that he had a concern that this was not addressed with regard to the trip distribution. Mr. Tombalakian was satisfied with it and said Mr. Luglio had a different opinion. Mr. Flora asked if he received a response from the applicant regarding his comment for testimony on the potential of cut thru traffic using the proposed driveway that would connect Madison to River. Mr. Tombalakian did not recall getting any information. Mr. Flora asked if he would agree that an origin and destination study would be helpful. Mr. Tombalakian did not believe an origin and destination study would be necessary for this project. Mr. Flora said Mr. Luglio made a comment in his report that the proposed project would have a significant traffic increase on the roadways. Mr. Tombalakian agreed and said they outlined where their area of concern was. Mr. Flora asked if he thought the traffic increase from this development would change the nature of travel in the

area. Mr. Tombalakian said he answered that by indicating that there would be an adverse effect at River/Madison. Mr. Flora asked what other adverse effects are there from the proposed project. The traffic engineer said that was the primary location concern in doing his review. Mr. Flora asked if he would recommend a safety study be done regarding pedestrian safety issues by the high school. Mr. Tombalakian said one of his comments was for the police department to look into if additional crossing guards were necessary. He added at the last hearing there was discussion to add a crosswalk at River/Demarest and the site driveway. Mr. Flora asked if the applicant's traffic expert could have provided and requested a safety report. Mr. Tombalakian believed the applicant's report provided information on school pedestrian volumes and they did not believe further improvements were necessary. He added a safety study could take on a number of aspects and without having the scope defined he does not know if one should be performed or not. Mr. Flora asked what the appropriate scope of a safety study was for a project like this next to a high school. Mr. Tombalakian said he testified that high school students should be able to cross River, with the improvements recommended in their correspondence and coordination of the police department and added besides from this he did not believe an additional safety study was necessary. Mr. Flora asked if he agreed with Mr. Luglio's testimony that this project would result in an increase of time of peak traffic periods based on the additional volume of cars being added to the roadways. Mr. Tombalakian said yes. Mr. Flora said Mr. Luglio testified that peak periods could be increased up to a half hour. Mr. Tombalakian did not know if he agreed with that and would have to look at his report to see where he came up with that number.

Al Alonso, 45 Clover Court, clarified that he was charged to do a peer review and analyzed the data collected, review the analysis that was performed, reviewed the opinions and conclusions formed by the expert witness. Mr. Tombalakian agreed and said they looked at traffic report and offered their comments where there might be deficiencies or areas that they concur. Mr. Alonso asked if he did a complete peer review. Mr. Tombalakian believed they did a thorough review of the application. Mr. Alonso asked if he was present at hearings that Ms. Dolan testified and if he listened to the recordings or transcripts that he was not present at. Mr. Tombalakian said some of them. Mr. Alonso asked if it was important to listen to the testimony. Mr. Tombalakian said his questions were put in his review and the questions others asked was not part of what he wanted to learn about. He said to listen to all the testimony would be ideal but he reviewed the report and asked for additional information and drew his conclusion based on some of the testimony and the submitted reports. Mr. Alonso asked if the Board would have to consider the data, analysis, testimony, questions, conclusions and opinions. Mr. Tombalakian said the Board would have to look at all of them and added the Board has asked him to review the information submitted and offer his opinion on what this project may have in terms of an adverse impact. He focused his review on the information submitted in the traffic report, read some transcripts, attended some hearings regarding the differences on what trip generation to use and whether to use sales data from the existing store. He said the information on sales data was interesting but it did not change his conclusion. Mr. Tombalakian said he put greater weight on the reports than the testimony. Mr. Alonso asked if he was aware that based on Ms. Dolan's testimony, questions, answers and comments from both the public and Board Members that Ms. Dolan had to revise her reports and if that was relevant for him to consider when determining her analysis and conclusions. Mr. Tombalakian said no.

Sam Tripsas, 327 Maple Avenue, Oradell, NJ. Mr. Del Vecchio said for the record he offered the same objection to others not living in the borough or within 200' of the subject property. Mr. Tripsas asked how he would measure traffic flow on a future roadway. Mr. Tombalakian said the applicant would try to get archival information on what traffic volumes existed before the bridge was closed and try to grow that traffic based on background growth rates to the current day and see if there were any changes to the geometry of the bridge. They would use their judgment as to see what would take place once the bridge was reopened. Mr. Tombalakian had inquired at the county if they had traffic volume information prior to the bridge being closed and did not believe they had that information so there was no information to find where the baseline of traffic volumes were prior to the bridge being closed.

Gene Murray, 425 Madison Avenue, asked if he found any study of traffic in the County regarding the Elm Street Bridge. Mr. Tombalakian said the County Engineer's office did not have any information on it. Mr. Murray questioned his testimony that he spoke with the police departments from both Oradell and New Milford regarding Main/Madison intersection existing traffic volumes and traffic incidents and asked what he based his conversation on if there was no data to refer to and what was used as a reference point for today's volume vs projected volumes. Mr. Tombalakian said the question was if the traffic intersection warrants traffic signalization and they looked at the volumes and inquired from both police departments if they have a lot of accidents and had they received resident complaints about delays. Both departments said no.

Mr. Murray asked if there was data on Elm Street in the Dolan and Dean Traffic Impact Analysis Report. Mr. Tombalakian said they have not provided any data yet. Mr. Murray asked what volumes he referred to for Elm Street. Mr. Tombalakian had looked at volume data for the Main/Madison intersection and to answer the question that came up at the last meeting there was a signal warranted at that location. Mr. Murray did not see any reference to Main/Madison in the report. Mr. Tombalakian said figure 4 on the last revised traffic impact analysis gives traffic volumes at Washington Avenue/Main Street which is about 100' away from Madison. He said they manipulated the data to estimate what the traffic volumes were at Main/Madison. Mr. Murray objected to the characterization of Washington/Main being 100' from Madison/Main because it was more than 100 yds and asked what factors he used in his interpolation. Mr. Tombalakian said they looked at the volumes at that intersection, made an engineering judgment based on what other land uses were between the other intersections and the intersection of Main/Madison and estimated the volumes at Main/Madison.

Mr. Murray asked about the tractor trailers turning from Main onto Madison and what he meant in his testimony that it would be a workable situation. Mr. Tombalakian said it was workable in the context that at most intersections in Bergen County with semi-trailers this sort of conflict would take place and accommodations were made on an everyday basis to work thru those difficulties. Mr. Murray asked if it was appropriate to have a development that would bring 10-15 trucks of that size during the week that would have to negotiate that turn. Mr. Tombalakian did not recall the testimony that trucks were to make that left turn but thought Mr. Pagano's testimony was that the trucks would take Madison out to Main and then to Kinderkamack.

Mr. Murray asked about questions on the size of retail space at the existing store. Mr. Tombalakian was able to find information in the October 18, 2012 minutes regarding the size of

the existing store that confirmed it was 61,000 sf. Mr. Murray asked how much was retail. Mr. Tombalakian believed it was 43,050 sf. Mr. Murray asked how much was retail in Ms. Dolan's report. Mr. Tombalakian said her report was based on using the ITE of 70,000 sf for the proposed store. Mr. Murray questioned if that was retail. Mr. Tombalakian thought it was gross sf but would have to check into it. Mr. Murray was not questioning the ITE but was concerned about the existing Shop Rite square footage data referenced in Ms. Dolan's report and the inaccurate conclusions drawn when using 60,000 sf of retail compared to 70,500 sf of retail or use 42,000 sf of retail compared to 70,500 sf of projected retail. Mr. Tombalakian stated they were looking at impacts on the existing roadway network. He added what the existing site does in terms of traffic volume was trivia but not relevant to what they were looking to in terms of impact on the adjacent roadway network. Mr. Murray said it wasn't trivia to the applicant because the traffic expert relied upon it in her recommendations and testimony. Mr. Tombalakian looked at the proposed 70,500 sf and found the areas of adverse effect.

John Rutledge, 335 River Road, asked what is done for a spot count. Mr. Tombalakian explained a member of their staff took traffic counts for about three hours in the morning and 4.5 hours in the afternoon with an electronic counting board. Mr. Rutledge asked if he was counting traffic in both directions. Mr. Tombalakian said in all four directions. Mr. Rutledge asked if he was confident that an accurate count was done by one person watching four directions. Mr. Tombalakian was confident. Mr. Rutledge said that Cooper Street was used as a secondary parking location for many high school students and there were no sidewalks. The traffic engineer believed that was brought up at the last meeting that students walk on Cooper and there were no sidewalks. Mr. Rutledge asked if he was aware of a student crossing at Cooper being seriously injured by an automobile. Mr. Tombalakian was not aware of it and would have to know particulars of the incident.

Mr. Rutledge asked if he saw the queuing situation that occurs at the high school in the afternoon and morning. Mr. Tombalakian has seen queuing and has seen signs in front of the high school stating no drop off in the area and felt the school and police were trying their best to have a manageable protocol. Mr. Rutledge questioned his testimony that the turn on Main onto Madison especially for trucks would be that cars should back up. Mr. Tombalakian said usually a motorist would work something out that someone would yield so the turn could be completed. Mr. Rutledge questioned the alternate route for trucks if there was flooding on Madison. Mr. Tombalakian believed in the event of flooding the alternative access would be the site driveway opposite Demarest and the curb radii would be designed accordingly. Mr. Rutledge asked if the curb radii was the radius that the trucks need to turn left from Main onto River. Mr. Tombalakian said trucks would enter the site making a left northbound from River into the site. Mr. Rutledge asked if a 50' trailer truck could make an effective left turn from Main onto River onto the narrow southbound lane without interfering with northbound traffic. Mr. Tombalakian had not looked at Main and River Road in terms of truck turning. Mr. Rutledge asked if he referred to the town's master plan in his review. Mr. Tombalakian did not refer to the master plan as part of his review.

Richard Davidson, 685 Berkeley Street, asked if any observations were made at Milford/River Road. Mr. Tombalakian had looked at it as part of their site visit but did not key in on it as part of their review. Mr. Davidson said the applicant was proposing 354 parking spaces for a

supermarket where 470 spaces were required and asked if primary entrance was at River Road and the secondary entrance at Main Street or would they be equal. Mr. Tombalakian thought they were both equal and the Madison driveway might get additional traffic. Mr. Davidson asked if he was aware there was a safety officer stopping traffic for children at the crosswalk at River/Cooper. Mr. Tombalakian did not see an officer. Mr. Davidson asked if the adverse effects and traffic volume were more relevant at the intersection of Milford/River Road rather than at the Madison/River intersection. Mr. Tombalakian said based on the capacity analysis it was River/Madison. Mr. Davidson asked if 354 cars for the supermarket have more of an adverse effect once the Shop Rite was complete at Demarest and Milford instead of Madison. Mr. Tombalakian said the most deterioration took place at River/Madison because that intersection was closer to being maxed out than the others. Mr. Davidson questioned his testimony that the time delay at Madison/River was 10 seconds. Mr. Tombalakian stated it was referred to as the average stop delay. He further explained it meant the average of all vehicles going southbound during the school peak hour. Mr. Davidson asked if there has been a study explaining the difference between that worst condition and accidents. Mr. Tombalakian had not seen those studies but thought the Federal Highway Administration might have done them. He added motorist frustration increases when conditions breakdown and traffic was congested.

Mr. Loonam wanted to make a motion and asked for Mr. Sproviero's guidance. With all due respect to Mr. Tombalakian and Boswell, Mr. Loonam thought they needed to do a comprehensive traffic and safety analysis. Mr. Loonam said the last thing he wanted to do was put a burden on the taxpayers in the town but thought this was the single biggest potential development since the Brookchester Apartments and thought it was money well spent. Mr. Loonam asked if the Board had the ability to hire someone independently or go to the Mayor and Council and request it. The Board Attorney stated if the Board was to direct a full traffic study, his anticipation was the applicant would not pay for it. The Zoning Board did not have money budgeted to provide for it so they would have to go to the Mayor and Council. Mr. Sproviero suggested Mr. Loonam hold that thought and motion until Monday when there were five members present.

Mr. Loonam stated he would like to make a motion for the Board to request the Mayor and Council to budget money for the town to do a comprehensive traffic and safety analysis and would like specifically the areas of Madison/River, New Milford/River, Main/River and Madison/Main to be considered. He requested a comprehensive safety analysis be done as well. Mr. Loonam thought what was paramount was that it be done by an independent third party that has no prior knowledge of any of the statistics and come back without any prejudice, seconded by Mr. Rebsch.

Mr. Del Vecchio stated the MLUL does not allow for duplicative peer reviews at the expense of the applicant. He said this application has been pending for two years and there was clock that they planned to stick by and holidays that may negate the ability to have an accurate traffic count done. Mr. Del Vecchio added that this obligation of the applicant to fund peer reviews was embodied in the MLUL and was a well-accepted practice and the reason most Boards stop there was because they were mindful of their obligation to be a non-adversarial proceeding. This Board was not charged with creating an adversarial proceeding. They believe that hiring a third party to perform an independent traffic review transgresses that boundary as established by the

MLUL. Mr. Del Vecchio said it becomes an excess cost generating feature for affordable housing in the community. They object for those reasons and leave it to the Board to decide. Mr. Sproviero was concerned that the Board was going beyond the role as a fact finding law applying quasi-judicial body into the realm of adversary proceedings. He strongly suggested the Board table the motion until the next meeting where he had an opportunity to give his full opinion on it. Mr. Loonam had considered the timing aspect of it and felt it needed to be done as soon as possible. Mr. Loonam said he was not being adversarial in any way but was trying to get data for this Board and felt that data was imperative. The Board needed to consider the negative and positive criteria and this information might support Ms. Dolan. He said information was good and wanted as much information he could get when he has to consider the application. Mr. Loonam appreciated Mr. Sproviero's opinion but did not want to table it. Mr. Denis said as Acting Chairman he would table this to the next meeting. The Board Attorney said there was a motion on the floor.

The motion passed on a roll call vote as follows:
For the Motion: Members Loonam, Rebsch, Denis
Against the Motion: Ix

Mr. Sproviero said this application would be carried to November 18, 2013 at 7 pm.

As there was no further business to discuss, a motion was made by Mr. Rebsch, seconded by Mr. Ix and carried by all

Respectfully submitted,
Maureen Oppelaar