

The regular meeting of the Delaware Township Board of Adjustment held on the noted date, was called to order by Chair Cline at 7:30 p.m., in Township Hall, Sergeantsville, New Jersey.

PLEDGE OF ALLEGIANCE

STATEMENT

Chair Cline read a statement noting that the requirements of the Open Public Meetings Act had been met.

ROLL CALL

Present: Emmons, Gilbreath, Kenyon, Manley, McAuliffe, Szwed, Warren, Cline

Absent: Fowler

Also present: Board Attorney Goodell, Board Planner Kyle, Board Engineer Wisniewski for Roseberry

MINUTES: April 11, 2019

The Board discussed the minutes, noting changes and typographical errors. It was moved by Member Gilbreath to approve said minutes. Member Manley seconded the motion. Said motion was approved by voice vote, with an abstention by Members Kenyon and Szwed.

MEMORIALIZATIONS - None

APPLICATIONS

Locandro Investments, LLC, Block 32, Lot 24, minor site plan approval and d(2) variance to expand the previously approved non-conforming four (4) residential apartment uses on the first, second, and third floors to permit two (2) additional units in the main building, one being a COAH unit; and two additional units in the barn; carried from March 14, 2019 meeting; and April 11, 2019 meeting.

Members of the Board and public were asked speak clearly to create a clearer recording.

It was noted that there are only 6 voting members present. After some discussion, it was agreed that a decision on having a vote will be made at the end of tonight's meeting. Chair Cline stated that he would prefer not to have a vote. He noted that two members who missed the last meeting can listen to the recording and thus there are more members to make a decision.

Attorney Goodell noted that a vote is at the discretion of the applicant. He reminded all that a use variance requires five affirmative votes.

Mr. Dilts was present to represent the applicant. He noted that the applicant wishes to proceed with the application.

It was noted that Board Engineer Roseberry met with the County. It was further noted that there is a copy of the email between County Engineer Tom Mathews and Board Engineer Roseberry.

It was noted that Board Engineer Wisniewski is present in place of Board Engineer Roseberry. Mr. Wisniewski noted that he was brought up to date with Mr. Roseberry's meeting with the County. Mr. Wisniewski also noted that he has a copy of that email, which was marked into evidence, A-11, and dated April 15, 2019. Mr. Wisniewski read the email into the record. It was specifically noted that if the Board of Adjustment decides to grant the RSIS exception for the parking requirements (from 15 to 12) that would satisfy the County's concerns. It was further noted that there would only be the handicapped spot on the Route 519 parking area.

Board Engineer Wisniewski was sworn in.

Mr. Ingram, the applicant's engineer was present and had been previously sworn in. He presented into evidence, A-12, a copy of the concept plan that was revised on 5.9.2019. He noted the changes based on the County's suggestion. The exhibit shows a single-handicapped stall with a driveway access on Route 519. He noted that if the Board grants the de minimis exception, leaving only the handicapped spot along Route 519, 800 square feet of parking area will be removed from the plans.

It was noted that with only a handicapped parking spot on the Route 519 side, the de minimis exception would only be for two parking spots.

Chair Cline noted that there will still be an entrance on Route 519, but that less impervious coverage will result with only one handicapped parking spot.

Mr. Ingram testified that for the site as a whole, the area of three parking spaces does not have a significant impact. He further noted that for the handicapped spot there will be an area for a vehicle to turn around so that the vehicle does not have to back onto Route 519.

It was further noted that for the foreseeable future there will be three on-street parking spots. Mr. Ingram noted that he does not believe that all stalls will be needed, leaving left over parking space for visitors.

Chair Cline asked if the applicant had contacted the Cane Farm for parking spots. Mr. Locandro stated that the Cane Farm does not want to commit to permanent parking. Mr. Locandro noted that there had been additional spots south of the subject property, but that the paperwork for those spots had never been finalized. Mr. Locandro stated that he checked several areas.

It was noted that by using the LINK transportation system, the parking requirements could be changed to 0.8 parking spots per unit.

Chair Cline asked if there is anywhere else to consider for extra parking spots. Mr. Locandro noted that he often finds cars in the lot that have nothing to do with the tenants. He further noted that eliminating the restaurant has eliminated the need for extra parking. Mr. Locandro stated that there is no parking available for the area once owned by the printing company.

Chair Cline stated that even if the de minimis exception is allowed, he would like to get the parking away from 519.

Mr. Ingram presented A-13, a copy of the first page of the minor site plan showing another option for parking. It was noted that this is the cover page of the original plan dated 12.12.18 and titled minor site plan. It was also noted that this is the original concept presented to the County with the original plan for 15 stalls and the handicapped spot as on-street parking spot. It was noted that a de minimis exception from the RSIS standards is required, whether in a reduction of 15 stalls to 12, or 15 stalls to 13.

There was a discussion about impervious coverage. Chair Cline noted that he would like to see the impervious coverage at the least amount possible. It was noted that the total impervious coverage is about 73%. It was also noted that with the plan shown in A-12, there would be an increase of 3.5% impervious coverage.

Chair Cline asked about the possibility of a dry well which can only be located at the front of the building. It was noted that a dry well has to be 50 feet from the septic area. It was also noted that the area in front of the building is extremely small. Further concern was raised about whether or not the County would permit this. There was further discussion about using a pipe in the northwest corner of the property, also within the County right-of-way. It was noted the size would be of little significance and would need to be deep enough for gravity flow. It was also noted that this location would create an infiltration spot close to the foundation of the building.

Mr. Ingram opined that the potential use (for water discharge) would be almost insignificant. It was further noted that there is a telephone pole there which could cause conflicting concerns about the utilities in proximity of the water discharge.

Chair Cline asked about a pipe along 519. The applicant agreed that if he has a right to do anything, he would open it up. Mr. Dilts further noted that in seeking final approvals, the applicants would seek to make any improvements possible. It was noted that such improvements would need conversations with the County Engineer.

Board Engineer Wisniewski noted that one way to mitigate the increase in impervious coverage is to cover the handicapped spot and associated sidewalk with pervious pavers. He noted that it would still be ADA compliant, but there would be some infiltration.

Mr. Ingram stated that there could be a condition to meet with the County and do whatever the County allows the applicants to do. He noted that the water problems along Route 519 are not directly related to the site. He also noted that the proposal is not a direct cause of that problem.

Board Engineer Kyle stated that the RSIS regulations allow on-street parking to be counted toward the project's parking needs. He further noted that the County does not want those spaces utilized as permanent spaces. He noted that the County is not opposed to those spaces remaining on the street.

Mr. Ingram discussed the idea of banked parking to be utilized if the on-street handicapped parking spot, per A-13, on Route 604 is eliminated.

Attorney Goodell stated that if used, the handicapped parking spot on the street has to be striped.

Board Planner Kyle stated that the County's intent at this proposal is get the right-of-way since this is an active application. He further noted that the position of the building does not leave a lot of options for taking right-of-way area.

Board Engineer Wisniewski stated that to meet the County request, there has to be a de minimis exception for three spaces. Mr. Ingram stated that the exception could be for two spaces.

Member Warren asked about curb cuts. Mr. Ingram stated that if the handicapped parking spot is on the street, that it meets the correct slope, but needs striping. He noted that the accessible entrance is the rear entrance and meets the requirements for ADA compliance.

Member Szwed asked if the banked parking would need a deed restriction. It was noted that restrictions created are bound by this approval, but for the sake of clarity, it would be better to put the language into the deed. The applicant agreed to this idea.

Mr. Locandro noted that Mr. Cane appeared. Mr. Owen Cane was sworn in. Mr. Dilts asked Mr. Cane about the overflow parking. Mr. Cane noted that Cane Farm is not agreeable to a long-term condition to provide overflow parking. He noted that the closest lot on Cane Farm to the subject property is currently a vacant office. He explained that once the office is occupied that parking area would then be in use.

Member Kenyon asked about assigning parking spots. Mr. Locandro explained that assigning spots would keep anyone from being blocked in, from a different unit.

Member Manley stated that he listened to the tape from the April meeting and had a question about the septic capacity. It was explained that the septic can release 12 inches of water in 24 hours. Mr. Ingram stated that was

a worst case scenario to point out that over the course of a day there would not be an issue of water backing up. He noted that 2700 gallons can be held in 12 inches.

Board Attorney Goodell asked Mr. Ingram to rationalize a de minimis exception from the RSIS regulations for parking. Mr. Ingram stated that these units are mostly one-bedroom apartment and that lots of the tenants have only one vehicle. Mr. Locandro noted that currently there are seven cars from four apartments. Mr. Locandro further noted that there is only one 2-bedroom apartment.

Mr. Ingram noted that a second reason for the de minimis exception is that there is currently access to the stalls along County Route 604 and that the County is not taking them. Mr. Ingram noted that there is a reasonable assumption that those stalls will always be available.

There was a review of the discussion concerning the RSIS exemption from page 9 of the April minutes. One idea noted is that there is currently on-street parking with reasonable existing infrastructure and no plan for that to go away. It was noted that per the RSIS regulations, those parking spots can count; it is the County that is requesting that all parking spots be made available on site, not using the County right-of-way spots as permanent spots.

Board Planner Kyle noted that the Board can count those on-street parking spots, but that decision would be up to the Board. He further noted that the provision for a handicapped parking spot on-site could be considered banked, which promotes the health and safety aspects of the proposal. He also noted that 87% of the required parking is on site.

Chair Cline asked about future improvements or expansion, as in more residential units. It was noted that there may be empty lots that could address additional parking. Mr. Ingram, for the applicant, stated that there would be no further expansion on this property. He noted that there are no adjacent properties on which to expand to provide more space for the applicant or those property owners. Mr. Ingram further noted that the County has indicated that there are no plans for expansion of County Route 604.

Board Engineer Wisniewski reported information given to him by Board Engineer Roseberry. Mr. Wisniewski noted that the private lane is an asphalt lane and that the edge of the lane is the property line for the abutting properties. It was further noted that the lane is the driveway used as access for this site. Mr. Ingram noted that there is no current agreement for anyone to maintain the lane. Mr. Wisniewski noted that it was Board Engineer Roseberry's suggestion that with part of the approval there should be an agreement that the subject property owner will maintain and/or snowplow the portion abutting the subject property. Mr. Locandro stated that this maintenance is being done, but agreed to that condition.

Public comment

Board Attorney Goodell asked that members of the public who wish to provide testimony stand up and be sworn in. Said members of the public were sworn in.

Mr. Peter Sudano was present. He stated that he owns the property across Route 604 from the subject property. He thanked the Board members for the time spent on hearing this application. He noted that several Rosemont residents have prepared a statement of concerns signed by 30 residents.

Board Attorney Goodell stated that no comments can be delivered through a petition, especially if some members of the petition-signers are not present. He noted that the Board can hear the concerns addressed in the statement, but without the signature page. The list of concerns was marked into evidence, O-1.

Mr. Sudano stated that the audience members will try to be efficient with comments. He noted that different members of the audience will address different concerns.

Mr. Dilts stated that he would like to have a copy of this list of concerns, which Mr. Sudano provided.

Mr. Sudano read the introduction for the list of concerns. He noted that as presented this application presents a significant negative impact to the residents of Rosemont. He asked that the application be denied as proposed. He further noted that there may have been some inaccuracies presented in the application.

Ms. Rosemarie Brenner was sworn in. She noted that the first concern listed is about stormwater, item #1. She noted that no stormwater calculations have been submitted as part of the application. She also noted that the subject property sits on top of the "hill" of Rosemont. She noted that when there is snow melt, there is increased water flow. She noted the existing parking area on the east side of the building has been repaved with an installed snow-melt system which seems to have increased the water flow. Ms. Brenner noted that there was once a green landscaped area along Route 519, which has been removed. She opined that this green area once helped to slow the run-off from the site.

Mr. Ken Vieth was sworn in. He presented into evidence, O-2, photographs. He identified the images, as photos he had taken. He noted that the image on the left, photo A, shows the front of both the Jaques house and the Vieth house. He noted that his house is 84 Route 519 (Kingwood Stockton Road). He noted that both properties are south of the subject property. Mr. Vieth identified the middle image, photo B, which shows the northwest corner of the subject property, with the fence to the left of the photo. He noted that this photo shows the area between the subject property and the property of Mr. Jaques, perpendicular to Route 519. Mr. Vieth noted the photo on the right, photo C, shows an extended view of the sidewalk area, underwater, looking towards the intersection of Routes 519 and 604.

Mr. Vieth stated that he has lived in Rosemont for 45 years and that this is the first year for which he had to walk on other properties to get to the Rosemont Post Office. He noted that this is the first year with such a "pooling" of water in this area.

Mr. Vieth presented into evidence O-3, a collection of 17 photos, marked A through Q. Mr. Vieth stated that he wants this problem fixed in such a way that the water just does not flow across Route 519 to the opposite side. He noted that in the winter there was much ice on Route 519. Mr. Vieth further noted that there is additional water flow along the alley, which also iced up this past winter, due to the melting feature of the heated pavers on the subject property.

Mr. Dilts reminded the Board that the County did repave road. Mr. Dilts further noted that many members of the public indicated that this repaving of Route 519 may have exacerbated the water flow.

Another comment was made that the construction of the sidewalk in front of the café may have contributed to this water flow.

Member Manley asked a question of Mr. Vieth. Mr. Vieth stated that the water hits the road then flows down in front of the properties in this order – Jaques, Vieth, Devinnie, Garrett, then the Davis "Old Time Shop". Mr. Vieth noted that there was once a storm drain that was filled in by the County. Mr. Vieth stated that he felt that the changes occurred after the additional surfaces were added, resulting in the water coming down the sidewalk in front of these houses.

Chair Cline suggested that if all of the sidewalks were raised, the water flow may stay on Route 519.

Mr. Vieth stated that all are concerned by the amount of impervious surface that is shown in O-3, D, E, F. He noted that photo E of O-3 shows a PVC pipe that lines up with the sidewalk. He noted that it appears as though five pipes are draining into this same area. He also noted that this is different than what previously existed.

Ms. Teresa Kell was sworn in. She stated that she took the photos for O-3, with the exception of A, which is a Google image of the property prior to the fire.

Mr. Jaques stated that these photos being shown were taken within the last year as of a result of a water problem caused by the County. He noted that before the County paved the road, there was not a problem. He noted that the preexisting level of the road created a ditch in front of the sidewalk. He opined that the County needs to improve this situation. Mr. Jaques stated that his second concern is the swale on the north side of his property, separating his property from that of the subject property, as shown in O-2, B. He noted that the swale always fills with water. He stated that when he pumps the water out of his basement, the water just moves "down the line". Mr. Jaques opined that the levels need improving to eliminate the need for the swale.

Chair Cline suggested that members of the audience go to the Township Committee to explain what is going on. He noted that making the Township Committee aware of this problem is for the well-being of Delaware Township residents.

Mr. Jaques stated that since the arborvitae went in, the swale has deepened. He noted that the impact of added apartments has nothing to do with run-off.

Member McAuliffe asked if photo F, of O-3, is the area of Mr. Jaques' discussion. Mr. Jaques responded negatively. It was explained that photo F, of O-3, is the Route 519 side of the subject property, showing the southwest corner of the building on the subject property.

Mr. Dilts stated that the pipes shown are from the leader pipe that must drain more than 50 feet away from the septic. He noted that this pipe was installed to collect all of the discharge from the roof. Mr. Locandro noted that the Water Company has two leaks somewhere for which he should not be responsible. It was further noted that 2018 was an exceptional rain-event year.

Member McAuliffe asked if the drainage from the pipes may have contributed to the water run-off. Mr. Jaques opined that the pipes are keeping the water out of the swale.

Testimony returned to Ms. Terry Kell, who took the pictures. She described the images, for which she stated that she feels accurately depict the property. The descriptions for the photos of O-3 follow:

A – Google image, shows the green space in front of property directed to side yard

Ms. Kell stated that from her own experience, this was the historical appearance of the Store. She also noted that it looked like this when the restaurant was in operation. She further noted that she can't say when the picture was taken.

Ms. Kell stated that she took the rest of the photos, B through Q on May 8, 2019. She spoke about the differences between photo A and B. She noted how the green landscaping is gone, replaced by much impervious surface. She also noted the amount of cement added to the rear of the building. She further noted that the photos show that all of the downspouts lead in the same direction.

B – shows the front of the building, from a similar angle as the Google image. It also identifies the slope, showing a three foot drop from corner to corner. It shows the sidewalk pavers, one sidewalk next to the building and the other next to the County Road.

C, D, E, F – shows the downspout leading to the main pipe, at the southwest corner of the property. Ms. Kell stated that some of the drainage issues were caused by the County paving along Route 519. She further noted that there are extra pipes adding to the run off. She noted that there is erosion shown under fence, and that she took picture F over the fence.

Ms. Kell noted that in photo A, the Google image on O-3, the southwest corner downspout goes to the side of property, onto the green area south of the building.

Photo G – shows downspout on the northwest corner of the house. It was noted that this is the intersection of Routes 519 and 604. It was noted that the water from this spout will eject onto the street and then go down the slope.

Photo H – shows the sidewalk along the Route 519 side, toward the intersection with Route 604.

Photo I, - shows the sidewalk when it was dry, looking south towards the Davis shop.

Photo J - shows the fence along Route 519. Ms. Kell noted that this is the proposed location of the banked parking. She noted that this is the only green space on the property.

Photos K, L, M, N, O - showing east side of property and impervious coverage in that area. She noted that there is a slope that leads toward the lane, which is the access for this property and others along the lane. She noted that it is a heated paver system. She further noted that these photos show the extent of impervious coverage on the property.

Photos P, Q – show the lane, noting the narrowness and slope.

When asked by Mr. Dilts, Ms. Kell stated that she moved into the house across the street from the Store in 1971. She further noted that she lived there for seven years. She stated that she currently owns said house with her sister.

Ms. Kell stated that she believes the roof area has changed. She noted that porch on the south side of the property is covered. She noted that the original photo, A, does not show the same porch.

Mr. Jaques noted that there was once a porch on the north side of the building which was removed to provide parking on that side of the building. He stated that he has lived in Rosemont for 73 years. He also noted that there was once an outhouse and that roof area is also gone. He also noted that there was an upper level deck leading to the second floor, which acted like the roof Ms. Kell is discussing.

Ms. Rosemary Brenner was present and has been sworn in. She presented into evidence, O-4, another Google Earth image of the subject property. She noted that in this photo, there is much green landscaping. She noted the sidewalk along Route 519, with green landscaping between the sidewalk and the porch. She opined that the water increase has occurred since the pavers were added between the porch and the sidewalk. She noted that the drainpipe on the southwest corner of the building goes toward the pervious area south of the building. She also noted that the sidewalk in this photo has a different pitch, it appears to be flatter and slopes toward Route 519.

Ms. Brenner referenced photo board O-3, photos O, P, Q. She noted the slope of the concrete area and noted that there are water issues in this area as well. She noted the pitch of the concrete and how the slope appears to go toward the alley and towards Route 604. She noted that these water issues are compounded in the winter when the water freezes.

Ms. Allison Koterba of 82 Kingwood Stockton Road was present and has been sworn in. She expressed her concern about the back of property and how there is a difference in the drainage along the alley pre- and post-paver and concrete construction. She showed another Google Earth image from September 2013. She noted that the neighbors each take care of their portion of the alley. She noted that recently water rushes down from the top of the alley. She noted that there are times when she cannot get into her driveway. Her last comment was about the number of vehicles parked on the subject property with only four units rented. She noted that she

walks her dog daily and when she walks past the subject property in the mornings, there are always eight (8) vehicles parked on the subject property.

Mr. Dilts asked Ms. Kortuba about the photo, dated September 2013. He asked if she agrees that it appears that there is compacted stone that slopes to the alley. Ms. Kortuba stated that it is not clear to her.

Mrs. Joann Vieth was present and has been sworn in. She stated that she has lived in Rosemont 45 years. She stated that she is familiar with the property and what it has looked like. She asked that the photo in question be entered into evidence, O-5. She noted that in her history with the alley, water did not come rushing down and then into her driveway. Mr. Dilts objected to the testimony. Attorney Goodell stated that the Board can hear the information as lay testimony.

Mrs. Vieth gave an opinion that she thinks water can get into crushed stone, but cannot go through cement.

Mr. Andrew Devinnie of 83 Kingwood Stockton Road was present and has been sworn in. He noted that photo O-5 shows the rear of the subject property prior to the paving. He noted that one can see the densely graded stone. He also asked Board members to look at photo Q of the O-3 photo Board. He noted that this photo shows the pitch of the paved area on the east side of the building. He noted that one can visibly see the difference in height between the two window sill levels and the concrete area.

Member Manley stated that this could be a distorted image.

Mr. Devinnie stated that he moved into his property in early 2013. He noted that after the pavers were added, the situation increased the water run-off that was further made more difficult in trying to mitigate the resulting ice.

Mr. Devinnie objected to the number of drawings that have been submitted at each meeting. He objected because such information should be presented prior to the meeting for view by the public. Mr. Devinnie provided his background as a junior architect and his familiarity with projects like this. He opined that the proposal is overdevelopment for the site. He noted that there for approval there should be adequate land area to minimize the "juggling of parking". He noted that the additional proposed units will probably add eight (8) more residents. He noted that this will be a constantly maximized site with no room for any movement.

Mr. Devinnie stated that he sees many assumptions being presented. He noted that in accepting the variance(s), a de minimis exception is needed. He opined such an exception is a critical exception to grant. He further noted that the ordinance does not limit the impervious coverage in this zone, creating a possibility that there could almost be total impervious coverage. Mr. Devinnie gave his opinion that this proposal constitutes overdevelopment.

Mr. Sudano summarized some of the issues. He stated that the idea of tandem parking requires precision to get vehicles in and out of the parking spots. He agreed that there would be less traffic than with the existence of the restaurant. He noted that he has lived in his house for 25 years and lived there when the Café was open. He noted that the busiest hours for the Café were on Saturday and Sunday mornings. He discussed the agreement that he had with the Café to add parking on the edge of his property across Route 604 from the subject property. He noted that he had an insurance agreement with the Café concerning this provisional parking. He further noted that he agreed because of the community service being provided by the Café. Mr. Sudano stated that in moving forward, he does not want to dedicate such parking to a future owner of his property.

Mr. Sudano concluded by stating that Rosemont is a small village. He opined that approval of this proposal will create a complicated parking situation.

Mrs. Vieth spoke about the septic system. She stated that she visited the County Board of Health to view the records on this property. She noted that the County only has a record of a repair in April 1994 which resulted in a 30 x 30-foot, seven-foot deep field with five laterals.

Mr. Dilts objected stating that this information is hearsay. Attorney Goodell stated that hearsay testimony is allowed.

Mrs. Vieth stated that she was told a septic exists on this property for disposal of 350 gallons per day. She further noted that the County employee told her that this proposal needs a Construction Approval Permit. Attorney Goodell agreed with Mr. Dilts' objection that the County employee did not have the application in front of her. Attorney Goodell noted that the objectors could ask a County employee to testify.

Mr. Dilts reiterated his objections by noting that the applicants have an expert engineer who has testified. Mr. Dilts further noted that this proposal must be approved by NJ DEP for a treatment works permit for the size and the usage proposed.

Board Engineer Wisniewski stated that with the County approval granted in 1994, the flow requirements would have been met. There was a discussion about the gallons per day for different types of uses, including a 3-bedroom home, residential units, and restaurant usage. Mr. Ingram stated that he sees little difference between the proposed 8-unit rental use and the preexisting restaurant and rental use, in terms of gallons per day.

Mr. Ingram noted that the proposed use exceeds 2000 gallons per day leading to the NJ DEP treatment works permit. He also noted that the treatment works permit requires a site registration for change of use. He further noted that this type of approval removes jurisdiction from the County and/or the Township.

Mr. Jaques stated that he purchased the subject property in 1984 and changed the use to put in a restaurant. He noted that Johnny Martin built the septic field, 30 feet by 30 feet. He noted that the field is 15 feet deep with many layers of select fill. He further noted that for the 1994 repair, the select fill is under the repair.

Mrs. Kell stated that in reviewing the submitted site plan she only found information from the County Planning Board, none from the County Board of Health. She stated that she has asked the Liaison to the Township Board of Health, from the County to attend. She noted that this person is Carla Hobb; and that Ms. Hobbs indicated that a change of use requires a Construction Permit Referral Form from the County Board of Health. Mrs. Kell further reported that Ms. Hobbs stated that an engineer has to certify the capacity and function of the system.

Members of the audience asked about washing machines in the units. They further questioned what happens if the system fails.

Mrs. Kell referenced the MLUL, Municipal Land Use Law. She noted that one provision of the MLUL is to demonstrate that the proposal promotes the public welfare. Mrs. Kell noted that the restaurant served the Community, even though it is a more intense use. She noted that this proposal is an overdevelopment with an intensification of the nonconforming use. She noted that it does not promote the welfare of the neighbors and residents of Rosemont.

Mrs. Kell referenced the MLUL section that promotes the Township Ordinance, related to population density. She suggested that the proposal is not an appropriate population density for the zone. She noted that the Rosemont neighbors have already been impacted, with significant negative impact by the increased water run-off.

Mrs. Kell referenced the MLUL related to the ordinance and the free flow of traffic. She noted that there is a constant flow of traffic on Route 519. She noted that if there is additional parking on the Route 519 side of the

property, that would further impact Rosemont. She noted that all of the residents of Rosemont would be moving at about the same time. She further noted that this additional parking area and driveway does not provide a desirable visual impact.

Mr. Dilts objected that Mrs. Kell is neither an attorney nor a planner.

Chair Cline stated that he wants to hear from the residents and will allow Mrs. Kell to continue.

Mrs. Kell discussed the conservation of an historic site. She noted that per Ordinance §230-21A, the Township seeks to maintain a village environment. She noted that historically the café/store was owner occupied and operated. She stated that she appreciates the beauty of the building that the Locandros have invested into this property. She also stated that many of the changes will negatively impact Rosemont. She stated that none of the neighbors/residents object to reasonable development, but feel that this proposal is a significant change.

Chair Cline stated that it is 10:00 p.m. and asked if the objectors are planning any other testimony. Mr. Sudano stated that Ms. Carla Hobbs comes to each of the Township Board of Health meetings when there is an application. He noted that she is knowledgeable about the County Review application and process.

Attorney Goodell stated that the objectors can ask her to come, but she may not come. He further noted that the objectors can hire their own engineer for expert testimony.

Chair Cline noted that as there are only six voting members at this meeting, he will delay the vote. He noted that delaying the vote will give members the opportunity to review the testimony and weigh the comments and information that has been provided.

Mr. Dilts stated that he might want to provide rebuttal testimony at the next meeting. It was noted that the next meeting will be held on June 13. Chair Cline further stated that he does not want to close the hearing at this point.

There was another discussion about increased roof space, by comparing O-4 to O-3B. It appears that the in 2013 photo a roof over the porch was not in existence in that 2013 photo. Member Gilbreath noted that the porch went around, having a roof on it. Mr. Jaques also noted that the second floor landing had a slatted floor, making it seem much like a roof.

There was a question about rebuttal testimony. Chair Cline noted that there will be more time for comments from the public. Mr. Dilts noted that he will provide a summation. Chair Cline noted that once the hearing is closed, there will be no more questions or comments from the public.

Mr. Sudano asked about the vote, being all-or-nothing. Chair Cline stated that the application needs five affirmative votes for the proposal as presented in the application. He noted that if the application is adjusted, the application is voted upon based on the submitted application and changes during the course of the application.

Mrs. Kell asked if the approval by NJ DEP would be a condition. It was noted that as a part of the discussion for approval or denial, the Board will revisit conditions for the proposal. Attorney Goodell noted that the NJ DEP requirement is an independent requirement.

Chair Cline closed the public testimony for tonight, but not for the hearing.

Planning Board Update: Liaison Cline

Liaison Cline reported that the Planning Board has finished the Land Disturbance ordinance and it will be finalized for submission to the Township Committee.

Mr. Cline also noted that Mr. Wiseman appeared before the Planning Board about his concerns about the Board’s resolution being upheld by the Zoning Officer. He noted that the Planning Board gave the same advice about Mr. Wiseman seeing the Township Committee.

Update on Cellco hearing

Attorney Goodell noted that Danny Davidow is leaving the firm to go to the governor’s office on economic development. Attorney Goodell further noted that Danny will be staying until the oral arguments to be held on May 17, 2:30 p.m., Flemington Court House.

Bill List

Bill List: Attorney Services – Parker McCay P.A.

General Zoning Matters, Line Item #113-215	
Through 03/06/19 (SG), #3088897	\$48.00
Through 03/31/19 (other), #3088898	\$288.00

Member Gilbreath made a motion to approve payment of this voucher. Member Manley seconded the motion.

Roll Call Vote

Aye: Emmons, Gilbreath, Kenyon, Manley, McAuliffe, Szwed, Warren, Cline

Nay: None

Absent: Fowler

Bill List: Attorney Services – Parker McCay P.A.

Escrow Charges	
11/10, Wiseman(Lindner), #3088970	\$720.00
32/24, Locandro Investments, #3088899	\$736.00

Bill List: Engineering Services – Maser Consulting, P.A.

Escrow Charges	
32/24, Locandro Investments, LLC, #510385	\$725.00

Member Emmons made a motion to approve payment of these vouchers from their respective escrow accounts. Member Manley seconded the motion that was approved by voice vote.

CELLCO, Block 5, Lot 7, Litigation Bills, to be charged to separate line item

Legal Extraordinaire, Line Item #113-278	
5/7, Cellco, #3088968	\$11,550.00

Member Manley made a motion to approve payment of these vouchers from dedicated litigation line item. Member Kenyon seconded the motion that was approved by voice vote.

Roll Call Vote

Aye: Emmons, Gilbreath, Kenyon, Manley, McAuliffe, Szwed, Warren, Cline

Nay: None

Absent: Fowler

ADJOURNMENT: 10:15 p.m.

It was moved, seconded, and unanimously carried to adjourn at the noted time.

Respectfully submitted,

Kathleen E. Klink, Administrative Officer/Secretary