

**BOROUGH OF FOLSOM
PLANNING/ZONING
BOARD OF ADJUSTMENTS
MINUTES**

October 15, 2014

The meeting was called to order at 7:25 PM.

SALUTE TO THE FLAG

CERTIFICATION: Adequate notice of this meeting has been given in accordance with the Open Public Meeting Act pursuant to Public Law 1975, Chapter 231. Said notice has been advertised in The Hammonton Gazette and Atlantic City Press and is posted on the bulletin board showing the time and place for the meeting.

OATHS OF OFFICE: Appointment for Board member as follows:

1 Year Term – 12/31/2014
Lou DeStefano

Members Present: Charles Pitale, Glenn Smith, Joel Speigle, Joe Pino, John LaPollo, Ron Esposito, Greg Schenker, and Lou DeStefano.

Absent: Byron Gummoe

Others Present: Solicitor: Jorge F. Coombs, Esq.
Engineer: Vince Polistina, PE PP
Secretary: Susan Carroll

APPROVAL OF MINUTES:

A motion was made by Glen Smith and seconded by Ron Esposito to approve the minutes of May 21, 2014. There was a roll call vote with ayes all and abstentions by Joe Pino, John LaPollo, and Lou Destefano.

RESOLUTION:

04-2014 - Collings Lakes Food Market, 10 E. Black Horse Pike, Folsom, New Jersey 08037 for a Conditional Use for a 518 square foot portion of the 3,596 square foot retail facility from dry cleaners to a package goods retail sales store for the sale of packaged liquor and seating area.

Mr. Pitale asked for a Motion to grant the Resolution. Mr. Schenker asked for clarification. He thought the application was for a Change of Use. Mr. Coombs explained, it was changed to

conditional use and it was explained through the application process. It is a Conditional Use, but our Ordinance, as the Board Engineer stated, there are not a lot of Conditions to the Conditional Use. It operates almost as a Change of Use, but per code it is a Conditional Use. Mr. Spiegle added it means there are no request for Variances. Mr. Coombs continued there are no request for Variances although some Conditions were added in. Mr. Pitale asked for a Motion to grant the Resolution.

A motion to approve the Resolution granting the Application for Collins Lakes Food Market was made by Glen Smith and seconded by Greg Schenker. There was a roll call vote with ayes all and abstention by Joe Pino, John LaPollo, and Lou DeStefano.

APPLICATIONS:

Application # 02-ZB-14 – Joe Ruggeri, 1814 12th Street, Folsom, N. J. 08034 is seeking a Re-Subdivision and Use Variance for Block 2402 – Lots 1 & 5 located at 1030 Black Horse Pike, Folsom, N. J. 08037. The purpose of the re-subdivision is to separate the homestead from Forestry Management Project (vacant woodland) and to consolidate Lot 1 with the house. Currently, the driveway is located on a portion of Lot 1 with the dwelling on Lot 5. The re-subdivision will create a 3.2 acre lot for the home and driveway and a 15.35 acre lot of vacant woodland. The purpose of the Use Variance is to allow for the existing residence in the Commercial Zoning District.

Mr. Coombs swore in Mr. Ruggeri, 1814 12th Street, Folsom, New Jersey. Mr. Ruggeri explained he wanted to take land off of one lot and put it on the other lot so the home has an official frontage on the Black Horse Pike. There are no other things going on. Just changing the line around to create the 3.2 acres (for the house and driveway) the Pinelands required. The Zoning actually states it can be done on 2 acres but Pinelands required 3.2. Mr. Ruggeri mentioned he wanted to change the line since 1951. When the house was built there was a 60 foot strip of ground in front of the house. When the Black Horse Pike came through we got this little strip. Back then, when the house was built, there was no thought for Use Permits. The driveway just went from the Pike to the house. I wanted to take care of it now and I want to make sure I preserve the Forestry Management Project going on in the back of the homestead. The Frailinger Engineering Company do the survey. I went through Pinelands. I satisfied all of the things they needs. All I want to do is take land off of one lot and put it on the other lot so the home has an official frontage on the Black Horse Pike.

Mr. Spiegel questioned where the size came from. Mr. Polistina answered, 3.2 (acres) is the Pinelands required for a standard traditional septic system. Mr. Ruggeri stated he was given opportunity to delineate the wetlands on Lot 5 so he could certify the distance to the septic and deed restrict the whole piece of ground, but didn't want to do that. They required I certify the wetlands line and certify the distance to the septic and make sure it was over 300 ft. It would qualify to put a surface filtration system even though the house was existing. I own both lots. It's been in the family since 1940. The house sits a little over 200 ft. off of the Black Horse Pike. They also required I prove the remaining parcel of land on Lot 5 on the east side of the 3.2 acres would be a viable lot. They caused me to do a certified bore sampling which they came and inspected themselves. It is the circle between 11th Street and the east boundary line of the proposed subdivision line.

Mr. LaPollo asked Mr. Ruggeri by a certified lot if he means a buildable lot on Lot 5 where the bore sample was. Mr. Ruggeri answered yes, exactly and added if you drew a straight line back it would be enough. I didn't know this before this process, but now we are looking at 87,000 sq. ft. If you look at 200 wide and how deep it goes along 11th street, they were happy with that. I had to pick a bore spot that was beyond the 300 ft. distance of the wetlands delineation line.

Mr. Smith asked if Lot 5 would be deed restricted or if it can be built on. Mr. Ruggeri answered they wanted me to (deed restrict) because of the property I have along the river every now and then they come up with some reason to try to get me to deed restrict it. I didn't do it. I didn't want to give up my right even though I am planting trees.

Mr. Schenker pointed out he sees along 11th Street, the paper road, there is a 75 ft. setback even though it only needs to be 25 ft. Is there a reason for that? Mr. Ruggeri answered it is 75 ft. from the road. It is not a functioning road. It basically an entrance way for the Union next to it. These setbacks on Lot 5 is just to show it would be a viable lot. I'm not taking ground off and having a dead piece of ground. Mr. Schenker asked what the concrete pad and lids were for. Mr. Ruggeri answered, the one on the inside of the line was from his father who had a radio tower. Back then it was a CD radios. The tower is long since down but the concrete pad is still there. The septic is on the outside of the line. Mr. Schenker stated there are currently 3 lids. Mr. Ruggeri responded the ones outside (of the line are for the septic for the house. Mr. Schenker asked if there are 3 tanks for septic. Mr. Ruggeri answered yes and explained it dates back in 1951. Mr. Schenker questioned if they were for cess pools not septic systems. Mr. Ruggeri answered yes. Mr. Schenker explained if the property is ever going to be sold septic system will need to be put in there. There is no leach field right now. I don't see a leach field then I was going to ask you where the well is located. When you create a new buildable lot everything you see needs to be in order for planning for the future if your family goes to sell this they will be faced with putting a new septic system in to be able to resale the property according to the laws. Mr. Ruggeri commented there is also something the Pinelands is requiring. When I get an attorney to file the deed I need to put paragraph #5 needs to be put right on the deed.

Mr. LaPollo asked where on the print does the tree conservation start? Mr. Ruggeri answered one would be in the back and there is one in back of the homestead. Now the cedar is very high. It would be the northwest corner and went straight back. Part of it would be on Lot 5 and part would be on the other property.

Mr. LaPollo asked, if there is no conservation, cedar trees conservation in the back along 11th street. Mr. Ruggeri responded it is a future project. It will be straight in and across the 9 acre piece. Using the revised survey submitted as part of the Application he explained one of the future plans is to go into here because I actually own all the way to the river on this side of the 11th Street. This is a project here and we are also thinking about one for the property I own which is across the street from my driveway. Mr. Smith commented 4th Rd. & 12th Street.

Mr. Pitale asked if there were any other questions from the Board.

Mr. Schenker questioned if we were here to accept the application or if there will be a motion and a vote. Mr. Polistina responded it is going to be Minor Subdivision Approval and a Use Variance Approval for the existing home.

Mr. Pitale requested to hear the Engineers Report.

Mr. Polistina stated our report is dated October 8th. Mr. Ruggeri indicated it is a re subdivision of 2 existing lots. There are no new lots and there are no improvements proposed. The lot with the home will be 3.2 acres the balance of the property will be 15.35 acres. There are 4 items indicated under the completeness review which have not been provided. Item 17, the polaroid or photograph of the site. Item 18, contours to determine the drainage. Item 20, wooded areas including indicating predominance species & size. Item 21, location of the trees 6 inches or more in diameter. Since it is a re subdivision with no improvements proposed, we recommend you grant those checklist waivers and deem the application complete. In terms of the Zoning requirements Mr. Ruggeri initially applied for the Minor Subdivision. This is in the Borough's Forest/Commercial District. There is a view that we are here. The Borough went through the process with Pinelands for almost 10 years ago to try to spur commercial development along the Black Horse Pike. Part of it involved creating a Forest Commercial and having a Forest Commercial Receiving District, which Mr. Ruggeri is in and having a Forest Commercial Sending. The Sending is mostly environmentally protected lands. Some of the wetlands, Forest Commercial Receiving, are the areas the Borough would like to spur development. Since Mr. Ruggeri is in a Forest Commercial Receiving area we excluded single family dwelling from being an explicit permitted Use in that zone because it was all intended for Commercial Development. Because the existing home is going to remain now on a different lot a Use variance is required for this. These are the zoning issues. The applicant indicated he is going to follow up by deed and reference the deed. Notice must be placed. Pinelands is considering this. If the other lot is developed as a 2 lot subdivision. At that point subject to clustering standards as is the deed notice replaced for the balance of the lot 5. There are some tax map changes. The Borough request the applicant to reimburse the Borough for the tax map changes. The application is subject to any other approvals that are necessary for this to happen.

Mr. Pitale asked for a vote for completeness granting the waivers for Items 17, 18, 20, & 21.

Mr. Schenker asked the Engineer if the zones allow for single & multiple family dwellings. Mr. Polistina answered, the Forest Commercial Sending does. The Forest Commercial generally does. The FC-R (Forest Commercial Receiving) does not. Those are the areas you try to spur commercial development. Mr. Schenker asked, if the property with the frontage (15 acres vacant land on the Black Horse Pike) will be stopped for use as commercial or if it will be able to be used for commercial. Mr. Polistina answered, it will be able to be used as commercial. The 3.2 (acre lot) is going to be an existing non-conformity with the single family dwelling provided you grant it. You are definitely not limiting the commercial use. Mr. Ruggeri commented he was going to ask. Mr. Polistina stated, that is what is encouraged in the Forest Commercial Receiving.

Mr. Pitale asked if there were any other questions from the Board. There were no other questions.

Mr. Coombs stated, the Motion will be to deem with requested checklist waivers 17, 18, 20, & 21.

A Motion was made by Joe Pino and seconded by Glen Smith to grant the Checklist waivers and deem the Application complete. A roll call vote was taken with aye's all.

Mr. Pitale opened the Meeting to the public for comments. Hearing none the public portion of the meeting was closed.

Mr. Coombs stated a Motion for Minor Subdivision (on Lots 1 & 5), and Use Variance (for Lot 1) which has the existing single family dwelling was needed.

A Motion was made by Glen Smith and seconded by Joe Pino for a Minor Subdivision for Lot 1 & 5. A roll call vote was taken with aye's all.

A Motion was made by Ron Esposito and seconded by Joe Pino for a Use Variance on Lot 1. A roll call vote was taken with aye's all.

Mr. Ruggeri asked if he could go to the attorney now. Mr. Polistina advised the only thing left to do is the Resolution and Memorialize the Resolution. The application is perfected. Mr. Ruggeri asked when he can generate the deed? Mr. Polistina answered you can have it prepared. The Board is going to have to memorialize the Resolution, but yes if you want to get it prepared.

OTHER BUSINESS: FERRIS ASSOCIATES

Ferris Associates renewal of mining permit and bond amounts. Mr. Polistina stated, the Ferris Associates must be here to present their request for their 2 year extension of their mining permits. If they are not present, we cannot move forward with it. It was August 2012 where we granted the last 2 year extension. They are outside of it. They did post some Bonds. They have started some work which was required by the Borough under the Approval granted two years ago.

Mr. Coombs stated, we sent them a notice letter and there was a flurry of activity shortly after that. He asked Mr. LaPollo to let the Board know if anything was done. Mr. LaPollo stated, John Callahan is the contact who is going to take over where Ted left off for the mining of dirt. He has been out there and planted close to 300 or more new seedling trees. He put grass seed down and mulch fertilizer on the grass seed. He has cleaned the property up quite a bit and it actually looks pretty good. There is still some erosion work. He put the asphalt apron in like we required him to. He has been doing a pretty good job as far as clean-up is concerned. He got all of the trash out of there which we asked for. Mr. Smith asked if he secured it. Mr. LaPollo answered, as best as he can. You are not going to keep quads out. It's impossible.

Mr. DeStefano asked for history and stated the last time he sat on the Board they were shut down, closed up, locked up, and kicked out of town. He asked for a little history on how they were they re-instated? Mr. Polistina responded, they ceased operation around 2002. They had a legal operation until around 2002. Nothing happened from 2002 until 2011 when they came

back to the Borough. There was an issue that came up before the Board about the abandonment of that Use back at that time. We went through the hearing. Mr. Coombs was the attorney for the Board at the time. Mr. Coombs picked up the conversation of the history. They were represented by Mr. D'Arcy. They provided numerous proofs they were still in operation and still had employed individuals.

Mr. Pitale stated their permit had lapsed though. Mr. DeStefano stated, prior to that the permit lapsed and we had shut them down because they cut back into the area they were not allowed to cut back into. Mr. LaPollo stated, you shut them down probably back in 2008 or 2009. Mr. DeStefano answered yes. Mr. DeStefano stated, at some point they came back and re-applied and were given a permit. Mr. Coombs told him he was correct. Mr. Polistina added with a restoration plan. They were supposed to post 2 different Bonds and a restoration plan for the area they over cleared. They did do some plantings and they are doing additional plantings and a Performance Bond for what they were proposing. Mr. DeStefano asked what were the conditions? Mr. Polistina answered for the Conditions imposed on the Approval. Mr. LaPollo added, they haven't been allowed mining material out of there until the Conditions were met. Up until recently they hadn't met all of the Conditions. Mr. DeStefano asked about their exit and entry. Mr. Polistina answered it was designated as leaving and going out to (Rt.) 54 and not using Backline (Road), using 4th. There was supposed to be no trucks (inaudible). There was not supposed to be any traffic down Backline. Mr. DeStefano responded, they are going two way on 4th (Road). Mr. Polistina stated two way on 4th (Road); on 13th (Street). Mr. DeStefano asked, why? Mr. Smith answered, because they didn't want them going by the park. Years ago it was set up so they didn't want them going down 13th Street. That is why it was changed way back when. Mr. DeStefano asked what was the (inaudible) was before. Mr. Smith answered, they use to come down 13th Street. Now they are allowed to use 4th (Road). Mr. Polistina stated, they will get right to (Rt.) 54 State Highway the quickest route to get them to the State highway is going to be the best to limit the impact on Borough streets. Mr. DeStefano asked where do they (Ferris) stand now. Are they approved? Do they have a permit? What are we here for? Mr. Polistina explained they had a two year permit which was granted back in August 2012. Now they are outside of the window trying to commence construction business. They need to come back and get another 2 year extension of the permit. Mr. DeStefano asked if it is the same owner. Mr. Smith confirmed it is the same owner. Mr. LaPollo added it was a permit to mine the property, but under the conditions the property had to be brought up to par. Mr. Schenker thought they hadn't bring bond, but Mr. Smith stated they did (bring bond). Mr. Coombs explained they eventually did. Mr. Schenker stated it was difficult to get the bond money from them. They got it. Did they refill (inaudible)? That is what we are discussing right now. Mr. LaPollo stated they are not required to fill what they dug out. They are required to replant it and reseed and they have done that. Mr. Schenker added they exceeded the limits of where they were supposed to go and were not required to refill it with dirt. Mr. LaPollo answered not to my knowledge, no.

Mr. Coombs asked about the individual who is working the property now. Is he renting? Mr. LaPollo answered right now he is under the assumption he is going to get the permit and be able to pull dirt out of there. One of the Board Members asked if he hasn't done so yet. Mr. LaPollo answered he has not. Mr. Coombs stated he is not the owner. Mr. Smith stated he has a per load

contract with the owner. Mr. LaPollo stated so far all he has done is put the asphalt down, put an apron, and do the restoration work.

Mr. Coombs asked if the second owner is still part of the operation. The Board members agreed Linda Bloomfield is the owner. Mr. Polistina stated, she (Ms. Bloomfield) got a new Engineer who was supposed to prepare the plan and come back before the Borough, but I haven't gotten anything other than a phone conversation. Mr. Coombs stated he hasn't heard from their attorneys either. Mr. DeStefano clarified, the permit has expired. Mr. Polistina stated the 2 year extension that was granted in 2012. Mr. DeStefano clarified, they can't do anything now until they come back in and reapply. Mr. Polistina answered, correct. We will let them do the restoration, because they over cleared. Mr. Schenker asked if they pulled trucks out of there. He didn't think they were mining anything. Mr. LaPollo answered the only trucks that were pulled out of there were Tim Ellsworth. He stole 12-15 loads of in field mix from Mrs. Bloomfield. That was the son. Ted was the father. This was just last year. Mr. DeStefano clarified, now there is an asphalt pad and a bulldozer out front. Mr. LaPollo responded, right, that is the equipment he used to do the restoration work.

Mr. Schenker asked if there is any way when they start mining this property we can require them to maintain it in a fashion where there is... Mr. LaPollo interrupted, according to Mr. Callahan... Mr. Schenker continued, people get hurt back there I know (inaudible) we can't prevent it. That is not our job to prevent that, but when do go back there a lot of injuries have come because the pit is ever changing. Mr. LaPollo responded, according to Mr. Callahan the way he does business is as he mines he levels. Mr. Schenker asked, is there any way we can put that in wording to make sure it is the standard because we don't know he (Mr. Callahan) is always going to be the person mining it. She (Ms. Ellsworth) can replace him. I think we should make sure there is some of wording to require whoever is going to do the work. We can shut them down instantly. Mr. LaPollo answered the next permit can be Conditioned like that. Mr. Polistina responded, there are Bonds posted. If you get the language in the approval, and they don't meet it, there are Bonds in place.

Mr. Smith stated, there is a big difference for everybody to understand is Ted Ellsworth dug all of the sweet spots out for the infield mix, where Mr. Callahan will sell bulk fill dirt. He is not mining it for the infield mix. He is just selling bulk fill dirt. It will a much quicker. It probably won't last 2 years if they get a permit for 2 years because there is not that much material left. Mr. LaPollo responded he (Mr. Callahan) doesn't want anything to do with infield mix because he said it doesn't pay.

Mr. Esposito asked anybody knew why Mr. Callahan didn't show up tonight. Mr. Schenker stated he is not the one who needs to show up (come to the Board Meeting). Mr. Polistina stated, no he (Mr. Callahan) should be here as the operator as well when they (Ferris Associates) ask for the extension.

NEXT ORDER BUSINESS: MODIFICATIONS OF USES FOR THE RURAL DEVELOPMENT ZONE

Mr. Polistina stated there was a discussion because there were some concerns about the Collings Lakes Food Market somehow turning into a night club since the Borough Ordinance doesn't prohibit certain uses. There were some discussions about putting some Conditions on some of the Conditional Uses for bars and taverns in that District. This is a follow up of the discussions for the Approval of Collins Lakes (Food Market) if you so desire to preclude some Uses in the Zone. Conditional Use usually has Conditions on it. .

Mr. Schenker some of the places that used to be bars that may not be a bar today, but there were previous uses. Does that come into play for the zone and anything from (Rt.) 54 this way is pretty much RD Zone. You have to have 5.5 acres. I don't know there is a lot in there that is 5.5 acres. I can't tell you that for an exact fact, but I'm pretty sure because I was involved in the looking at auctioning off of some of our City owned properties. There were very few were developable lot and wouldn't sell. They were not contiguous enough to be able to put together a parcel big enough to develop anything without massive amounts of Variances.

You are taking somebody who may have had a bar at one time and still holds a license in good standing and come back to reopen the bar now they are not going to be able to use it? That was my problem with the original application. would any adjustments prevent them from being able to use it.

Mr. Polistina responded, if the Use wasn't abandon, the Use is pre-existing non-conforming use it can be used. Some of these areas you have Residential so close and as you heard, Collings Lakes. I at least thought there should be some Restrictions and some Conditions imposed on some of the kind of bar/tavern Uses so as not to impact some of the Residential areas. Right now in the Ordinance it is all hours of the night if it's a night club and you have Residential right behind it. If the Borough desires we can try to come up with something. I would put some Conditions on those Uses to try to restrict what they are able to do so as not to conflict as much as they could right now with the Residential areas.

Mr. Pitale asked, how close is to close. Mr. Polistina answered, a couple hundred feet, but it is up to you (Board Members). Mr. DeStefano asked if this is something being done after the fact for that particular place. If they were given their permit, and then you changed the Use. Does it apply to them? Mr. Coombs responded it is grandfathered. Mr. Polistina added it is grandfathered in if they are already approved. They agreed to what the Borough was looking for in conjunction with the Approvals. Mr. Schenker added they have already agreed not to stay past 10:00. They are required, but they don't even want to put the 3 bar stools in, but they are required to do it. They have to have it in order to maintain the license. The thing of it the have to display everything on the outside walls. The liquor license they have, any packaged goods sales they have, have to be on the outside walls.

Mr. Esposito stated, this discussion is for future situations and asked how would we go about it. Would somebody draft something? Mr. Polistina answered, we would draft something into the Conditional Uses a tavern or bar would be a Conditional Use subject to the following conditions.

You can do lighting, noise, hours of operation, whatever you want to do. Mr. Coombs added we could look at other municipalities for inspiration.

Mr. Schenker thought if it were a different type of license this is strictly a liquor store license, I don't think they would meet such an objection because it is a come and go type of thing, but because there are bar stools and a potential for a night club to develop down the road. A new owner might have different thoughts was there concern. He added, the people who were here complaining do not own that property. They rent that property. They received the mailing that went out from the Borough, but they weren't the owner of the property to be here to have any credit.

Mr. Esposito questioned if this can be planned for the future. Mr. Schenker stated for the future we should have the Engineer do a study or come back next meeting with a suggested distance or maybe there are some other towns that have similar buffers zones around there. It is a funny place. The Black Horse Pike should be a Commercial Zone. We want commercial development on the Black Horse Pike. We don't want to deter it, but at the same time there are some residential homes would be affected by certain types of businesses.

Mr. LaPollo added once you change the Use of a business, then Use is gone from the business, the property all together. Is that correct? Mr. Polistina answered, in the future if they have a legal, pre-existing, non-conforming Use they are entitled to continue it. Mr. LaPollo asked if a property changes to a clothing store in the future, can they ever go back to being a bar without coming before the Board. Mr. Coombs answered, as is written currently and as long as they don't develop, and bump out the structure, or the actual lot, the answer is if it all the same mode, yes. Mr. Polistina added, they would have to come before the Board and get the Conditional Use permit, but it would be a by right Use if you don't change it. They could come back and do it but, they would need that permit again. Mr. Coombs added, the package goods Use is more in line with the Code than the dry cleaner. Mr. Esposito asked then the dry cleaner? The Board Members conversed, the dry cleaner was there. It is not going to be there anymore. It was a non-permitted use. It wasn't really a dry cleaner. It was a depot. Like a mail office. They didn't actually do the dry cleaning on the premises.

Mr. Pitale suggested looking into it. Mr. Polistina said we will look into that and present something back. Work with Mr. Coombs and get something back to you for your review. I'm not trying to discourage commercial development. I'm trying to put some appropriate restrictions in the area where there should be.

Mr. Schenker mentioned something in the past was looked into along the Pike was self-storage use and things like that. It was brought back that it was not an allowable use. It is lowest impact that could happen in those areas. There is very little lending of bathrooms, an office, a very small septic system. It was not a permitted Use even for the Forest Commercial Zone it wasn't permitted. He suggested to include it when restructuring the Uses for the zone along the Black Horse Pike because it is an ideal Use for a site on the Black Horse Pike to create some revenues as far as tax dollars are concerned and with a low impact on environment as long as all of the setbacks are met.

Mr. Polistina stated it should be an easy change as long as Pinelands doesn't have some objections to self-storage facilities, but they shouldn't.

OTHER BUSINESS: OWNERSHIP OF BLOCK 801 – LOT 2 – 1337 MAYS LANDING RD. THE FORMER SITE OF THE FOLSOM ELEMENTARY SCHOOL NEXT TO ST. JAMES CHURCH.

Mr. DeStefano stated he was approached by Larry Petrone on behalf of the St. James Church. They need to put an addition on the side of the building (church) to enable them to bring caskets in and out easily. I am only going by what was told by him, that apparently, I don't know if it was this Board or a previous Board, but at some point they were told the property (next to them) was Borough property and not their property. He asked for clarification if the property belongs to St. James or if it is the Boroughs. From what I was able to look at, I was unable to make the determination myself.

Mr. Polistina stated we had Susan put together a lot of information on this and we did look at it. There were some applications before Planning Board from the church. All of the information we have looked at indicates the church owns the property. We are not quite sure how on the tax map it is still being referenced as owned by the School Board subject to the attorney's review of the deeds. There was condition of approvals before the Board for we suggested those lots be consolidated. I'm pretty confident it is the church's property. Somehow on the tax map it is incorrectly referenced as school property, but hopefully it is a simple change to make and reflect the actual owner of it.

Mr. DeStefano questioned if at this point they (St. James) could follow through with their Application. Mr. Polistina answered, he thought it is appropriate. We actually heard other applications for them. The solicitor will have to take a look at it. Mr. Coombs stated we have a prior application regarding the change they had.

Mr. Schenker had some documents in front of him and needed to ask some questions and get some clarification because the issue is very confusing. Mr. Schenker explained he had 5 deeds and the measurements on the deeds aren't the size of the lot they are saying belongs to them. One goes from Mays Landing Road 125 ft. back. The lot on the document I have is 170 ft. back. Then it goes in another direction 49 ft., but then it also shows it went from Buena to the school (Folsom school), and from the school to St. Lutheran's Church. I'm not disagreeing. They definitely own some of the land, but do they own all of it. That is my question. With the measurements in the recorded deeds I see in front of me. I see South 70 degrees, 26 minutes. 170 feet along the southern side of the tax map Lot 25 – Block 7. A question arose if it was measuring up with the centerline of the road or the property corner. Another answered it looked like the property corner. Mr. Schenker continued he saw the 170 ft. and commented it was okay, but on another deed I see the measurement was from the center line of Mays Landing Road /Blue Anchor Rd. (49 feet wide) also known as County Route 561, south. It goes down the lot – the line along the park and then it goes 49 ft. along the northeast line of the lots 25 and 6A. He assumed 6A was the old Lot number. He was confused how it continues down 170 or so feet which is the total of the lot, but then it continues on the same Lot 25. He stated he didn't read deeds for a living, but that is why he wanted to know if he had all of the deeds in front of him.

Mr. Coombs swore in Mr. Lawrence Petrone, the Facilities Director for St. James Church. Mr. Petrone stated he had a copy from Liberty Title Agency dated March 31st, 2009. Mr. Coombs asked to take a look at it. Mr. Petrone advised there is a copy of the deeds. Mr. Polistina stated they did a quit claim deed to give up their interest in the property to St. James. Mr. Smith stated the school was Buena Borough not Folsom School. Mr. Polistina stated it seems like they did a quit claim deed to give up their interest in the property to St. James. All of the deeds are all over the place, but it seemed like Buena who had some interest at the time was trying to, without doing a description, give their interest in the property to St. James.

Mr. LaPollo stated the lot is actually the park. Mr. Coombs questioned if the only portion disputed is lot 2. Mr. Petrone answered Lot 2 and Lot 5. He asked the Board members if they received a letter from the Pinelands Commission dated March 4th, 2014. Mr. Coombs replied he didn't have the letter in front of him. Mr. Petrone requested to address the letter line by line because all of the items in the letter were asked for response by the Borough of Folsom and to date nothing has been sent to the Pinelands from the Borough of Folsom. This has been going on since 2009. There has been multiple letters sent by the Borough Engineer with different square footages changed every time the letter was sent. I don't understand how somebody can get that wrong 6 times. Every time St. James has to go back bills are sent to the church for the Engineer to review it. The attorney at the time stopped sending bills because he felt bad this was being carried on the way it was. Unfortunately I can't come in the office and write a letter on the Borough of Folsom's letterhead and send it to Pinelands to answer and address these questions. It has to be done in the Borough of Folsom, but the church has satisfied everything the Pinelands has asked of them. In this whole Lot issue, by the previous mayor, he told me the Borough owns the property and the church spent the money to have a Title Company prove the town doesn't own the property. All of this nonsense has been going on since then and it's not necessary.

Discussion ensued about the taxes and maintenance of the lot ensued between Mr. Schenker and Mr. Petrone. Mr. Schenker explained in case in the future this issue comes up any one listening to the recording (of this meeting) will know we thought about everything and discussed everything. He asked Mr. Petrone to allow our due diligence.

Mr. Petrone read from the Pinelands letter dated March 4, 2014, it says "The narthex addition square footage varies (240, 313, 422, and 440) throughout the Certificate of Appropriateness". Mr. Polistina stated it is your (Mr. Petrone's) addition. Mr. Petrone continued, but these letters sent were sent from this office here. Mr. Polistina stated this was your Pinelands Application, your application to the Pinelands. Mr. Petrone stated the Certificate of Appropriateness is sent from the Borough of Folsom. The church does not submit that. Mr. Polistina advised, that (the Certificate of Filing) came from the Borough of Folsom not the Borough Engineer. Mr. Petrone stated, you (Mr. Polistina) billed for the Certificate of Appropriateness in your billing. Mr. Polistina stated he billed for the Application before the Borough of Folsom Planning and Zoning Board. Mr. Petrone added, and prepared a Certificate of Appropriateness. Mr. Polistina simply stated okay.

Mr. DeStefano stated, we are not going to get anywhere with finger pointing and accusations. The purpose is to determine who owns the lot and if the church can put addition on it. I think we should stick to that right now.

Mr. Petrone continued, the addition will be 302 ½ sq. ft. to be exact. Mr. Polistina explained to Mr. Petrone he need to address the Pinelands Commissions. Mr. Petrone stated the Pinelands is not asking for us (St. James) to address the letter. The Pinelands is asking for the Borough to address the letter. The Pinelands is asking for the Certificate of Appropriateness to be corrected. We (St. James) do not do the Ceretificate of Appropriateness the town does it. Mr. Polistina stated okay. Mr. Petrone questioned, I do Certificate of Appropriatness? Mr. Polistina repeated I said okay. Mr. Petrone added, okay thank you. Mr. Polistina added, your welcome. The question arose as to what is needed to move forward. Mr. Coombs stated he would look into it.

Mr. Schenker referred to the deeds for Block 7 – P. O., which means part of Lot 6. It means it is not the entirety of the lot. If the city wants to give the property to the church, I have no objection to this. It's got to be done properly this time. If it wasn't done properly in the past, it needs to be done properly. Mr. DeStefano stated the city is going to give it to the church. The point is to determine who owns it (the property B 801 – L2). Mr. Schenker stated we need clarity so everybody is clear. Mr. Smith asked what is the newest dated deed we have? Mr. Schenker responded the deed he had was dated 1989. It is dated October 17th and recorded December 4th, of 1989. We have one also recorded October 10th, of 1989. Mr. Smith stated there are so many conflicting, but what is the last we should go by. One of the Board Members stated 1989. Another stated if he (Mr. Petrone) has research from the Title Company, then the Title Company information should have all the history. Mr. Schenker added there is a possibility of newer ones. Here is the original one back from... Mr. Coombs interrupted, what ends up happening is whenever there is a quit claim happen, people aren't usually credible. If a problem occurred during an arms-length transfer, for more than nominal consideration, you go back to the Title Company and try to bear title using policy. That would be good for anyone concerned. Mr. Schenker stated then we can just try to (inaudible) the Title Company (inaudible). Mr. Coombs stated right, but let's see where the problem is first. Mr. Schenker stated this is a site plan done by Warren Knott & Associates in 2001. It doesn't show Lot 6, but it shows a Lot 2. It would be a Council issue to decide if the Borough should deed a property.

Mr. Esposito felt the issue was not appropriate for this Board. Mr. Coombs mentioned the issue may not be appropriate for this Board at this time. It may be at some other time. Mr. Esposito stated we are deed readers.

Discussion ensued between the Board Members and Mr. Petrone. Mr. Coombs gave Mr. Petrone his phone number to assist him with talking to Mr. Fitzgerald (the previous Planning Board Solicitor) in clearing this up. Then we can hear your application again with as many pieces as possible with information on these lots. Discussion continued between the Board Members and Mr. Petrone.

Mr. Smith asked what the property had to do with the addition. He asked if the addition will be on the property. Mr. Petrone answered the addition will be up against the line. Mr. Smith then asked if this would need a variance if it is not your property. Mr. Petrone answered right. Mr.

Smith continued if this is the Borough wouldn't you just need a variance issue from the Planning Board. If you are not going to be on the property, it becomes a variance issue. It wouldn't matter who owns it. We could give the variance to move forward with building the 300 sq. ft. addition and can work on ownership of the lot. Mr. Coombs stated it was a good point. Mr. Pitale added it would be nice to clarify. Mr. Coombs remarked it would be nice to have an answer. We don't have an application (for a variance) now, but he may have one next month. Mr. Petrone questioned if there would need to be another application for the property. Discussion ensued among the Board Members. They (St. James) already paid for an application and it was approved in 2009, but there was an issue with the Certificate of Appropriateness, and there was an issue with the variance, and there is an issue with ownership of the lot. Mr. Smith added if they owned it (the lot), they don't have to get a variance. Mr. Polistina stated it is not necessarily depending on the area there are issues with Pinelands with the septic system. A certain amount of area is needed for septic based on the number of seats they have. There could be a nitrate dilution issue. It is easy at the Borough level, but when it gets to Pinelands it is not an easy process. There was a 0 (zero) foot side yard setback variance granted in 2009, but the Pinelands is holding it up because of the verbiage in the letter. Mr. Coombs told Mr. Petrone he would do his best to get to the bottom of the issue and asked him to call him a week from today.

OTHER BUSINESS: ACER LETTER ON BEHALF OF AT&T FOR MODIFICATION OF A WIRELESS TELECOMMUNICATIONS FACILITY.

Mr. Smith questioned the Acer Letter. He remembered 5 years ago this Board agreed it would never be anymore additional work or additions to the tower. Mr. Schenker responded he had the Ordinance from 2003 in reference to it. It is 20 pages long and I briefly read it. Part of it is to require the use of existing towers and other structures as support platforms for local communications facility to the extent consistent with purpose and other goals of the Ordinance. Then it goes on to say, existing local communications facilities shall not be required to conform to provisions contained here in until such time as they are to be altered per installation of additional facilities. They (T-Mobile) are going to upgrade per the letter and possibly add more. Mr. Smith responded if you keep reading the letter it tells you it must be an engineered structural port on the water tower if they are adding anything else to it because when Jack sat here, there was a big concern about the weight and the load and everything on the tank with the wind load. We had an Engineers report then. Mr. Schenker suggested we have a review of this and come back to us with a determination of how this letter affects the Township. Mr. LaPollo questioned whether if it is required to get the Engineers report to do maintenance and upgrade on the antennae. Mr. Schenker stated there is all kinds of language in here (Acer letter) the professionals should look at it and come back and tell us what they are looking to do and how this Ordinance we passed allows or disallows what they want to do. Part of the reasoning for the Ordinance was there is a lot of money generated by these towers. The Borough has plenty of open land here in Folsom. The providers who want to put a cell tower up could put it on Borough property instead of private land owners. Discussion ensued among the Board Members. One of the things was the trend was they wanted to use water towers because they were extremely stable structures. They didn't necessarily want to go for building a tower. They knew they were from experience these were very stable structures. Almost every municipality who has a water tower has antennas on it. The towers were city water towers, not privately owned water towers. It generates money for the city. It's not \$1,000.00, it is substantial

numbers. One of the Engineers at the time stated they are getting to the point of extending themselves maximum capacity on the structure and we should do something to require any new towers be considered locally instead of lots around town. Instead of having all of these antennas located in one area you will see antenna all over the place. Part of these things for these providers is if you ever go on the Black Horse Pike the cell service is horrible. Sooner or later there will be towers needed to improve service to people there (along the Black Horse Pike) because the reception there is terrible for any who live there or have to go into a store there. Mr. Polistina stated the thought was in many towns and in Pinelands is you do not want to have these model poles sprouting up everywhere. The thought was let's try to look at existing structures. Let's put them on existing structures whether it is water towers or existing poles and require codification because coverage is an issue. In general, the Ordinance of Pinelands is to not mandate, but in cases where codification makes sense to require codification to use existing structures opposed to building new. Nobody wanted to see mono poles for each individual carrier sprouting up everywhere. Mr. Pitale stated the Borough doesn't own a water tower. It is owned by a private company. Mr. Polistina answered there are towns who put up towers. Some towns have put up a big tower and had 4 carriers on it behind Borough hall. There are Ordinances that require carriers to first try to locate on Borough property prior to going to private. He will look at it. Mr. Schenker suggested if studies are needed for integrity, they should be done. Mr. Polistina stated he will look at it and most of the equipment is on the ground. The antennas are not much. Usually the antennas are not going to create an issue for the structural integrity of the tower then there are other issues, but I will take a look at it.

OTHER BUSINESS: EMERGENCY MITIGATION PLAN

Mr. LaPollo thanked Mr. Spiegle, Mr. DeStefano, and Mr. Polistina for joining the team. We are taking part of the Multi Hazardous Jurisdictional Plan with the County. It is countywide. All of the towns in Atlantic County are participating in it. It will help us to plan for a natural disaster and will open us up to grants and litigation issues, upgrade infrastructure, and help prevent/lessen the damage from a natural disaster. You can never prevent a natural disaster, but can help lessen the impact. I would like to bring the whole Board in when the time comes for your input and information. Mr. Spiegle advised he understood you (the Borough) can qualify for FEMA money in the event of an environmental disaster of epic proportions strikes Folsom, but you need to be on board with this program first. It has to be in place. Mr. LaPollo acknowledged yes, the Emergency Operation Plan is correct. Mr. Pitale asked Mr. LaPollo if he needed any Board members. Mr. LaPollo responded at some point in time we will be talking about our actual plan. Our flood plains and our flood zones. What we would do to mitigate from wild fires and things of that nature. The last time there were some issues I brought up and put in the plan to address over on South River Drive. There were upgrades needed for the drainage pipe and spill ways into the river where our drainage dumped into. We never got to that and we need funding. We will be adding other projects to it. We will be looking at our flood zones to see what houses are in the flood zone or what houses should potentially be razed or moved, but I don't think we have any. The potential issue we will be looking at and trying to address. Right now the first stage was to get the team together. We submitted it last Friday. Step 2 will be working on our flood plain updates. I would like to nominate Mr. Spiegle as our Floodplain Manager because we feel he has the knowledge on environmental and things of the nature. We will take his knowledge

and with his permission use for some planning for the town. Mr. Spiegle stated he had some experience with documents. Mr. LaPollo responded he is looking forward to working with him. We have until May to pull some things together. I will be putting together some information I have and contact you to review and go over it and present it to the Board. Mr. Spiegle stated we need to get the committee defined and we need to get the nature and details of the documents requirements defined so the committee knows what to create. That is how it works to get it organized. Mr. LaPollo agreed.

Mr. Pitale asked if there was any other business for the Board. Hearing none he announced the next scheduled meeting will be November 19, 2014.

Meeting adjourned at 8:45 PM.

Respectfully submitted,

Susan Carroll
Board Secretary