

Township of Manalapan
120 Route 522 & Taylors Mills Road
Manalapan, NJ 07726

Planning Board Minutes

June 8, 2023

The meeting was called to order with the reading of the Open Public Meetings Act by Chairwoman Kathryn Kwaak at 7:30 p.m., followed by the salute to the flag.

Ms. D'Agostino read the TV Disclosure Statement and took the Roll Call of the Board.

In attendance at the meeting: Daria D'Agostino, Barry Fisher, Todd Brown, John Castronovo, Kathryn Kwaak, Jack McNaboe, Barry Jacobson, Richard Hogan, Steve Kastell, Brian Shorr, Nunzio Pollifrone

Absent from meeting: All Present

Also present: Anne Marie Rizutto, Alt. Planning Board Attorney
Brian Boccanfuso, Planning Board Engineer
Jennifer Beahm, Planning Board Planner
Lisa Urso-Nosseir, Recording Secretary

Ms. Rizutto swore in Brian Boccanfuso, Professional Engineer, and Jennifer Beahm, Professional Planner.

Minutes:

A Motion was made by Chief Hogan and Seconded by Mr. Fisher to approve the Minutes of April 27, 2023 as written.

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

A Motion was made by Chief Hogan and Seconded by Mr. Fisher to approve the Minutes of May 11, 2023 as written.

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

Resolution: PMS1745A ~ RWF 33, LLC, Estate of Joseph Skeba
Highway 33 and Smithburg Road
Block 74 / Lot 23.02
Amended Preliminary Major Site Plan

A Motion was made by Mr. Fisher and Seconded by Mr. Brown to approve the Resolution for PMS1745A as written.

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

Application: PAS2222 ~ CMP of Manalapan Realty, LLC
363 HWY 33 ~ Block 74/ Lot 13.02
Amended Final Site Plan
Carried from April 27, 2023

Chairwoman Kwaak announced that the application PAS2222~CMP of Manalapan Realty, LLC requested to be carried to an undetermined Planning Board meeting in the future. The applicant will need to re-notice the public.

Application: PPM2255 ~ LPG Capital, LLC
Kinney Road and Sweetmans Lane
Block 79 / Lots 21.01 and 21.02
Preliminary and Final Major Site Plan
Carried from April 27, 2023

Jennifer Krimko, Esq. of Ansell, Grimm & Aaron was present this evening on behalf of the applicant. Ms. Krimko explained at the last meeting in April, there were some issues that were raised with regard to some signage, in particular No Idling, some stripping with regard to the truck entrance and many comments with regard to the landscaping. As a result, we did have an opportunity to significantly enhance it and essentially put landscaping everywhere on the building, except where the doors of the loading zone are. What we are going to introduce to you tonight is an exhibit, a colored rendering landscape exhibit that will show the changes. Our traffic engineer

is also present, and he recently attended the County Planning Board meeting with Mr. Boccanfuso and he will discuss the results of that meeting and what the County is looking for. Our architect is here and will go over his new exhibit addressing the materials on the building by bringing in some of the historic materials. We also did an analysis of the Mill because there were questions about height in comparison. We have measured the building, and taken pictures of it on all four sides. That building is 51' high.

Mr. Thomas Muller, Professional Engineer remains under oath and continued with his testimony. He introduced Exhibit A14, an overall site exhibit prepared by Dynamic Engineering on May 15, 2023. Exhibit A15 is a colored rendered landscape exhibit also by Dynamic Engineering prepared on June 8, 2023. Mr. Muller displayed Exhibit A14 on the screens. It shows the changes that they made since the last meeting. We provided many more No Idling signs around the site for a total of 15 signs, there are 8 within the loading area to the rear of the site. We also have 7 within the parking area on the south part of the site. We also clarified the building height calculation to comply with what the architect also presented last month. The building height is 35'. Mr. Muller displayed Exhibit A15 showing the new landscaping that they are proposing on the site. At the truck driveway, we were able to provide stripping at the driveway to clearly delineate the ingress driveway for trucks only and we also modified the signage at that driveway to note that it is for trucks only on that ingress driveway only. Also, we did revise the front entrance way to each of the office suites to provide additional foundation plantings to the maximum extent that we can along the entirety of the front perimeter of the site except for the openings into the buildings. There are many more foundation plantings and the pavers go right into the office. We also relocated the benches in front of the landscaping so we are not seeking any waivers for not having landscaping behind the benches.

Chief Hogan asked about irrigation for the site. Mr. Muller said there will be irrigation for the landscaping.

Mr. Fisher asked how many E.V. charging stations there would be and Mr. Muller said there will be three along the front of the building which complies with the State code.

Mr. Pollifrone asked for the height of the signs at the truck entrance and exit. Mr. Muller said it is a standard direction sign, so the clearance under the sign would be 7', and then the sign itself is 2' in height. The top of that sign would be roughly 9', it's the size of a standard stop sign. Mr. Pollifrone said that when a driver is exiting, that the sign does not block their view of the traffic on Sweetman's Lane. Mr. Muller said this is designed with a clear site triangle and the signs will not impede the vision exiting that driveway.

Ms. Rizutto swore in Justin Taylor, Traffic Engineer from Dynamic Engineering. He is very familiar with the application. Mr. Taylor explained that Andy Jafolla who was present last month, was present at the County meeting with Mr. Boccanfuso that was

held on May 8, 2023. He did review the video of all the transcripts and has been involved on the project with Mr. Jafolla throughout the whole process. Mr. Taylor wanted to give an update regarding the County meeting on May 8, 2023. The County engineer, Mr. Boccanfuso and Mr. Jafolla. They did discuss the left turn lane and the improvements that were proposed along Sweetman's Lane. The County is in general agreement with that left turn lane and they think it's a good idea and would be a positive for the project. Mr. Taylor showed where on the Exhibit the left turn lane would be. There was discussion at the last meeting of the potential extension of the lanes south from Route 33 to carry those two lanes all the way to Kinney. In discussions with the County, it was their feeling that the extension of those to Kinney actually was not a positive from a traffic safety standpoint because they didn't want people turning into the site to have to cross two lanes. They recognized that the capacity of the intersection at Route 33 did not necessitate the extension of those lanes and they really did not want the vehicles entering to cross two lanes. From there, there was also the suggestion to extend it just to the northern end of the driveway. There was discussion back and forth to the viability of that. In regards to it, the grades between the road bed and church property are relatively steep. It goes up very quickly as you go into the church property. The County has specific standards they look for from a roadside grading perspective, typically they would look for a 2% grade from the curb to the right of way line about 10' from the roadway and then they would allow you to grade up at a 2:1 grade. When we look at the grading through that section, we would need to grade up at a 2:1 slope directly from the back of the curb in order to get back before we would hit the property of the church. From that design perspective, the County didn't really want that type of design. In the design of that, they were not particularly in favor, although they didn't say absolutely no, it was our opinion that the slopes there were not in conformance with the design that they would typically look at. What we did is go back and take a hard look whether or not this was a necessary extension. There has been a pre-construction meeting with our office and the County and the NJ DOT to start the roadway improvements for the project across the street and that is moving now. The extension of the lanes, the lane geometry that was designed as part of that, provides about 430' of the two lane section south from the intersection of Route 33. Mr. Jafolla had quoted at the last meeting that the queue that they anticipate for that approach are approximately 325'. So what we are looking at is even with the design and the traffic associated with our project, there is a 100' buffer between what we project from an analysis standpoint, and what is being constructed out there. With that in mind, and the grading challenges that we found given the roadside that exists out there in front of the church, we really don't think that it is necessary to support, not only for our project, but the road in general that is associated with Manalapan Crossing and every other development that has been approved in the area. Mr. Taylor said there was some discussion about the trip generation and what was being used for the site and how we developed that. We used the manufacturing land use. It gives the highest trip generation of any of the ones we are requested to investigate. Realistically, what we are talking about more in this use for this flex building is that industrial park land use. Based on the ITE trip generation, that would project about

22 trips in either the a.m. or p.m. peak hour. He knows there was some concern in the fact that we have 80 parking spaces and how that works. We need to look at the ITE, not only do they publish trip generation rates, but they publish parking generation rates for the same land uses. They look at these land uses and they develop a maximum demand that you would see at these type of facilities. If you look at parking generation for an industrial park, it would project for a building of this size, a demand of 78 spaces. We are providing 81 so we are right in line with that. That same industrial park of 65,000 +/-, is projected 22 peak hour trips. The reasoning behind that is just to differentiate between various tenants. It is his opinion that the analysis that we did is actually overly conservative because we used manufacturing, but that shows that there are good levels of service at the driveway and at the adjacent intersection. Ms. Krimko said worst case scenario, if every employee ran out the door at quitting time, and all 80 people tried to go out on the road at the same time, could the roadway handle that capacity? Mr. Taylor said yes and we are still below that 100 trip threshold that the NJ DOT sets as a significant impact for an intersection in need of study.

Mr. Boccanfuso had a few comments. He asked Mr. Taylor with regard to 80 employees leaving at the same time, to be clear - that wasn't analyzed in the traffic study, is that correct? Mr. Taylor said no it was not, so it is my opinion that the road could handle it. Mr. Boccanfuso said Mr. Taylor also spoke about the northbound two lanes being 430' length of the two lane approach and the estimated queue was 320'. Is that based upon just the Manalapan Crossing analysis, or is that based upon the supplemental analysis that your office prepared for this specific application? Mr. Taylor said it is based upon the supplemental analysis that was done with the manufacturing land use code use. Mr. Boccanfuso said that during one of the peak hours, there was actually a failing level of service. Mr. Taylor said the 320' queue is in the morning, and the failure is in the evening peak hour.

Mr. Boccanfuso said he was in attendance at the May 8, 2023 meeting. He agrees that the County was not supportive of, or in favor of, two lanes in the north bound approach to the south side of the site entrance. They did have concerns about vehicles heading in the south bound direction making the left into the site, as well as making a left onto Kinney Road having to cross two lanes of traffic, particularly when they are not two lanes south of Kinney Road. They were not supportive of that. They were generally ok with the design of the roadway improvements. There were some technical comments that remain outstanding, but nothing that he considers major, nothing that they voiced a significant concern on. One other thing that came up which Mr. Taylor didn't mention, was that they wanted to have a comfort level that, if for some reason, the intersection improvements associated with the Manalapan Crossing project were not completed before this project went to construction - in fairness, everyone in the room felt that this was highly unlikely - but if that were to happen, they wanted a contingency plan. They may ask the applicant for this project, as part of their application, to develop a contingency plan. What would happen at that intersection if for some reason the wheels fall off

Manalapan Crossing and they don't move forward with the intersection improvements. As Mr. Taylor indicated, there have been pre-construction meetings regarding the intersection improvement, so he fully expects, that this is going to move forward and be completed well before this project moves to construction, assuming an approval, but the County did want Mr. Taylor's office to address that issue.

Mr. Boccanfuso said with regard to the additional northbound lane to the north of the site, so the second lane if you will, the County did indicate that they felt that second lane would not be feasible within their slope design standards. However, they did indicate that they could potentially consider a waiver from those requirements if safety were improved. The benefits to that second lane in the northbound approach are that you do have increased capacity approaching the light in the northbound direction. The other benefit to that second northbound lane is that it will allow to some extent, trucks exiting the site to enter the traffic stream without completely stopping vehicles in the northbound direction. With that said, if you have a truck that is leaving the site turning into the right hand lane going north, somebody who is in the left lane or middle lane, they may be inclined to slow down. There certainly is the potential for the truck to spill out into that left lane, but once they get going in the northbound direction, obviously they will be going at a slow pace that will allow vehicles heading north to pass them on the left hand side as they approach the intersection. It is Mr. Boccanfuso's personal opinion that there is a benefit to that second northbound lane, there is no guarantee that the County will approve it, but if the Board feels that there is a benefit to it, there certainly is justification to require the applicant to revise their plan and submit to the County with that second lane and see what the County says. If they deny it, it is under the County's jurisdiction. Ms. Krimko asked Mr. Boccanfuso if the impacts of their development necessitate it? Mr. Boccanfuso said potentially, yes. He does think the impacts of their development necessitate it. There is truck traffic entering onto a roadway, the impact of that truck traffic and their getting up to speed is not analyzed in the traffic study and you have failing levels of service at the intersection. Ms. Beahm said it's more of a safety issue - trucks entering the roadway take awhile to get up to speed. It's going to slow down if its one lane, traffic behind it is going to be impacted, therefore the second lane would be a benefit.

Ms. Krimko said what she could offer to the Board, should this be the only outstanding issue, and the Board is going to grant approval, but for the applicant not offering to do that widening - if the Board were to condition it on us, seeking the widening subject of course to the County's approval, that is a condition that we would accept; provided there is adequate right of way.

Mr. Boccanfuso asked about the failing level of service, did the queue clear the intersection on every cycle in that analysis? Mr. Taylor said yes it did. The queues were 278' on average, but they do clear every cycle.

Mr. McNaboe told Mr. Taylor that he appreciates that his work is always thorough. Mr. McNaboe said it appears to him that the two northbound lanes extend almost to the church driveway now. Mr. Taylor said that is correct. He referred back to Exhibit A8. It essentially extends to the church driveway. Mr. McNaboe said to make the left into your lot, the emergency responders already have to cross two lanes. At minimum the curbs and sidewalks should be set in place. Mr. Taylor said the traffic that we are talking about in this project is about 22 peak hour trips - one vehicle every 3-4 minutes during the busiest hours. He does understand that the trucks are going to be taking a little while to accelerate, however, the odds that they are going to have a green light at Route 33 are very low too. The additional queue that would be created by this project, is less than a vehicle at that intersection because of the low volumes that are associated with it. Mr. Taylor said the 320' falls about mid-way through the fire department, still allowing that 100' of two lanes beyond that to absorb any additional queue. After meeting with the County and hearing what they are and what they are not going to approve, gives us a path forward since it is their roadway. Mr. McNaboe said he wanted to make sure that everything is on the record for the future. He does not dispute what Mr. Taylor is saying, but wants to make sure everything is covered.

Chairwoman Kwaak asked for clarification as to what the County said regarding the widening at Kinney Road - the right turn back onto Sweetman's Lane. Was that brought up? Mr. Taylor said we talked about that and that needs to be designed but they are on board with the realignment so that you are coming in at 90 degrees, as opposed to the acute angle that it is. Mr. Boccanfuso said they were supportive of the realignment of that roadway. Chairwoman Kwaak said just to confirm, the County realizes that Manalapan Crossing is also going to be improving this and what if, Manalapan Crossing does not start their road improvements, which they were supposed to have started, and this project moves forward and they get to their road improvements. Ms. Krimko said we're going to have to have a contingency plan before we can start work approved by the County just for that reason. The County is not going to give us an approval unless we have that contingency plan approved and willing to construct it, if Manalapan Crossing hasn't started. They will not issue us the right to construct.

Mr. Kastell said when he is on his motorcycle, he has come across that bridge many times. You cannot see until you get to Millhurst, and then you have Kinney Road and the exit from Millhurst. Mr. Taylor said when we laid this out, what we look to is the AASHTO and they determine what safe site lines are for different vehicle traveling speeds. What we have done is design the driveways so that you have clear site lines in both directions, so that not only can the vehicle that is sitting in the driveway waiting to make the right turn out see in both directions, but also so the vehicle is visible as a motorcyclist. Mr. Kastell said but what happens when the truck pulls out and there are two cars coming out and making the right out of Kinney and there are other cars causing a longer queue behind it? Mr. Taylor said as you move down to Kinney, the site lines looking north to the south, by the Mill and around the corner,

get better. You have the visibility of Kinney, and then you come around. In the design of the intersection improvements at Kinney, we are going to be laying those same safe site triangles to meet the AASHTO standards and to meet the County site distance standards for an intersection. So your concern is valid, and it will be addressed in the design and it will be reviewed by the County Engineer in their facilities. Mr. Kastell said he believes the second lane is required because the Mill completely cuts off Kinney as well. In his opinion, any changes to Kinney are not going to let you see cars in that intersection, or backed up and he thinks it's going to be dangerous without a second lane for the trucks. Mr. Taylor said the information in the analysis just doesn't show that and we are required to meet the safety aspects of the design to ensure safety. We stand by our design. Ms. Krimko stated that ultimately it is the County's decision.

Mr. Shorr said the first time you were here, you had a rendering showing how the trucks were coming in and going out. His concern was they were very close together. How are you going to stop a truck from making a left turn? Mr. Taylor said he listened to discussions and he believes there was lengthy testimony regarding the design of the island to channelize the vehicles to make the right turn out. He believes that the signage, the stripping and the physical deterrent of this island will force those vehicles to turn and head north towards Route 33.

David Collins, Architect, remains under oath. He displayed Exhibit A16, revised through May 31, 2023 consisting of two sheets with print on each side. Mr. Collins displayed Sheet A1.00. We went out to the site and took some measurements and photographs and walked around the Mill to get a feel for the architecture. The height of the Mill is 51 ½'. It is very close to the road and it is mostly cedar siding or wood siding. The upgrades to the building that were done were completed with more modern materials, such as vinyl windows and composite siding. There is also a brick base to the building on the back side of the building. We modeled part of our building after the Mill. Ms. Krimko said our site can be seen in the distance, but we see the greenery and trees and that's the area of the wetlands that we are not disturbing. Traveling down the road, you can't really see the Mill and our site together for way of comparison. This is the closest landmark to our site, and it is approximately 400' away. She asked Mr. Collings after looking at the Mill and looking at what we can do to address the comment of having some form of historic architectural treatments on all four sides, what did we do to address that and eliminate that waiver? Mr. Collins said we've done a couple of upgrades to the building. Since we found brick on the existing Mill, we are introducing a brick wainscot at the bottom of each of the office areas. Ms. Krimko said so you're tying in one of the historic materials that Mr. Brown was concerned about. Mr. Collins said we've also increased the number of windows that we are proposing in the flex areas. These windows are up high, so we've added more windows, and we've introduced them on all four sides. Previously we had windows on the office side and the two short ends of the building and we added a couple to the short ends of the building

and we've introduced them to the back of the building as well, giving all four sides window treatments just like the Mill.

Mr. Boccanfuso asked Mr. Collins about the 51' height of the Mill. What is the reference point or plane that you used to determine that 51' high - where was it measured from and to? Mr. Collins said he went to all four corners of the building and he shot with his laser from the ground to the eve of the building on all four sides to establish a common point down to a grade plane. He averaged those four corners and established a grade plane. He went to the center of the building and shot to the underside of the ridge and he did the math backwards to figure out the difference from that grade plane number to the ridge of the roof. There is a little bit of a margin of error here, he was in the weeds doing the best to shoot with a laser, but it's pretty close. Mr. Boccanfuso asked how does that average elevation compare to the adjacent roadway - is it above, below or level with? Mr. Collins said it is below by approximately 4-5'. So if measured from the roadway, the 51' is roughly 46'.

Mr. McNaboe asked about the height of the new building and didn't we have to lower that for the loading docks? Mr. Collins said the grade plane is the average grade.

Mr. Castronovo asked what is the size of the windows that you are proposing, and do they match the size of the windows of Millhurst Mills? Mr. Collins said our intent wasn't to match, we were trying to take the proportions that were used on the Mill and apply them to our project. Mr. Collins said the windows are roughly 3' wide x 6' tall.

Mr. Brown said he appreciates the applicant adding the brick to the bottom by the entrance to the space. He's not sure if it's enough in regards to satisfying the requirement, because are you still proposing concrete handles with score marks to make it appear as if it is lapboard - has that changed? Mr. Collins said that has not changed. This historic structure that we are referencing here, the historic character of that building is not 100%. I applaud that the building was maintained and we're trying to preserve it and keep it, but there are a lot of materials on that building that should not be on that building. We also have to keep in mind when we're comparing these buildings that you are at the street, right at your face you are looking at the Mill. Our building is 150' away and blocked in some areas. The fact that we are putting these score lines in from that distance will give you the feel that it is intended to be wood siding. The Mill was built a long time ago with different construction means and methods, different fire requirements - across the board totally different. This is a good balance between being respectful to that building and the architecture of the past and building in a way that is appropriate today. Ms. Krimko said the ordinance requirement isn't that we match all materials of historic buildings, just introduce historic materials. In your opinion is the introduction of the brick, the 6 over 6 windows, and the introduction of the scoring to simulate the wood, is that satisfying the ordinance? Mr. Collins said he believes it is. Mr. Brown said he doesn't know if he agrees, but thank you.

Mr. Fisher said there is no mezzanine, are the windows on the second floor strictly aesthetic? Mr. Collins said they bring light to the inside.

The Board took a brief recess and returned to the dais at 8:48 p.m.

Chairwoman Kwaak opened the floor to the public for questions and comments.

Ms. Rizutto swore in Robert Valoroso of 6 Carole Court. Mr. Valoroso explained that the windows are 3' x 6', not 6' x 6'. Ms. Krimko corrected Mr. Valoroso and said the windows are 3' x 6' - 6 over 6 is a style - not the size. Mr. Valoroso stated this is a residential area, there are three homes across the street from this property. Ms. Krimko requested that the objector speak to the Board, and not her personally. He explained that his home faces the northeast corner of the property. He stated that his home is well over \$1 million and he just completed renovations on the property to improve the backyard and spent over \$300,000 to upgrade his yard. He does not want to sit in his backyard and listen to trucks and breathe in the fumes every three minutes. He sees this project as a transfer of wealth from the residents of this town, to the developer of this property. This property was purchased by the owner of Ace Hardware Store and another developer in New York. They are seeking to transfer wealth from the residents to their property. They bought it for \$365,000 on 10 acres. The church sold it to them and never mentioned a word to the residents. Had he known, he would have bought the property and donated it back the town rather than seeing trucks from 6:00 am - 11:00 pm. This is not flex space - it's a warehouse. He would recommend deliveries strictly from 9:00 am - 5:00 pm and never on weekends. Trucks will have to cross double yellow lines and the traffic will be a mess. What happens when a truck gets lost? How are fire trucks going to get out with this traffic? There will be a massive increase of noise pollution. No one will ever want to buy my house. Mr. Valoroso stated not only is a property owner in Manalapan, he also has a business on Route 9. He is asking the Planning Board to please use care and common sense when deciding whether this proposed application conforms to the permitted use of the property. It will leave an everlasting footprint on our community that no one wants. We ask that the members of the Planning Board reject this application and any planning application seeking to mislead our community and our residents.

Ms. Rizutto swore in Francine Swithers of 34 Sweetman's Lane. Ms. Swithers said she moved here from New York City to be in the country. To put a warehouse in the middle of a residential area - it just doesn't fit. Regarding the traffic, there have been times that she has sat through 2-3 lights during busy times. She is concerned that Manalapan Crossing hasn't even opened yet, the traffic is going to be so backed up. She has seen the firetrucks stuck in traffic, and this is a safety concern. The trucks do not pay attention to the speed limit. There are several blind spots on this road and trucks will just add to the danger of this area. She is concerned about the noise

and pollution and she is asking the Planning Board to reject this application. Ms. Rizutto wanted to note for the record that Ms. Swithers were referring to Exhibit A16.

Ms. Krimko said that Ms. Swithers indicated that the traffic study was based on just current conditions. Are you aware that the traffic study actually took into account all of the traffic that is going to be attributed to Manalapan Crossing, as well as added future traffic? Ms. Swithers said it doesn't appear to be that, because she is telling her now - it's already backed up. If you're not making the improvement to the road, it's only going to get worse. Ms. Krimko stressed that even though the ordinance permits deliveries to later, we have agreed to cut off deliveries to 10:00 pm. Ms. Krimko said this is not a residential zone, it's Limited Business Millhurst. Ms. Swithers said it does not belong there. Ms. Krimko said the Planning Board didn't zone it that way, and they don't have the ability to regulate uses, the Governing Body does in the ordinance.

Ms. Rizutto swore in Constantino Sigismondi of 25 Kinney Road. He said his neighbors have said it all but, but he is affected more than anyone. His property line is against the LPG Capital property line. He goes to bed very early and gets up very early. He is concerned about the noise coming from the trucks disrupting his lifestyle. He is aware of the history of this property. He stated his brothers tried to buy the property and they decided not to sell to them. Their driveway opens up to 80 parking spots, yet it's only 70' from his driveway. He's worked in flex spaces for many years and has never seen one right next to a residential area.

Ms. Rizutto swore in Carly Termotto, of 7 Red Fox Run. She is amazed that the Planning Board would consider constructing anything of this sort in our town when there is plenty of highway property that could be utilized for mixed use spaces like this. Trucks with diesel fumes are going to be in our backyards. The trucks mixed with the school buses will overburden the roads and lead to lengthy traffic delays. Her only access to that side of town is past this building. She has to allow for an additional 10 minutes to get up to Route 33. There are fox and eagles in this beautiful area. Had she known the property was for sale, she would have proposed that everyone donate a \$1 in this town and buy it. The trucks will block the firehouse and this is a safety concern. What type of remediation will be put into place to ensure the oil from the trucks does not contaminate the lake? There are no sidewalks in this area. The added traffic will make this area a dangerous hazard. She requests that the Planning Board reject this proposal, allow the residents of Manalapan to purchase the property and donate it back to Manalapan.

Seeing no other members of the public that wished to speak, Chairwoman Kwaak closed this portion of the meeting.

Ms. Krimko stated we are not proposing a mixed use, we know that it is a flex space, which is a permitted use. The neighbors are upset about a flex space coming into what they consider to be their neighborhood. While she is sympathetic to that, her

job as an attorney is to present cases based on the zoning. Your zoning ordinance allows the use that is being proposed tonight. Several of the residents have asked you to not allow this use. As you know, as sitting members of the Board, and as advised by your counsel and planner, you don't get to regulate use. The Governing Body regulates use and you have to abide by the ordinance, and the ordinance allows this use to be there. Before she gets into the meat of what she is going to argue, there was a lot of discussion about the horrible existing traffic conditions throughout this area. Again, as you know, existing traffic conditions are not something this Board can consider, and certainly not something that this Board can deny site plan over. When it is a permitted use, this Board is limited just to the safety of ingress and egress driveways and circulation on site. It is not a developer that is developing well within the confines of your zoning ordinance to fix existing traffic problems. With all of that being said, throughout the hearings in addition to making and presenting numerous plan modifications to address the concerns of the Board, its professionals and the public, we presented qualified expert testimony of a site engineer, an architect and a traffic engineer. Yes, they are all paid by the developer, but she takes personal exception to any of the accusations that they are merely testifying to what the applicant wants to hear, or that the reports or the numbers are doctored. These are licensed, professional engineers, licensed by the State of New Jersey and they are held to that license. She would add that your professional planner, who is licensed and paid by this Board, and your professional engineer, who is licensed and paid by this Board, reviewed every single document that was submitted. While there may be some slight disagreement as to what waivers are needed, there was not a single exception made to the engineering, nor the traffic engineering that was offered. The County traffic engineer reviewed all of the same documents and neither he, nor his traffic engineer, or drainage expert took exception. On behalf of the applicant's team, she just wants to stipulate on the record that what is being offered to you, has not only been offered by professionals licensed in the State in the New Jersey, but not only reviewed by own licensed professionals, but the County's. Each of these witnesses provided expert testimony in support of the plan and we responded to all of the questions posed by the Board. What is proposed for your consideration is the development of a permitted use, that squarely meets the ordinance requirements. Regardless of personal opinion as to current zoning, and there seems to be a lot of it, this Board's authority is statutorily limited to determining whether the plan conforms to the zoning regulations and applicable design provisions of the site plan ordinance. If an application doesn't conform to the zoning regulations, either use or bulk standards, a variance would be required and we would be obligated to demonstrate the proofs for the variance. No matter what someone's subjective opinion is of what this building looks like, or what they think it might be use as, it is regulated by the ordinance and the zoning officer and the police power of this Township. What we are proposing is a permitted use. If it were not a permitted use, you would not have jurisdiction over this application in the first place. We know that because there was a prior case it was an actual warehouse where it was sent to the Zoning Board for an interpretation. So by virtue of this Board taking this case, and accepting jurisdiction, everybody agrees and the record is clear that this is a

permitted use. Importantly, we met each and every bulk standard, and what that means is there is no variance relief needed at all. That is confirmed by your planner and your engineer. This is an as of right development, as it relates to the use and bulk and zoning requirements. So then the Board needs to consider compliance with the performance standards are design requirements found in Article 8 of your ordinance. If we don't meet those, then we have to prove a test to justify them. She will note that after all the amendments that were made throughout the process of the four hearings, we are seeking a single, di minimus design waiver. Importantly, the reason for that design waiver being requested is because what is being proposed represents a safer alternative than the strict compliance. Pursuant to N.J.S.A.40-55D-51.B, the Planning Board has the power to grant such exceptions from the requirements for site plan approval as may be reasonable, and within the general purpose and intent of the provisions for site plan review. So the test is, is the waiver reasonable in the context of the development, and are we still furthering the purposes of the provision itself. Specifically, our singular design waiver is with regard to the setback of the basin. So when you look at what section of your design guidelines governs that, its Section 95-8.13(i) which expressly states its purpose is "to set forth requirements to protect public safety". You heard expert testimony that by granting the waiver, we are able to provide a safer alternative than strict compliance to regulation. Unquestionably, this is not only reasonable, but it furthers the general purpose and intent that is stated in the provision. We could comply, we could comply with the setback for the one basin, we did for the other one, but that would require us to construct a retaining wall dropping 10' or more into a basin, instead of the gentle slope now proposed. Aside from the obvious fall risks from such a drop, the compliant basin would be required to be deeper into the ground. The intent and purpose of that setback from the right of way is to ensure safety and our proposal does just that. Initially the Board's professionals cited a waiver from Section 95-8.5B1 for foundation planting. That waiver has been eliminated. Nowhere in that ordinance does it require 100% of the foundation of the building to be landscaped. Such a requirement would be preposterous in that it would eliminate any ingress or egress into the building, either by foot or vehicle without jumping or running over a 3' landscape bed. As was revised and presented to you through the exhibits tonight, anywhere that there is not a pedestrian entrance or a loading entrance, we have included such foundation plantings. We fully comply not only with the letter of that requirement, but the intent as well. Section 95-8.5C requires it in parking areas at least 10% of the interior parking shall be landscaped with plant material reasonable distributed in the lot. Section 95-8.4, speaks for landmark design requirements that apply to parcels within a designated landmark corridor. Notably, the purpose of that section is to conserve where practical the landmark and provide visually compatible building and site design. There are provisions that follow that initial statement that provide the Board with the standards to review the compatibility and she notes, when evaluating development proposal that impact landmarks. In the first instance, there is no landmark on our property to conserve, so that initial sentence doesn't apply. With regard to visual compatibility and site design, you heard the expert testimony confirming that we meet all of those

standards. One of the questions was regarding building height, and while it may be 46' as measured from the street, as measured by your ordinance and the same as our building from the average four corners, it is approximately 50' tall. As you heard from the testimony of your own Board members, our building is not even visible as the same view shed as the Mill. If the two can't be seen together, then our development doesn't have a visual impact on the two together. Most importantly, while the Mill is over 50' tall, it sits at the property line. Our structure is 35' tall, which is fully compliant, and our setback is almost 150' from Sweetman's Lane. The visual impact of our structure from a bulk and massing impact to the street is far less than the only nearby landmark. Based on the revised exhibit submitted and stipulations made by the architect, we also fully comply with the architectural and building design requirements found at Section 95-8.6. We implemented traditional architectural forms, provided the landscaped areas and amenities and particularly emphasized in the pedestrian areas by the offices. While she understands the Board would like to see more historic materials introduced, that is not practical when you consider what the permitted uses are. The intent of this ordinance is compatibility and she thinks based on the visual appearance at 150' back of the scored concrete, the change in roof lines along the office areas, the colors chosen and the 6 over 6 windows around all four sides of the building and we added the brick face along Kinney, we have squarely met those requirements.

Ms. Krimko continued and said a Planning Board is not authorized to arbitrarily impose conditions on an applicant that are wholly unrelated to mitigation of development impacts or variance or waiver relief sought, or if not expressly articulated by the ordinance. Requiring a building height less than what the ordinance allows simply because you think it is too tall, is a direct breach of the Board obligation under the MLUL. The Governing Body has legislated that this size building, at this height, at this setback and most importantly containing this use is permitted, even adjacent to residences. This height would be permitted even if we were at the same grade as those residences, which as you saw from the cross section exhibit, is not the case. We are significantly lower. Due to the grade change, the neighbors will see what appears to be a building that is less than 20' high. If the Planning Board disagrees with the ordinance height limitation, then it should recommend a zone change to the Governing Body. While the zoning permits is, the Planning Board can't impose requirements more stringent than that of what the ordinance permits. The Planning Board cannot arbitrarily impose limitations on truck deliveries when the ordinance does not contain such provisions. If the loading area needed setback relief, then a limitation on hours to mitigate the impact of that relief would be a reasonable condition that a developer would be required to accept. But without a variance or even a design waiver related to that loading area, the Board is without authority to require more than what the ordinance prescribes. The applicant has agreed to limit deliveries to 10:00 pm, while the ordinance actually allows visitors to a business until 11:00 pm. Finally, the Planning Board cannot arbitrarily require infrastructure and roadway improvements when wholly unrelated to the impact of the proposed development. A lot of the neighbors concerns are with

regards to the traffic in the existing roadway, the traffic at the corner of Route 33 and Sweetman's and the amount of time it takes to get from area to another. Unfortunately, that is not the developers responsibility. They are responsible to ensure that we have safe ingress and egress into our site, and safe circulation on our site when it is a permitted use. We are also required to pay our share to any roadway improvements that are necessitated by virtue of our development. We are going above and beyond what is necessitated by our development. Additionally, although it pains her, if the Board were to vote favorably and impose a condition that we seek the extension of the two lanes up through the church property, the applicant would agree to make that application to the Monmouth County Planning Board and it would be subject to available right of way, as well as the County Planning Board approval. At the first hearing, one of the Board members had stated on the record, "we need some sort of upgrades to even consider letting this use here. I think you need to work with the Board". This use is permitted. An applicant does not need to trade improvements that are not required by the ordinance in order for a Planning Board to 'consider letting the use be here'. Such a statement is a misapplication of the law and flies in the face of the MLUL and your obligation here as Planning Board members. You don't have the right to consider where uses are permitted or not, or what an applicant would need to offer in order to allow the use. That has already been decided by Governing Body when they determine to zone it to allow this use. This use is permitted. The only jurisdiction that this Board has to confirm compliance with site plan ordinance requirements and consider relief if they are required. Denial of a site plan is a drastic action and one which has to be authorized by the statute. A Planning Board has no authority to deny a site plan because of anticipated detrimental impact on off-tract existing or future traffic conditions. Planning for traffic patterns is an exercise of the zoning power vested solely in the Governing Body. The Planning Board is limited to conditioning an approval on improvements to on-tract entrances and exits, or contributions of their proportionate share of off-tract improvements made necessary by on-tract development. Adding traffic to an already busy roadway is not a valid reason to deny site plan. Nor is an applicant's refusal to make off-tract roadways improvements that are not directly necessitated by our development. However we would concede to make that application to the County. The laws of New Jersey, including MLUL charges Planning Board members to approve site plans that conform to the Township's site plan ordinance and requirements where statutory criteria is met for variances and waivers. When the criteria is met, the Board is legally obligated by the statute to approve a site plan application, like this where the use conforms and the plan addresses all of the site plan requirements. The testimony you have heard from the applicant's experts, and your own, the legally relevant concerns expressed by the public and subject to the numerous representations and conditions stipulated to on the record, we would respectfully request that you vote in favor of this application.

Chairwoman Kwaak stated that since the applicant is offering to make that application to the County Planning Board, she would like to make that a condition, should we get a positive vote here this evening.

Ms. Rizutto summarized and said there have been four hearings for this application and there have been revisions to the plans as indicated. It is her understanding that the Board has had discussions about the architectural requirements and obviously it is the architectural requirements are to be consider. The applicant has made some changes. It is up to the Board to make a decision as to whether you feel the design meets the requirements of that. Ms. Beahm will touch upon this. One of the things that is required, is looking at all four sides of the structure, and it is apparent that the roof design above the offices is on one side, and only on sections of that side. The roof design is not repeated on other sides, and may not be enough to comply with what the Board members may think should be presented under the architectural building designs in Section 95-8.6. Ms. Krimko said to the extent that we didn't request it, and the Notice did request it to the extent the Board does determine that we need a design waiver from that section, the applicant has sought it. It is our opinion that we don't.

Ms. Rizutto continued and said one of the things that you might consider is looking at the overall design. She heard the applicant's attorneys position with respect to height. She knows there was concern about the height and she believes the architectural requirements and the height requirement have to be considered together, so that you might consider looking at the architectural and granting that waiver subject to a condition about the height. There are some requirements that can be interpreted to not having been met. She understands about the flex/warehouse difference. The Board did accept jurisdiction here, and we do not have jurisdiction to grant an approval of a warehouse.

Ms. Beahm added that we have listened to the testimony of the applicant's witnesses and while they have made some revisions, she is going to speak specifically to the architecture which is a requirement in this particular zone, in Section 95-8.4. When we talk about design requirements in this zone, the first item is height, and then it talks about bulk, scale, materials, etc. - she does not agree that tilt concrete with scoring mimics wood material. She doesn't feel like the corners of the building and the two entrances where the offices are having a faux peak roof is consistent with the historic architecture in the area. She does not agree that adding a couple of windows across the back of the building, which is a flat roof with very minimal architectural features, mimics the Mill in any way shape or form. She feels like the architecture is not consistent with the historic requirements. She understands Ms. Krimko's statement that they have asked for the waiver and that is fine. She agrees that the architectural design and the height of a building of this nature are married to one another. And while yes, 35' is permitted, it's permitted assuming the architecture is consistent with the historic nature of the area. She doesn't think the applicant has met that requirement. It does enable you to perhaps evaluate what you think would be appropriate, if you were even inclined to approve the application, she does think the fact that they have not met the architectural requirements does afford you the opportunity to evaluate what height you would think would be appropriate.

Yes, 35' is the maximum height in the area, assuming you meet the architectural requirements and in her opinion, they have not done that. What she would submit is they do need that waiver, so it is beyond just the basin waiver and she thinks the fact that they don't meet that requirement, affords you the opportunity to evaluate what you think in terms of an appropriate height for the building.

Mr. McNaboe said it pains him - he agrees with Ms. Krimko on many issues, and he disagrees with just as many of them in her summation. But the bottom line is, this is a permitted use in this area. Just for the record, the Township Committee has taken action on height and definition of flex space. What seems to be happening is warehouses have become the flavor of this decade. This is not a warehouse, as the applicant has testified, but two of the them were approaching what we considered close enough that we had to redefine flex space twice in the last year. The new ordinance lowers the building and puts other provisions in there. He always looks at what else could be here. He was set back when they said residential zone, instead of the word adjacent to a residential zone. He has spent much time on Carole Lane of late, and he's also been at Mr. Sigismondi's home, almost in his driveway, but he was trying to get a height for this building. In many areas of town, we have residential that abuts these commercial zones. Somewhere, it's going to happen. He tries to think of what a Township Committee that wrote this ordinance back then had in mind. It's the same zone that covers all of Millhurst Mills, so we have an existing condition, this just sort of brought the same thing out to Route 33. So again, there is nothing except design waivers, how many of them we tend to disagree on, but it is a conforming use. He is willing to say no, but it comes right back - anybody in a black robe is going to tell this Board it isn't. We have the opportunity now to make adjustments to this thing, if we going to go positive, and he's not sure where the Board wants to be on that. Do any Board members want to add their thoughts? If not, he is going to make a motion when everyone is done saying their peace.

Mr. Castronovo had a question. The applicant is putting forth that it is flex space. Five years from now, it becomes a warehouse - it is acting in that capacity and as a warehouse. Mr. McNaboe said so you are asking what mechanism would they have to go through in order in order for it to become a warehouse. Mr. Castronovo said what does the Township do in order to shut them down as a warehouse, and now it's a vacant property? Mr. McNaboe said that would in our office of Code Enforcement. They would have to appear before the Zoning Board. Ms. Rizutto said any changes to the site plan would have to be approved by the Board. Code Enforcement would be the first step and violations would be issued. Mr. Castronovo said lots of times matters are abused and by the time it goes to the court system, it is still operating when it shouldn't be. Has the State of New Jersey enforced this type of action where a flex space has become a warehouse? Ms. Rizutto said she is not aware of any particular case that called out a violation to call a use flex space and granted the approval, and then later was found to be in violation as a warehouse, however she has not done such research. They could be repeatedly violated and have to go to

municipal court. Then they could go to Superior Court and get a temporary restraining order to cease the operation.

Mr. Castronovo said he whole heartedly hears what the testimony was of our residents. They don't know the pressure that is put on the Board because we need to comply with the law and there are certain restrictions and we have to do what is just because not only are we trying to protect you, but we're trying to protect the residents as a whole of Manalapan. We don't want to be sued and drag this through court. We're in a very difficult situation where you think it's easy just to say, 'oh well it's this and that', but over the testimony of the four meetings, you've heard the questions that we've asked to try to understand that the use that the applicants have applied were flex space, and yet it feels like a warehouse. We get that, but their testimony says that they're going to operate as a flex space.

Mr. Brown said he agrees with the legal obligations that were noted tonight. If anything, it's always an eye opening experience for members of the public on how, what, where and when. He does agree that the design waiver is to be required for the historical elements since they are not being met on all four sides of the buildings. This entire application has been complicated and puzzling at times. Mr. Brown said Ms. Beahm said the height of the building is married with its architectural elements - he completely agrees with that. He does question how a mom & pop operation like an electrician or plumber would require a 35' height.

Mr. McNaboe said he has shown during his time on the Board that he is not afraid of a fight, when we have a fighting chance. There is always going to be a last one through the door. The Township Committee has made an effort to make sure that these flex spaces are regulated and they are not warehouses. We have to accept this applicant's word that this is flex space, so we have to move forward with that. The 35', again with that, we are going to grant the design waivers from the architectural requirements. With the condition that we are going to grant these design waivers, he says the height is an architectural element.

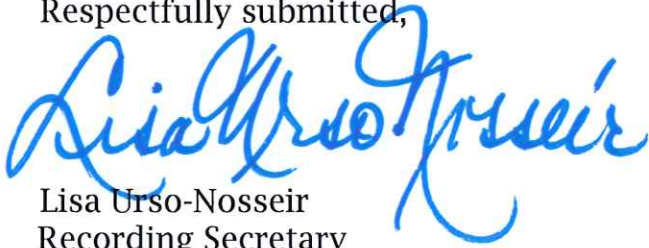
Mr. McNaboe made a Motion for approval for LPG Capital that the building be capped at 24', and the road being two lanes all the way to Kinney Road. If the County says no and they stop it at the Church, so be it; along with the ancillary relief discussed throughout the four hearings, and Seconded by Mr. Brown.

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

Chairwoman Kwaak stated that the next Planning Board meeting is Thursday, June 22, 2023 at 7:30 in the courtroom. She opened the floor to any non agenda items, no one came forward and it was closed.

Chief Hogan made a Motion to end the meeting at 10:30 pm and it was agreed to by all.

Respectfully submitted,

A handwritten signature in blue ink that reads "Lisa Urso-Nosseir". The signature is written in a cursive, flowing style.

Lisa Urso-Nosseir
Recording Secretary