Township of Manalapan

Department of Planning & Zoning
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Planning Board Minutes

February 27, 2020

The meeting was called to order with the reading of the Open Public Meetings Act by Chairwoman Kathryn Kwaak at 7:34 p.m. followed by the salute to the flag.

Roll Call:	Secretary, Daria D'Agostino
In attendance at the meeting:	Barry Fisher, Todd Brown, John Castronovo, Alan Ginsberg, Daria D'Agostino, Kathryn Kwaak, Jack McNaboe, Barry Jacobson, Richard Hogan, Steve Kastell, Brian Shorr
Absent from the meeting:	All Present
Also present:	Ronald Cucchiaro, Planning Board Attorney Brian Boccanfuso, Planning Board Engineer Jennifer Beahm, Planning Board Planner Lisa Urso-Nosseir, Recording Secretary

Mr. Cucchiaro swore in Brian Boccanfuso, Professional Engineer and Jennifer Beahm, Professional Planner.

Minutes:

A Motion was made by Chief Hogan, Seconded by Ms. D'Agostino to approve the Minutes of February 13, 2020 as written.

Yes:	Fisher, Brown, Castronovo, Ginsberg, D'Agostino, Kwaak, McNaboe, Jacobson, Hogan
No:	None
Absent:	None
Abstain:	None
Not Eligible:	Kastell, Shorr

Resolution: **PAS0908 ~ Ace Home Improvements**
342 Route 9 ~ Block 8 / Lot 4.01
Amended Preliminary and Final Site Plan with
Ancillary Variance Relief

A Motion was made by Mr. Ginsberg, Seconded by Mr. Castronovo to approve the Resolution for PAS0908 as written.

Yes:	Brown, Castronovo, Ginsberg, D'Agostino, Kwaak, McNaboe, Jacobson, Hogan, Kastell
No:	None
Absent:	None
Abstain:	None
Not Eligible:	Fisher, Shorr

Application: **PPM1823 ~ Countryside Developers, Inc.**
Manalapan Logistics Center
203 HWY 33 ~ Block 78 / Lot 12.02
Preliminary and Final Major Site Plan
Carried from January 9, 2020

Salvatore Alfieri, Esq. represented the applicant. He explained that since the last meeting, the applicant has revised the plans and downsized the project somewhat to address and minimize the waiver relief that they are seeking. This is a variance free application and the only relief they are seeking is the one waiver.

Julia Algeo, engineer from Maser Consulting presented the revised plan that was submitted to the Board. Mr. Cucchiaro stated there are other attorneys present this evening and he requested that they enter their appearance.

Bernard Reilly, Esq. appeared in lieu of Mr. Gasiorowski on behalf of his client, David Kleyn. Mr. Reilly stated he has no objection to the jurisdiction of the Board. Michael Lipari, Esq. appeared this evening on behalf of The Village Grand and he also did not have any objection to the jurisdiction of the Board.

Ms. Algeo presented Exhibit A17, a color rendering of the site plan dated February 27, 2020. Ms. Algeo described the changes by reducing the disturbances to the Manalapan Township Stream Corridor Buffer. In order to do that, they shifted the internal easterly access drive to the west approximately 20'. This drive was shifted to the west further into the site by 20'. A modular block retaining wall is proposed along the entire length of the easterly access drive. As a result of this westerly shift of the building, they reduced the size of Building A by 9,009 sq ft. Therefore, it went from 313,875 sq ft to 304,866 sq ft. As a result of this shift, they also reduced the total number of parking spaces for Building A by six spaces from 152 to

146. In addition, Basin D was shifted to the west accordingly with the access driveway approximately 20'. With these changes noted above that she just stated, the previous grading in the disturbed agricultural field within 75' of the Township's Stream Corridor Buffer has been eliminated. What we have provided with this revision to plan is a minimum, undisturbed 75' Stream Corridor Buffer. Mr. Cucchiaro stated that the buffer is required to be 100', correct? Ms. Algeo said yes, from the 100 year flood line.

Ms. Algeo said in order to increase the depth of the modified wetland transition area along the side of the parking area for Building B, a retaining wall has been added. The retaining wall will be about 10' from the parking spaces. The previously proposed 6' high solid fence will remain on the uphill side of the retaining wall and it will act as a safety fence as well as providing additional screening of the parking lot for Building B. Given the grading is not being disturbed in this area, now the landscaping in that area shall be installed at a higher elevation, thereby providing even better screening from day one.

Ms. Algeo continued and said there were some comments at the last hearing about how many dock doors would be utilized for compactors if there were multiple tenants in the building. It was stated that there would be a maximum of four tenants, ideally there would be one, but a maximum of four, so they indicated within the loading docks additional trash compactor locations for each building. There would be four total for each building. They have also modified the wetland transition area on the plans submitted to the Board to coincide with the DEP Permit Application that is currently under review. Mr. Cucchiaro stated that the Board did not receive a copy of the NJ DEP Application to the extent that it is has been submitted. Can one be submitted to the Board as well? Ms. Algeo said she believed it was part of the prior submission that was made. Ms. Beahm said the one sheet was submitted, but we are asking for the complete application. Ms. Algeo said yes we can provide that.

Ms. Algeo said another change that was made is the number of parking spaces for Building B being reduced by three spaces from 186 to 183 to increase the depth of the modified transition area. The area of previously disturbed agricultural area to be vegetated with native species has been increased from 4.69 acres to 6.03 acres. They added an additional 1.34 acres of agricultural area to be revegetated with native species. Mr. Alfieri asked Ms. Algeo to point on her exhibit where the area is. Ms. Algeo said the area is along the stream and down along the southerly side abutting where the wetlands are. The application proposes 24 acres of conservation easement and six acres of revegetated agricultural areas within the stream corridors as designated by the Township.

Mr. Alfieri asked Ms. Algeo to clarify what is the current condition of that waiver area? Is it vegetated or farmed? Ms. Algeo said as far as the waiver goes, she does have another exhibit and it would be a plan that was actually submitted as part of

the application so the Board and the professionals did receive the Township Stream Corridor Plan and it identifies all of the areas. Mr. Alfieri asked if the colored plan the one that you submitted, or did you color it since submission? Ms. Algeo stated that this is the plan that was submitted in color. It is identified as the Manalapan Township Stream Corridor Management Plan, last revised February 11, 2020. Ms. Algeo said this exhibit identifies by color coding all of the different disturbances. There are some disturbances that are generally permitted by the Ordinance, such as a road crossing disturbance. We are crossing to get to the other side of the ditch and we have colored that in a light blue. We also have a Stream Corridor disturbance where we provided an emergency access drive that was required by the Fire Bureau. Those road crossing disturbances total about .47 acres. Colored in orange on our map is a utility line that disturbs the Stream Corridor Buffer and that disturbance is .017 acres and that is for a 12" water main extension that the Township had required. We also have stormwater outfalls from our basins and those are colored in the darker blue and there are three of those and they encompass .307 acres. There are some additional permanent and temporary disturbances of the Stream Corridor which are being proposed beyond that 75'. As she stated in her earlier testimony, the plan revisions provide a design that leaves an undisturbed Stream Corridor Buffer of 75' from the 100 year flood line in accordance with the Ordinance. We are asking for relief for some addition buffer disturbances related to our design primarily related to grading in open areas of the agricultural areas and those areas will be revegetated and they are in three locations where we are doing disturbance on the very outer fringe of the Stream Corridor Buffer. In total, we are providing for a substantial compensation for all of the disturbances, those which the Ordinance describes as the road crossings and utility which are generally essential for most developments and then the averaging which is allowed.

Mr. Cucchiaro said to Ms. Algeo that you stated the averaging is allowed. It's not allowed as of right, it is within the Board's discretion under the Ordinance and there are certain proofs that have to be made. Mr. Cucchiaro said please put the proofs on the record so when you are testifying, the Board is in tune to what it is that you need to prove. Ms. Algeo said to reiterate, we are grading within the disturbed areas of the Stream Corridor Buffer and those areas that we are doing the grading are outside of the 75' minimum described. Mr. Cucchiaro said it's not a 75' minimum – it is 100' minimum and you can get the 75' if you make certain proofs. Mr. Cucchiaro said again, the 75' is permitted after you make proofs. Mr. Cucchiaro addressed Ms. Algeo and asked her if she knew what the Ordinance says with regard to the proofs that she needs to make? Ms. Algeo said she believes that they will provide additional testimony in regard to the proofs. Mr. Cucchiaro said really it's just a yes or a no – are you aware of what the proofs are? Ms. Algeo said yes. Mr. Cucchiaro asked what are they? Ms. Algeo said they are purposes within the Stream Corridor Ordinance which need to be advanced and there will be additional testimony. Mr. Cucchiaro asked the Board professionals for their input.

Mr. Boccanfuso said he has the Ordinance and there are basically two sections of the Ordinance that come into play. He stated that Ms. Algeo talked about the utilities within the Stream Corridor Buffer as well as the stormwater management facilities in the form of storm sewer outfalls. The Ordinance says with respect to those, he read, 'Activities in Stream Corridors and Stream Corridor Buffers when there is no reasonable or prudent alternative. The Planning Board may permit the following in a Stream Corridor when subdivisions or site plans cannot be designed in a manner set forth in Section 95-8.12-C1, which is the introduction of the Stream Corridor Buffer Ordinance. If the Municipal agency determines that there is no other reasonable or prudent alternative to placement in the Stream Corridor or Stream Corridor Buffer.' Mr. Boccanfuso continued and said for those initial disturbances that we heard about, the road crossing, utility transmission line and the storm basin outfall - that is the criteria that must be met. With regard to the reduction to 75', what the Ordinance says is the Municipal Agency may allow an average Stream Corridor Buffer with 100' from the 100 year flood line thus allowing reasonable flexibility to accommodate site planning when necessitated by the size and shape of the track and physical conditions thereon. It goes on to say the Stream Corridor width may be reduced to a minimum of 75'. Those are two criteria that we have that the applicant must meet in order for the Board to grant the necessary approvals for encroachment into the Stream Corridor Buffer.

Mr. Cucchiaro said when you are listening to the testimony, it should be through that lens of whether the testimony is satisfying the proofs that Mr. Boccanfuso just read from the Ordinance. Ms. Algeo continued and said as she described the plan, they did provide an averaging that does not disturb that 75' minimum, but that it also provides for greater than that 100' average. She also wanted to add that the activities that are proposed within the Stream Corridor meet the intent of the regulations for the following reasons: that there is minimal impervious surfaces proposed within the stream corridor buffer, areas within steep slopes are being preserved, minimal wooded areas are being disturbed within the Stream Corridor Buffer which are associated with the stormwater outfalls emergency access drive, the road crossing and the utilities and the majority of the areas that are being disturbed were previously disturbed due to the farming activities that occurred on the property. Some of the disturbances that she described are for the construction of the public water main which will benefit the residents of Manalapan.

Ms. Beahm said if you were to eliminate the building closest to Route 33 in its entirety, would you need this relief? Ms. Beahm said the answer is no. Mr. Alfieri said if we eliminate both buildings we won't need any relief at all. Ms. Beahm said you are talking about this about like it is a hardship, but the bottom line is, it is a difficult issue for you based upon what you are proposing. If the proposal was smaller, you could give us the 100' Stream Corridor Buffer that we require on every application without even getting into this 75' issue, which she is not even 100% sure that she agrees that they meet the proofs. The bottom line is that there is no hardship on this property, it is a massively big property that is flat and developable

which you could develop in accordance with the Ordinance without requiring any reduction of this buffer, any relief at all, if you reduce the scale and size of your project, correct? Mr. Alfieri said that is true for almost every variance or waiver. Ms. Beahm said the Board needs to understand that there is nothing in this development application that is requiring us to waive these requirements. They are requesting it and you can listen to their testimony with respect to the proofs associated with it, but she believes it is important to understand if you reduce the scale and the size of this project, this relief may not even been necessary.

Mr. Alfieri said to follow up on Ms. Algeo's testimony, the areas within this Stream Corridor that we are revegetating are an improvement over what is currently there; presently it is farmland. What type of vegetation is being installed, and is that something that the NJ DEP will review as well? Ms. Algeo said yes they will review it. The type of vegetation that is being installed are deciduous and evergreen trees and native upland wildlife forage and covered meadow mix and it would all be protected with a conservation easement.

Raymond Walker, who was previously sworn in continued his testimony. Mr. Alfieri said Dr. Walker testified at the last meeting and he was describing for the Board the change in the classification by the NJ DEP that certain permitting was going to be required. Since that meeting we have revised the plan and resubmitted to the NJ DEP – please describe to the Board what the resubmission was and the current status is. Dr. Walker stated that there were certain changes made to site plan which reduced development activities that are in close proximity of the Stream Corridor and the wetlands. By moving those development activities further away, we had less of an encroachment into the freshwater wetland transition area. A revised transition area waiver averaging plan was submitted to the DEP for their review and approval and it is currently under review by them. Mr. Cucchiaro spoke about the initial LOI that was issued which was inaccurate and the DEP informed you of that. Have they issued a corrective LOI so that we have an actual decision from the DEP as to the boundaries of the buffer area? Dr. Walker said based on a comment letter we received from the Township, he sent an email to Mr. Ryan Anderson asking him that question, whether or not they were going to be issuing a revised LOI referencing the 150' buffer. He indicated yes, but he did not indicate when we would receive that. Dr. Walker said he would follow up with him again tomorrow. Ms. Beahm asked Dr. Walker if there is a revised application sent to the DEP. Dr. Walker said there is a revised plan, so we had the original plan based on the old site plan that was submitted that showed a certain encroachment into the transition area. With these changes, that encroachment has been reduced so we've submitted a revised plan for their review. Ms. Beahm said she understands that, but there was a request made of the applicant to submit to the Town and the Board that application that was submitted to the DEP. The response back from your team was, 'no application was ever submitted. We're revising the plans and will submit it later'. Was it submitted or was it not submitted? Dr. Walker said there was an application submitted last year some time and it was his understanding that the Board wanted copies of new

revisions or applications that were submitted to the DEP and it was also his understanding that those revised plans were submitted to the Board. Mr. Boccanfuso asked if he was referring to the application that was submitted before the DEP's discovery that the wetland was in fact an exceptional resource value? Dr. Walker said there has not been any new application submitted, there have been revised plans submitted to the DEP, but there have not been any new application materials.

Ms. Beahm said we are just talking in semantics. When the Board is asking for the submissions to the DEP to be submitted for the Board's review and we're given answers such as we've never submitted anything, things are changing, etc. Just give us the stuff that we asked for. She doesn't understand what the issue with providing the Board with the information that you have submitted to the DEP; what is the hesitation? The Board professionals have reached out to your office asking for a copy of the documentation that has been submitted. The response was, 'no submission has been made, changes are being made'. What you are saying is inaccurate with the information that we are getting. Just give us the submission. Dr. Walker said the application was submitted, it is required that the Town be copied on any application that goes in, which it was. When there were revisions made to that application, you requested that those revised plans be copied to you. It is Dr. Walker's understanding that the Board did receive copies of those plans. There has been no other item such as notices. The DEP required us to submit revised plans.

Mr. Cucchiaro spoke to Mr. Alfieri and said you understand what is being requested. Mr. Alfieri said he understands but his impression coming into tonight is that you received exactly what they submitted to the DEP. He doesn't know personally what was submitted and what you received, that is why he turned around to ask if we could get the exact answer to that question. Mr. Alfieri said anything we sent to the DEP the Board should have. Mr. Boccanfuso said to the best of his knowledge, all that has been submitted to the Board at this point is a four page wetlands plan and an associated landscaping plan that was included with this submission on or about February 14, 2020. He has not seen any correspondence, emails, applications, etc. We did receive information relative to the application for a wetlands permits last year, which is the time at which it was determined by the DEP that they missed the boat and miscategorized the resource value of the wetland. But since then, Mr. Boccanfuso has seen next to nothing besides the plan that was submitted a couple of weeks ago. Is there any correspondence, an email? He assumes that the plan wasn't sent to the DEP without a cover letter. We'd like to see what is being discussed. Mr. Alfieri said he will make sure that Maser Consulting assembles a package of all communications, emails, letters, plans, etc. that has been submitted to the DEP since the initial application and we will get them to you.

Mr. Alfieri stated that to summarize, the buffer averaging plan, the end result of what we need from DEP is a permit to approve the plan as currently proposed,

correct? Dr. Walker said there are a number of general permits, there is a road crossing permit pending, there is a stormwater outfall permit pending and there is the transition area averaging plan pending with the DEP. Dr. Walker will follow up regarding the corrective LOI and if and when it is obtained, we will provide it to the Board. Mr. Alfieri stated the issuance of that LOI is in not any way going to change the pending application before the DEP, will it? Dr. Walker said not it will not. Mr. Cucchiaro said how could that be though? The pending application and the requests for permits are based upon understanding what the buffer is, right? Dr. Walker said correct. Mr. Cucchiaro said we don't have a document that actually articulates the buffer yet. So they're going to give you a permit before there is a document that actually identifies what the buffer is? Dr. Walker said no, we will receive the LOI before we receive the permit; they cannot issue that. Mr. Cucchiaro said then that question is no, we cannot get the permits until that LOI arrives. Dr. Walker said correct. Mr. Alfieri said the question was, can the permit be issued based upon what the new LOI is going to be - can that be issued? He's not talking about the sequence, he's just talking about that this application would qualify under the new LOI.

John Rea, Traffic Engineer remained under oath. Mr. Alfieri asked Mr. Rea since he last testified, did you supplement your report by way of a letter in December 2019, correct? Mr. Rea said that is correct. Mr. Rea said he has received communication from the NJ DOT and Ms. Algeo will respond to the technical comments and these comments will be provided to the Board. Mr. Rea said he issued the report essentially in response to Mr. Boccanfuso's latest review letter regarding the traffic items. Mr. Rea has testified at several previous meetings and he went through the review letter and provided testimony, but just to make the record clear, he wanted to have a written response to each one of the items in Mr. Boccanfuso's review letter. Mr. Cucchiaro said the Board is interested in the modification to the access drive. Mr. Rea said the modification as he understands it is that it is internally - not at the roadway connection to Route 33. With respect to the NJ DOT application and the connection to Route 33, there are no changes. Internally it is his understanding that Ms. Algeo has basically modified the internal section of the easterly driveway, which is the right in right out driveway. Mr. Cucchiaro asked is this all within Ms. Algeo's area of expertise, or is that something that you looked at as well? Mr. Rea said that would be Ms. Algeo's area. Mr. Alfieri asked based upon the changes that were made to the plan, does it in any way impact the conclusions you have reached under your various traffic studies? Mr. Rea said the amount of warehouse space has been reduced by approximately 9,000 sq ft, so all of the conclusions in his traffic studies and supplemental reports remain valid.

Mr. Alfieri stated they have a Planner to testify, but we are not going to present planning testimony until we receive the engineer's report.

Chairwoman Kwaak stated it is her understanding that there are still open items, including the DEP application and Mr. Boccanfuso still needs to do his review. Mr.

Cucchiaro stated just to be clear, within the last two weeks we just received the revised plans and there is detailed engineering review that needs to be completed. Mr. Alfieri stated we presented a sound expert at the last hearing and he wasn't subject to cross examination by anyone and we would request that Mr. Dotti be cross examined this evening so he doesn't have to keep coming back. Mr. Cucchiaro stated what Mr. Dotti placed upon the record is that we have local and State sound requirements and those requirements will be satisfied to this permitted use and this Board doesn't have any jurisdiction to even allow them to deviate from that.

Norman Dotti, sound expert, remained under oath. Mr. Castronovo asked Mr. Dotti regarding his study, he indicated that he had a truck that he was doing the sound check with. Was that one truck, or many trucks? Mr. Dotti said theoretically it is an infinite number of trucks. He referred to his exhibit previously entered. He said if you look carefully, there is a line through the red area and that is actually the trucks path. When we do the modeling, we are calculating the maximum, not the average, maximum sound level for trucks driving anywhere along this whole process. The sound in this area is governed by truck activity in this area. The software takes the trucks and moves them in one meter increments and for the entire area, grid, it calculates at each point for each truck location the maximum sound level. You can have 60 trucks running, which in his experience would never happen, going around this site and this is the maximum that you are going to get. Mr. Castronovo asked if the study considers the echo effects once the building is up on the sound? Mr. Dotti said yes. Mr. Castronovo said the last time Mr. Dotti testified, he indicated there was a traffic study over a couple of days. One of the days was a Saturday. Does a typical truck study happen on a Saturday? Mr. Dotti said it wasn't a traffic study, it was an ambient sound study and we do it for several days to get a better representation of what is going on. Mr. Dotti said he tries to include a weekend, we don't always, but there is 72 hours of data there. When NJ DEP goes out and does a noise assessment for compliance, or under Chapter 155 Noise Ordinance, your people do a noise study. They have to study the source for 10 minutes - we study the area for 72 hours. Mr. Dotti said about 70% of the time we try to include a weekend day in our studies simply because people say, 'well why didn't you include a weekend?' Mr. Castronovo said is there as much truck activity on a weekend rather than Monday - Friday? Mr. Dotti reiterated that our study is ambient sound - what is out there right now, not truck activity. Mr. Castronovo asked if his study included a Saturday, that means there is more car truck traffic than truck traffic. Mr. Dotti said proportionately, but what about the total amount of traffic? Mr. Castronovo said trucks make a louder noise than a car. Mr. Dotti said his rule of thumb is that a truck is worth about ten cars. Mr. Alfieri asked if there is a material difference between the weekday and weekend results that you came up with? Mr. Dotti said you can see the data in one hour increments here. Mr. Dotti referred to his exhibit and said the blue squares are the hourly average levels. He pointed to the Saturday data as well as the Friday and Thursday data. The levels are not massively different.

Mr. Cucchiaro tried to break it down: Mr. Dotti conducted a Thursday, Friday and Saturday study. From a professional standpoint, is the distribution of days between weekdays and a weekend that you would normally do while doing a study like this? Mr. Dotti said yes and he's also done a Sunday, Monday and Tuesday study and sometimes we do just weekdays. Typically we try to include a weekend day. Mr. Cucchiaro asked if this facility intends to be open on a weekend. Mr. Dotti said it could be open on a weekend as well.

Mr. Fisher said the Environmental Commission discussed the idling of trucks and the Ordinance of idling no longer than three minutes. Mr. Cucchiaro said there is a State Administrative Code Provision regarding idling. Mr. Alfieri said they agreed to post signs stating such. Mr. Fisher requested solar panels and Mr. Cucchiaro said we are hearing the sound experts testimony this evening.

Ms. D'Agostino asked if any of his data changed due to the fact that the size of the buildings changed? Would the data be the same? Mr. Ditto said there would be no substantive change in the sound levels due to the reduction of 9,000 sq ft.

Mr. Kastelll asked about the purpose of the ambient study. He is not concerned about the sound that is presently there now. Is this study to show that when the building is complete how far the sound is going to radiate from the building? Mr. Ditto said the sound level contour maps are a projection of the expected sounds from the site operations. They include nothing with the ambient sounds. The ambient sounds have nothing to do with compliance purposes. Mr. Kastell said behind the second building, you are showing no increase. Mr. Cucchiaro said Mr. Dotti stated that none of his conclusions are altered by the reduction in the size of the building. Mr. Dotti said all of the sounds are from the site - you can't say there's no change, this is the sound from this site. Mr. Kastell said at the front of the first building, there is a significant increase from the orange to the red zone. Whereas in the second building, he sees virtually no increase, yet it is going to be almost as busy; he is curious as to why there is such a difference between the two. Mr. Dotti said on the highway side, there is truck activity in there - you don't have truck activity down by the other building. Mr. Dotti said the building is actually a sound barrier.

Ms. Beahm asked Mr. Dotti if he had an exhibit of figure 8 from his report. Mr. Dotti said he didn't have the report in front of him. Ms. Beahm said the concern she has is the requirement in the pm hour is a max of 15 decibels at the property line. Mr. Dotti said at nighttime which is 10:00 pm - 7:00 am, the limit is 50 DBA at or within the receiving property. It depends what the activity on the receiving property is. The receiving property is defined as the site that sound is coming on to. Ms. Beahm said his exhibit shows the 50 decibel level contour line running onto a residential property, the receiving property, in the rear. That would be in excess of acceptable levels at 10:00 pm. Mr. Dotti said it is not at the property line; it is at or within the property line and depends on the use of the property. Ms. Beahm said she is

looking at his reports and the contour for 50 goes onto the adjoining property to the rear, which is a house. Mr. Dotti said the house is not on the property line. Ms. Beahm said you are way in the property line. Mr. Cucchiaro stated that Mr. Dotti that the relevant factor is not the property line, the relevant factor is the house? Mr. Dotti said in this case, for that site, yes it is the house. Mr. Cucchiaro stated that receiver is the house, correct? Mr. Dotti said yes. Mr. Cucchiaro said when Ms. Beahm is saying the red zone goes over the property line, you are saying that is not the dispositive factor - the red would have to hit the house. Mr. Dotti said you would have to have a measurable 50 DBA at the house, second story bedroom window in order for this to be a violation. Mr. Dotti said he would refer to State Noise Regulation NJSA 7:29 and for more details on it, he would refer you to a DEP document that is the guidelines document. Mr. Cucchiaro asked if the guideline says it's the structure, not the property? Mr. Dotti said it's the use specifically. Mr. Cucchiaro said do they define the use as being the structure, not the lot? Mr. Dotti said it is where people live. For example, if you have a piece of property and you want to put a new house on it, until that house is occupied, there cannot be a noise violation. Ms. Beahm said but this is an existing residence therefore, please submit those regulations to the Board for review, and she would like to know based upon figure 8 of your report, where the contour for the 50 DBA it cuts off. She wants to see what the impact is to the nearest residential structure. She is requesting some documentation because she has heard other noise testimony and it's never been to the physical building - it has always been to the property line. She needs to know where that contour ends, it is just cutoff and she's not sure that it doesn't impact a resident. Mr. Dotti said he would be glad to rerun it for her. Mr. Cucchiaro said once those reports are submitted, we can continue with Mr. Dotti.

Mr. Cucchiaro wanted to state that this is permitted use therefore it creates the noise it creates. It is never going to be allowed to create more noise than the Ordinance or the State regulations permit. To the extent that it becomes too loud, it is an enforcement issue. This would be a violation and the applicant cannot change that requirement here. It is a permitted use, this is just a function of how they are going to operate the site. You cannot form a denial based upon an anticipated noise violation for a permitted use. They may have to take that into account when they are planning the intensity of the site. Under no circumstance can they go above what the noise requirements are. Mr. Castronovo asked what can they do to abate the noise now, rather than wait for the violation. Mr. Brown asked that the reports and exhibits are part of the meeting package. Ms. Beahm said they were previously submitted.

Mr. Cucchiaro said application PPM1823, Countryside Developers, Inc., 'Manalapan Logistics Center' will be carried to the Board's April 23, 2020 meeting. There will be no further notice to property owners. Documents will be available to be viewed in the office of the Planning Board.

Mr. Cucchiaro stated that a little over two years ago the Board heard the crematorium application that it denied without prejudice based on jurisdictional issue because it involved an expansion of a pre-existing non-conforming use. We had the oral argument in trial nearly two years ago. We did receive the decision from Judge Thorton and he is pleased to announce that the Judge affirmed the Board's decision that it lacked jurisdiction to handle the matter and that it should have gone to the Zoning Board instead. The appeal period has not lapsed so the applicant could appeal to the appellate division. In the alternative, they could just accept the decision and go to the Zoning Board, but they are not coming back to the Planning Board.

Chairwoman Kwaak opened the floor to the public for any comments or questions. Seeing none, she closed public.

Chairwoman Kwaak opened the floor to any non-agenda items; seeing none, it was closed. She added that the next meeting will be March 12, 2020 and there are a number of pending applications at this time.

Adjournment

A Motion to adjourn the meeting was made by Chief Hogan and agreed to by all.

Respectfully submitted,

Lisa Urso-Nosseir
Recording Secretary

A recorded CD or DVD of the meeting is available for purchase by contacting the Planning Board Office.