

REGULAR MEETING OF THE PLANNING BOARD OF THE BOROUGH OF KENILWORTH HELD ON THURSDAY EVENING, DECEMBER 13, 2018. RICH PICERNO PRESIDED.

The meeting began with an affirmation of the Open Public Meetings Act. The schedule of meetings is on file in the Borough Clerks' office, was posted on the bulletin board, and has been mailed to the Local Source, and the Star Ledger.

Pledge of Allegiance was led by Mr. Picerno.

Roll Call: Present: Mr. Schielke, Mr. Picerno, Mr. Cuppari, Mr. Grimaldi, Mr. Callelo, Mr. Jones. Also present were Borough Planner, Kevin O'Brien, Louis Rago, Planning Board Attorney and Mr. Christian Cueto, Planning Board Engineer.

Approval of November 8, 2018 Minutes

Motion was made by Mr. Schielke seconded by Mr. Jones. All in favor.

Communications: None

Resolution: None

New Business: Application #364, 5-21 Site Plan & Variance
LNR Auto Transport Services, LLC
515 Springfield Road & 2 Mark Road
Block 3, Lots 1,2,3,4,5 & 9

Mr. Steven Hehl representing LNR Auto Transport. Mr. Hehl thanked the Board and the professionals because he knows there was some questions from last month's meeting regarding the layout, the plan and operational information. He appreciates the Board giving them the opportunity to respond to those questions. He received both Kevin's and Christian's reports and is prepared to go through the revisions that were submitted. He said we now have the turning templates and clarification of all the questions that the Board raised last time. He will recall the engineer Zack to take the Board through the plan and answer the questions that were raised by the Board. One item that was noted and he wanted to clarify in both Kevin and Christians report there was questions regarding construction vehicles and the interplay between passenger vehicles and construction vehicles. There will not be any construction vehicles, the only vehicles, other than the automobiles that will be stored there are car carriers that may periodically deliver cars there. They may be there for a period of time unloading or if they come later in the day they may sit there until the next morning to be unloaded. He said construction vehicles and new vehicles do not mix because that's when things get hit and he wanted to clarify that question. That area is all for the storage of the new Tesla vehicles.

Mr. O'Brien said that item came from a notation on the site plan itself.

Mr. O'Brien and Mr. Cueto were sworn in by Mr. Rago.

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Mr. Hehl said Mr. Chaplin was at the last hearing to explain the use of the property. Mr. Hehl said for the background on this application he was here a year or two ago and the center of the property was approved for storage of the Tesla vehicles and a small prep area where the vehicles are wiped down. He said for this application they are asking for the rear lot, which is owned by another party, to be used as additional storage, no impact on the existing building, the warehouse building which he believes is a warehouse for clothing, that will remain and the operation there will not change. The front building that is on Springfield, is also going to be used for additional storage and employee parking, inside that building will be used for more storage and for the area for the vehicles to be wiped down and they will have some charging stations. That is the area where the vehicles are staged and then to be delivered to the ultimate user. He said one of the unique things about these vehicles is that they are electric, they do not have fluids coming out of them.

Mr. Zackery Chaplin, Stonefield Engineering and Design, professional engineer in the State of New Jersey was sworn in by Mr. Rago.

Mr. Hehl asked Zack to go through the plan, noting the changes that were made to the plan and then we can briefly go through the Harbor and Shamrock letters.

Mr. Chaplin said he is happy to be back and he appreciates all the feedback. After last meeting he met with the applicant and went over the plan in detail to figure out exactly what the operations are....they went back to the drawing board with the Boards comments and concerns and have since revised the plans and resubmitted. The subject properties are Block 3, lots 9, 10 and 1.01. Lot 9 was previously approved about a year or two ago, however given the fact that it is right in between lots 10 and 1.01 it does play an important role and that is why we have tied it into the site plan to show how everything will intertwine. Mr. Chaplin said up here on the easel is the revised plans that were submitted and you have those plans in front of you and there were no changes. Mr. Chaplin said page one is the overall site plan prepared by Stonefield Engineering and Design and last revised November 28, 2018. The use is the outdoor storage of Tesla vehicles. Car carrier vehicles will enter the site via the existing access easement on Springfield Avenue and they would traverse the site into Lot 9, lot 9 is essentially where that car carrier will unload. On Sheet 2 there is a better view of the operations, the car carrier vehicle will enter into lot 9, unload the Tesla vehicles right in front of the existing building adjacent to the vehicle storage area. In the event that the car carrier vehicle would need to be staged overnight potentially, that would occur along the western side of the fenced area where there is no storage delineated. Once the cars are unloaded they will enter in the fenced storage area where we have now delineated exactly where the cars are going to go. He said one of the comments was.....how are we going to provide a fire lane and how are we going to know how many cars are out there? They are proposing concrete blocks that will be put at the corners and that will guarantee that there is a 20 ft. access drive isle for fire trucks to utilize in the event of an emergency. On the plan we have shown the fire truck access route which again will come in through that same access easement and is able to enter into the gate into that storage area and is able to fully circulate around the rear area where those vehicles are. He said as you can see on the plan we have removed a couple of storage spaces just so that at the corners we know that the fire truck can make those turns. They have proposed delineators, they looked into what could be the easiest and not have a big impact on the operations and we are proposing these flexible delineator glow posts and the glow at night and if a car runs over them it will not damage the vehicle, they are 3 ft. and are in the ground. We put those every 10 vehicles so if a Zoning inspector comes to the site they will see these delineators and it will be easy to count how many vehicles are within the back area. There is a triple stack in some

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cases, shown on this plan, it is very common for this type of practice because this is not a rent a car facility where customers are going in, these are professionals working at this site who will know which car needs to be prepped first. Mr. Chaplin said there was a question of what is gravel and what is pavement, they have delineated the gravel area as opposed to what is pavement. Lot 10 is pavement and lot 1.01 and Lot 9 is gravel, they updated the zoning chart. He said there were a couple of comments in the review letters, the impervious coverage and the building coverage are accurate, there is no open space. He said the impervious coverage includes both the building and the pavement, the remainder would be the gravel area which we did not count as open space. He said the total number of vehicles to lot 1.01 would have 200 vehicles that could be stored, lot 9 is 125 vehicles and lot 10 would be 29. The employee vehicles for each lot would be lot 1.01 is 60 but that lot is also being utilized by the warehouse and as Steve mentioned the area we are putting in for storage is really not an area that has ever been utilized for parking by the warehouse, therefore we don't believe there will be any impacts utilizing this area for parking, Lot 9 has 11 employee parking spaces and lot 10 has 22 employee parking spaces. Based on his conversation with the applicant at most they would anticipate 15 employees to be utilizing this site. Mr. Picerno said so you have 93 spaces set aside and Mr. Chaplin said 60 spaces are for the back area so you have 33 associated with his portion.

Mr. Hehl said they received the December 5, 2018 from Harbor Consultants and it is always nice to get them far in advance of the hearing so we did have an opportunity to review this letter. He asked Mr. Chaplin to take the Board through the Harbor letter and address the items that need clarification.

Harbor Consultants Site Plan Report

#1 Mr. Chaplin said #1 refers to the construction equipment and we covered that in earlier testimony. Mr. Hehl said we will note, assuming the Board is kind enough to grant this application, resolution compliance plans will eliminate that reference to construction vehicles.

#2 talks about the total number of storage spaces and employee spaces, there are 200 spaces on lot 1.01, we might have been missing the 13 in the corner however we had a discrepancy on lot 9 so the numbers stated previously on the record are correct there was a minor discrepancy on the plans submitted between the numbers specifically on lot 9 which is 125. Mr. Hehl said resolution compliance plans would have the correct notation. Lot 1.01 has 200 storage spaces and 60 employee spaces, lot 9 has 125 storages and 11 employee spaces and lot 10 has 29 storage spaces and 22 employee spaces for a total of 354 total storage spaces and 93 total employee spaces.

#3 Asks that we revised the plans to show the amount of impervious coverage.

#4 Asks about repairing pavement that is in disrepair and we will provide that detail.

#5 states that we should add a note to repair any fence that is in disrepair and add a detail for it and we will provide that as part of resolution compliance.

#6 The zoning table shall be revised, the amount of open space should be 37.6, the amount of impervious coverage is 62.4, based on our reading of the code, gravel did not appear to be open space, he could be mistaken on that. The gravel will be considered open space which is why we did not list that as open space.

Mr. Hehl said any fence that is in disrepair will be repaired and detail will be provided.

Mr. Picerno asked that regarding the pavement that is in disrepair...you are going to show a detail upon resolution or do you have a detail set forth in the engineering plan. Mr. Chaplin said the plans that were submitted do not have these details, most of the area is gravel and the only pavement is associated with lot 10 so we will provide mill and overlay detail associated with that area. Mr. Hehl said the applicant has no objection to grading any pavement that is in disrepair and it will be repaired in accordance with the comments from your engineer. Mr. Picerno asked if there was a reason why we did not get that prepared and get it on that plan ahead of time? Mr. Chaplin said we did revise the plans and brought them here tonight and it does have that detail. He said we did not see any disrepair in the pavement but we are happy to go out with the engineer and inspect it again.

#7 The applicant shall provide details for parking space stripping, handicapped parking sign and stripping, they will provide that.

#8 The applicant has provided a fire truck turning template to the site plan and shall provide a copy to the fire official for his review. Mr. Hehl said that was submitted as part of the plan he assumes that it has been distributed but if there are any further comments or clarification required by the fire department they will work with them on them, he assumes it gets distributed to all the departments, we have not received any direction back from them.

Grading and Storm Water

#1 The applicant has revised the Site Plan to reflect the amount of non-impervious area and shows that there is no increase in impervious on the site. Landscaping and lighting, the applicant shall submit a lighting plan showing the isometric foot candle to show compliance with Borough standards, the applicant has added a lighting plan to the site plan however there are areas of the site that are .2 candles or less, additional light fixtures should be added and the applicant should provide testimony on the timing and security. Mr. Chaplin said what they are looking to do for lighting is for security purposes, the hours of operation are from 7AM to 6PM and there is nothing going on later at night so the lights that are there are generally for security purposes. There are very low levels of light in the storage areas and because it is not the type of commercial use or a place where there would be customers, they feel comfortable with the low level of lighting in that area. Mr. Hehl said there are also security cameras throughout the area, we feel that keeping it low, it is not a dealership where we want to have everything all lit up.

Mr. Chaplin said the miscellaneous comments say additional permits may include but not limited to Somerset Conservation District, building department and PSE&G and any approval that is required they will obtain if need be.

Mr. Cueto asked if the vehicle used to drop off the cars, does it stay overnight or is it just drop off and leave. Mr. Chaplin said it would stay overnight on occasion, it's not something that happens typically but in the rare event it comes at night it is possible that it would spend the night.

Mr. Picerno asked the Board if they had any questions based on Mr. Chaplin's review of Harbor Consultants report.

Mr. Hehl said in looking at Mr. O'Brien's overview, some of that will be addressed by our planner, a lot has already been addressed at the last hearing but certainly if Mr. O'Brien requires more information we will provide that.

Shamrock Enterprise Report

#1 The applicant should describe the application and the reasons for it. The applicant works with Tesla, Tesla ships their vehicles directly to customers so our applicant stores the vehicles temporarily and then ship them directly to the customers. It is basically a middle point for Tesla to come, drop off vehicles to get prepped and stored and then get delivered straight to the customer. Tesla prefers that you get your vehicle within a week so these vehicles are not staying on the property very long, it is usually a couple of days at most, sometimes up to a week. These cars are ready to be driven and there is no work being done to these cars, it's just cleaning them off, charging them and getting ready to get shipped to the customer directly and that is what the applicant is looking to do, they are looking to utilize this site to store the vehicles, prep them and deliver them to the customer. The customers do not come to the site, the car is delivered to them directly.

Mr. Cuppari asked if they come in on a car carrier....10 or 12 at a time....and do they get through that little area fine? Mr. Chaplin said yes they do....they have already been in operation per the previous approval, it's not really changing lot 9 in the sense of where the storage is, this fence is there today so the car carriers coming in are used to it, they back up and leave, that's what they have been doing. There are between zero and 15 trips per week, the vehicles can carry approximately 5 to 9 vehicles at a time and it has been working to this point and they are looking to expand it. Mr. Cuppari said for the most part the vehicles are going to be fenced in and Mr. Chaplin said yes.

#2 Nature of business, there are approximately 15 employees and the hours of operation are 7AM to 6PM, 5 or 6 days per week.

#3 With respect to the easement, there was a question regarding the width and we just clarified that it is adequate for the access. Mr. Chaplin said the easement is 25 ft. wide and he does not know exactly where the pinch point Mr. O'Brien is referring to is but it has been operational since... Mr. O'Brien pointed to the plan and said 25 ft. for the easement ends here at the property line and now you lose 12 ft. to lot 802 so he measured about 14 ft., he could be wrong, and some of these tracks go over whatever this delineation is and it's not specified as to whether this is a curb, a separation, grass, gravel so it appears that when they get to the end of this easement that they either have to cross over this delineated area or they have to go through 802 to make that turn. Mr. Chaplin said what is happening today is that line is the limit of the easement so they are going to enter into lot 10 a little bit to get into lot 9. Mr. Hehl asked if there was anything on lot 10 that prohibits, as Kevin was saying, going over that line because he know we don't go on to lot 8.02. Mr. Chaplin said we don't go on to lot 8.02 and there is no curbing or any obstruction that would prevent the vehicle from entering into lot 9 at that point. Mr. O'Brien asked if that non building area is open? He said that was not delineated so that is why he questioned that.

#4 Shows the fire truck route to go south of the easement where lots 9 and 10 meet, what is there on the ground and would it constrain the fire trucks access. Mr. Hehl said that easement area is graded. Mr. O'Briens report states he does not see gates from the easement leading to the car storage area or any proposed, there does not seem to be fencing or a gate in the open

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area between lots 9 & 10, there is a fence to the south lot 9 that runs south to north about 1/3 across the lot and is that the only fence gate, if so that seems to leave a large number of cars outside the fence, the applicant should clarify. Mr. O'Brien pointed to a fenced area with a gate and he does not see another fence between the easement and the open area.....is there a gate to get into lot 9....is there something preventing coming in from lot 11, there is a notation of a fence for a little way but because of the lot line, I can't follow it. Mr. O'Brien asked if this was open and accessible to anyone or is it secured. Mr. Chaplin said this area that Mr. O'Brien pointed before which is the right on the edge of lot 11 and lot 9 that is fenced however the remaining area, there is no gate or fence proposed. The only restricted area or enclosed area is that existing fence and gate which has access to the rear of the property in the lower southeast corner of lot 9, so the cars that would be stored here would be open and not have fencing associated with it and that is the risk the applicant is willing to take and most likely this area will be utilized the least and probably only during the day if needed and used as an overflow area at most. Mr. O'Brien said the plans were not clear, there were a lot of lines that were not marked so he wanted to see what it was so the Board would have a better idea, there is no fence and they are saying one is not necessary and that is fine, he just wanted to confirm what he thought he saw.

#5 Applicant has confirmed there is no access out to Mark Road.

#6 Already clarified, the number of employee spaces and is clarified on the plan. Mr. O'Brien said he only has 93 spaces which is different from the 2 that are listed, but 93 is the operative number....Mr. Chaplin said yes.

#7 Lot 1.01 has never been used for parking, this is a clothing warehouse that doesn't use too much of the parking it has, they have been out there and the area in the back they have never seen cars parked there, most of the parking occurs in the front of the site. The area that we are utilizing has never been used for parking on that site and the owner has not come to us with any questions or concerns about us utilizing that area. There are approximately 15 employees onsite at one time and we are providing 33 parking spaces for lots 10 & 9 so that is more than enough for what we anticipate.

#8 The concrete block is 2 ft. high, 5 ft. long and 2 ft. wide and the delineator posts will be 3 ft. high and they are flexible so the cars can drive over them without impacting the vehicles, they glow at night and they would be provided every 10 vehicles. Mr. O'Brien asked if these were the posts that you would find in a downtown area to cut off parking so that people could not park on corners? Mr. Chaplin said no, those are weighted and put on the groundours are put into the ground and are flexible, they are really towards this type of use where they won't get moved around and are very visible. Mr. O'Brien asked if the 3 ft. high posts high enough to be seen beyond the car? Mr. Chaplin said they are going to be put along the parking isle so if you are walking you would be able to see them at the end. Mr. O'Brien asked if they also guide the people driving the cars into spots? Mr. Chaplin said it could be used for that but that was not the intent because they don't necessarily need that but it certainly doesn't hurt. Mr. O'Brien said if you don't have a delineator then how do you keep your cars in nice straight lines as shown in the site plan. Mr. Chaplin said they are going to go off this plan to figure out how many cars they can put and the put numbers associated with the row, these delineators are shown for every 10 ft. , it will help but whether they need that to drive the cars in....it should just work out as to how the cars are spaced out....he said we can make them higher if that is what the Board would prefer. Mr. O'Brien said he thinks they are going to be used in 2 ways, people approaching the isles are going to use them to maneuver a vehicle and line it up and as they pull forward if there are other cars in front of them they are not going see these posts and

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because you have some fairly tight isles next to each other he can see somebody going up the middle and running one over because the car in front is blocking...3 ft. is below the level of the average which can be up to 4 ½ to 5 ft. tall. Mr. Hehl asked if 4 ft. would be acceptable....Mr. O'Brien said you know this operation better than I do.....Mr. Chaplin said he will take a look at it and speak to the applicant. Mr. Picerno asked what about an additional marker on top of the block wall with a metal sign that is into the concrete posts that comes up to sat isle #1, #2...etc. and then it delineates the rows. Mr. O'Brien said he thinks they need more visibility to maintain the lanes because they will be very tight next to each other, maybe something higher just to identify where the block is or another foot or two on the posts? Mr. Chaplin said that 4 ft. would be a good height and they would be willing to do that. Mr. O'Brien asked if that would include the corner marker as well? Mr. Chaplin said the corner markers are two feet high, those are more of an obstruction to prevent cars from being parked outside of it in order to keep that a fire lane so he does not think they need to be higher. Those markers are 5 ft. long, 2 ft. high and 2 ft. wide. Mr. Picerno asked what happens in a snow storm when you can't see the marker at 2 ft.? Mr. Chaplin said during a snow storm the applicant will have to plow and create an area.

Mr. Picerno said just to be clear we are not trying to recreate the operation of the business to say...this is how it has to look in the car lot...what we are trying to make sure of is that the amount of vehicles that you are stating are going in these designated spots and that is why we are so concerned about the markers because it has to be easy enough for anyone to go down there and take a look and make sure you are following what the application says. Mr. Chaplin said that is the intent and that is why we went back to the drawing board and talked to the applicant about how these cars are stacked, we have put these delineators in to make it easier to see exactly how many cars are there. We will have plow and we will have to make sure the delineators are visible, we feel confident that we can show the storage as shown on the site plan, that was the purpose of revising the site plan.

Mr. O'Brien said he thinks the Chairman had an idea, particularly now that the lots are no longer 5 ft. high, we may have a fire truck go in there, that would be extra ordinary circumstances because they don't want to get close to fire with a very expensive equipment if they don't have to but if you have blocks covered with snow or can't be seen because of the row of cars then adding these posts to where the blocks are would be very helpful.

Mr. Grimaldi said you have the delineators only at the perimeters when you have the triple parking spots do you think there is a need in there to just guide it for an enforcement standpoint so the zoning officer would be able to know how many rows? Mr. Chaplin said the thought was the fact that these are just straight rows where they are pretty much in line and you can just double it if you know that it is triple stacked, you wouldn't need another delineator in the middle, you can clearly see that they are all aligned.

Mr. Jones asked if the concrete blocks are fixed? Mr. Chaplin said they are not fixed. Mr. Jones asked if it is the intent of the applicant to move them as need be? Mr. Chaplin said no he thinks it is just not necessarily needed for the use that we are doing here. Mr. Picerno said they are weighted blocks like a jersey barrier that can define an area, a lane or a space. Mr. Hehl said if the Board approves this application we would have no problem stipulating that, despite the fact that they are movable that's where they have to stay per the site plan.

#9 Mr. O'Brien asked how will the cars be placed in long rows and Mr. Chaplin said they fill in the rows by the fence first and then the others later.

#10 Mr. Hehl said that was clarified at the outset of the hearing.

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#11 Mr. Chaplin said the rectangular area between lots 9 and 1.01 is a cross access easement that allows vehicles to enter in and out between lots 9 and 1.01.

#12 & 13 Mr. Hehl said the lighting was previously discussed in the engineers comments. We clarified that the park is a dawn to dusk park and he asked Mr. Chaplin to elaborate. Mr. Chaplin said we are proposing flood lights, normally for other uses of commercial or residential you would not do a flood light but given the fact that this is in an industrial area, we are using it for security lighting purposes and we don't think there will be a negative impact to the adjacent areas, the park is dusk to dawn and no one will be out there at night. There have been no complaints to date about the lighting on site and it is more typical for this type of use. They feel comfortable with the type of lighting as well as the foot candles that we have shown on the plan which are minimal at most and contained to the parking areas. Mr. O'Brien said he would like the Board to consider that, the park is quite dark and there are people there at night, it's a public park and assessable to all, people walk their dogs and you can see from the photos that he included, an unshielded light source even though it is not casting shadows is a glare that you can see. He said if you are walking through the park you are going to see the big flood lights pointing out toward you whereas if you use something such as in the first or second photo where you cannot see the light source, the light source is pointing down and that will have no impact on the people in the park. Mr. O'Brien said although he agrees with Mr. Chaplin on flood lights in industrial areas but parks are different. He said a cut off where the light is recessed up into the fixture so it only shines down or flood lights with shields that would point the light downward would work in order to eliminate that glare. Mr. Picerno said Mr. Chaplin that Mr. O'Brien has brought up a good point and he asked if he was opposed to that type of lighting to wash that building and not being so intense to the people in the park. Mr. Chaplin said it would be challenging because when you do the down lite you are not able to provide the lights far out as a flood light can so the lot area in the back.....its not like we have room or we don't want to start putting light poles. Mr. Picerno asked if there was a compromise that maybe we could do a couple in the area that are in the direction of a portion of the park? Mr. Hehl said they can work with Kevin on the lights that are visible from the park and they can be adjusted.

#14 Mr. Chaplin said the chart is correct in that the building coverage is just the square footage of the building divided by the lot area, impervious coverage includes the building plus the impervious areas but not the gravel area. The missing 5.3 is not really part of it because there are two different equations. Mr. O'Brien said so basically you are saying there is 100% coverage on the lot with zero green space.

Mr. Grimaldi said that nothing is going on lot 3, lot 101 except parking. He asked if the cars were fully charged and Mr. Chaplin said some are fully charged and some are not and there may be some outdoor charging stations but not on the back lot. There is no charging on 101 but there is on lot 9&10.

Mr. Rago said to Kevin...on page 7 you have a zoning chart and the minimum front yard requires 10 ft. and existing `15.3 ft. but you have an asterisk indicating that it is non-conforming. Mr. O'Brien said he believes that is a pre-existing non-conforming from the prior application.

Planner

Cheryl Bergailo was sworn in by Mr. Rago.

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Ms. Bergailo has been a licensed professional planner since 1997 and has a bachelor's degree in environmental planning from Rutgers and a Master's Degree in urban planning from Rutgers and the bulk of her work has been as a municipal planning consultant. She does applicant testimony on the side.

Ms. Bergailo said she is here to submit the variance proofs for the lot layout including the building and the lot characteristics like frontage. The use permitted in the industrial zone. The variances that are required are neither created nor changed by our application so we are just talking about the existing nature of the building and the location and the layout. She said it is her understanding for lot 9 that the variances were already approved as part of that minor site plan. She focused on lot 10 and 1.01 Lot 9 is the one in the middle and lot 10 is on Springfield Avenue and 101 is on Mark Road & Michigan Ave. Minimum lot frontage, the only lot that is deficient in lot fringe is lot 9 and that was already approved. Minimum side yard, lot 10 has an existing building that has a zero foot side yard on the southern property line and the eastern property line. Lot 10 has a side yard deficiency in the southeastern corner, it is less than 10 ft. ...it looks around 4 ft. The other variance is for maximum impervious coverage, 80% permitted and we settled on 94.7% impervious....100%, when the gravel is included its 100% impervious. Minimum open space 20% required and 0% is existing and proposed. Ms. Bergailo said she can provide testimony on the number of parking spaces, most of that testimony was already provided by the engineer but she can add it to her testimony for the record. All of the variances can be granted under the C1 & C2 criteria. The C1 variance is the undue hardship variance, the undue hardship related to these lots is the fact that there is existing buildings on the lots, the lots are already created, the area has not changed much since the 50's, the buildings are all pretty old. She looked at aerial photography and the building on lot 10 popped up between 1931 and 1954 and the building on 1.01 popped up between 1954 and 1966 so these are not new buildings. It would be a hardship for the owners to tear them down and to rebuild in accordance with the zoning requirements and would also be an undue hardship for them to rip up asphalt that has been existing for a long period of time in order to provide open space. The lots function well as they are currently laid out in the existing and proposed conditions. Under the C-2 criteria which is the flexible C variance, which could be granted when the application promotes 1 or more purposes of planning and is not a substantial detriment to the public good and also is not an impairment to the zone planners own scheme(?). Under the C2 criteria the current and proposed lots fulfill several purposes of zone and goals of the Master Plan. The current layout provides more usable space then a compliant would provide. This area is isolated, you have the park on the southern side and you have other industrial users to the north so a lot of these uses cannot be seen from the road because there is a thick vegetative buffer from the park, you can't see in from Mark Road or from any of the other surrounding roads, it is concealed. The purposes of zoning that are advanced by the current layout and project criteria gene to provide sufficient space in appropriate locations for a variety of agricultural, residential and recreational, commercial and industrial uses in open space both public and private according to their respective environmental requirements in order to meet the needs of all New Jersey citizens. Criteria M to encourage coordination of the various public and private procedures and activities, shaping land development with a view of lessening the costs of such development and to the more efficient use of land and the efficient use of land goes to the hardship criteria efficient reuse of buildings, efficient reuse of existing asphalt and the existing configuration of the lots. Criteria A to encourage municipal action to guide the appropriate use or development of all lands in the State which will promote the public health, safety, morals and general welfare. Because the general welfare is promoted, there is no substantial detriment to the public good. In terms of consistency with your current Master Plan, none of these goals ever really precisely fit a project but the industrial goals that are applicable 1) to expand the allowed uses in the Industrial Zone to permit more economic activity and generate employment opportunities so that

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is more of a recognition of permitting layouts and uses that might not be specifically permitted in the design standards or bulk standards. The goal for the industrial uses promotes the growth of industrial uses by taking advantage of area transportation infrastructure. There are also commercial goals that are forwarded by this application, retain existing commercial establishments by fostering positive regulatory climate and by approving uses that may or may not be unique to the community, encourage the development of the Borough's economic base by expanding the number of permitted uses to germinate employment growth, increase property values and promote the improvement of underutilized properties, so full utilization of a property is generally a favorable economic development aspect. Encourage energy efficient and renewable energy technologies as part of any new development, the electric vehicles are not permanent fixtures but this is a promotion of technology and encouraging it in the State of New Jersey. There is no impairment to the zone plan and zone ordinance because numerous goals of the Master Plan are further and there is no impairment to the zoning plan in this particular area. The variances can be granted under the C1 and/or the C2 criteria without substantial impairment to the zone plan and ordinance and without substantial detriment to the public good. The benefits of the deviation substantially outweigh any detriment. As far as the parking, the testimony that you have heard is that the parking is what it needs to be the number of parking spaces allows for full utilization of the properties by allowing a complimentary use the storage of electric vehicles.

Kevin O'Brien said the application in front of you is for preliminary and final major site plan, there are pre-existing nonconformities in terms of frontage set-back and open space, however these are pre-existing. This is an allowed use, the storage of vehicles and the only variance that is questions is for the parking of vehicles and the applicant has pointed out how much parking is required by the various uses on site and told us how many vehicles are going to be stored and while it does not come up to the ordinance requirements, this is why a variance is required, they have pointed out that those additional spaces are now needed based upon the uses that have been here historically. The question in front of you is whether or not the parking variance can be granted. Mr. Rago has noted and the Board has heard a number of conditions discussed this evening through the testimony that the Board may wish to consider as they discuss this application.

Mr. Grimaldi said you are leaving the lighting to work out with our professionals and looking at the aerial again there looks like there are a number of existing perimeter light poles that may be able to be used so even if it ends up being flood, you could flood back into the site without much wash back onto the park. He asked Mr. Rago is we can put a statement about cleaning up the perimeter edge of the fencing area? Mr. Rago said yes as long as it is on the applicants property, the Board can recommend the property be maintained. Mr. Hehl said there are not objections to that.

Christian said the engineer addressed all of his comments and anything that wasn't addressed will be addressed in future resolution compliance submission.

Mr. Schielke said his only concern....the testimony was very good tonight compared to last month....if this is granted, he would want a condition that says only Tesla vehicles that are stored there....he does not want this to turn into a used car lot if L&R leaves ...we only want Tesla.

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Mr. Rago stated the conditions and said we clarified the number of parking spaces for storage on each of the 3 lots, lot 101 is 200, lot 9 is 125 and lot 10 is 29. For employee parking respectively 60, 11 and 22. We have any loading and unloading of vehicles and detailing will only be on lot 9 and 10 and not on the street. Pavement needs to be repaired where it needs to be repaired and that would be shown on a plan detail. No access from Mark Road, no outdoor car charging on lot 101, maintain the property especially around the fences area. Only Tesla electric vehicles are to be stored here, no retail sales on site. The applicant will work with our consultants regarding the possibility of light shielding on the direct line to the park to try and minimize the light spillage directly on the park either through shielding or recessing the source of the light and maybe using some of the existing poles. Mr. O'Brien added maybe overall revise the lighting plan. The blocks will remain on the site per the site plan, the flags/posts will be a minimum of 4 ft. in height and posts will be put next to the blocks to show the location. The normal conditions in terms of paying taxes and getting any other approvals that they need.

Mr. O'Brien's conditions are parking on 101 not to be used by L&R employees. A car carrier can be parked overnight.

Mr. Picerno asked Mr. Chaplin to restate the hours of operation. Mr. Chaplin said the hours of operation are 7AM to 6PM Monday thru Saturday.

Meeting Opened to the Public on Application #364, 5-21

Motion was made by Grimaldi, seconded by Schielke to open the meeting to the public.

No one wished to speak.

Motion made by Mr. Grimaldi, seconded by Mr. Cuppari to close the meeting to the public. All in favor.

Motion was made by Mr. Grimaldi, seconded by Mr. Schielke to approve Application #364 & #5-21 with the conditions stated by Mr. Rago. Roll Call: Mr. Schielke voted yes, Mr. Picerno voted yes, Mr. Cuppari voted yes, Mr. Grimaldi voted yes, Mr. Calello voted yes and Mr. Jones voted yes.

COMMENTS FOR THE GOOD OF THE BOARD

Mr. Picerno said this Board is fantastic and he loves working with the Board and he can't wait for 2019. He wished everyone a Happy and Healthy New Year.

Meeting Opened to the Public

Motion was made by Schielke, seconded by Cuppari to open the meeting to the public.

No one wished to speak.

Motion made by Mr. Schielke, seconded by Mr. Grimaldi to close the meeting to the public. All in favor.

Adjournment

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Motion to adjourn was made by Mr. Schielke, seconded by Mr. Grimaldi. All in favor.

Respectfully submitted by:
Kathleen Moschitta
Recording Secretary