

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

March 18, 2015

The meeting was called to order at 7:09 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.

Members Present: Charles Pitale, Joe Pino, Ron Esposito, Joel Spiegel, Dave Cappuccio, John LaPollo, Ben Pagano, Mike Veneziano

Absent: Glen Smith, Lou DeStefano

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

APPROVAL OF MINUTES:

A motion was made by Mr. Esposito and seconded by Mr. to approve the minutes of January 21, 2015. There was a roll call vote with ayes all.

APPLICATIONS: FERRIS ASSOCIATES

Application # 06-ZB-14 – Linda Bloomfield, 111 N. Ocean Ave., Seaside Park, N. J. is seeking to renew a permit for resource extraction for the Ferris Associates properties – Block 1101 – Lots 3, 4, & 5; Block 2004 – Lots 3, 5; and Block 2201 – Lot 4. The parcels are located along 13th Street on both sides of 4th Rd. in the Borough of Folsom.

Mr. Pagano recused himself.

Mr. Polistino gave the Completeness Report.

COMPLETENESS REVIEW: This application has been reviewed using the Borough’s checklist for resource extraction contained in Section 200- 55 of the Borough’s Land Use Ordinance. The following items were found to be deficient:

A3. The legal description, including block and lot designation and street address, if any, of the subject property.

A4. A description of all existing use of the property.

A5. A brief written statement generally describing the proposed development.

A6. A USGS quadrangle map and a copy of the municipal tax map sheet on which the boundaries of the subject property and the Pinelands management area designation and zoning designation are shown.

A9. The location of points of ingress and egress.

A12. A soils map.

A14. A signed acknowledgement from both the owner and the applicant that they are responsible for any resource extraction activities which are contrary to any provision of this chapter or of the approved resource extraction plan done by any agent, employee, contractor, subcontractor or any other person authorized to be on the parcel by either the owner or the applicant.

A15. A financial surety, guaranteeing performance of the requirements of Subsections B and C in the form of a letter of credit, certified check, surety bond or other recognized form of financial surety acceptable to the Pinelands Commission.

The report is dated March 17, 2015. There was a number of items showing. The applicant, since the report, has addressed a number of the items. The applicant has indicated there are only two outstanding. They are on file with them (the incomplete items) being a condition of the Approval they will provide if the application is approved. Items A3, A4, A5, A6, A9, and A14 have been provided. The only outstanding Items to be conditioned if so inclined are A12 the soil map and A15 the financial surety. There is one in place which runs through July of 2015. If the Board is inclined to grant Approval, it (the financial surety) will have to be extended to co-inside with the two year period for the permits. With those two items being Conditions of the Approval the Board Engineer recommended to deem the Application complete.

Mr. Pitale questioned if Item A-15 is a bond for restoration. Mr. Polistina confirmed the bond is in place which is good through July 2015. He explained the permit renewal would be a two year permit and the bond should be extended for the additional two year period if they are granted Approval. It is only necessary if they are granted Approval of the mining permits. He did not see any reason why it could not be a Condition of the Approval. It will have to be posted if the Application is approved. Mr. Pitale asked for the amount for the bond. Mr. Polistina answered it is currently in the amount of \$124,344.00.

Mr. Esposito asked how the condition would read on Item A-12 the soil maps. Mr. Polistina replied the soil map as required by the checklist would be provided.

Mr. LaPollo questioned if the restoration is ongoing and if the erosion or planting of trees in the existing buffer zone which was disturbed by Mr. Ellsworth is still ongoing. Mr. Polistina answered, yes restoration has to be ongoing throughout the resource extraction activities at the site. There was a lot of replanting done and they have an obligation to make sure the vegetation grows. Mr. LaPollo stated they have planted a lot of trees, but there is some erosion in the south west corner of the property. It is difficult to determine what the dig number is or to determine whether it is supposed to be a restored area at this point in time. Mr. Polistina replied we will do that. If they get the approval, they will have to establish where the excavation will occur, and

anything that needs to be restored outside of the area of excavation they are obligated to restore. Any erosion occurs. We talked about the ATV's and all the vehicles. If any of the damage, or any of the erosion needs restoration that happens at the site the applicant is obligated to address it. The Borough has the Bond in case the applicant doesn't do it. The Borough can call the Bond and do whatever work is required. Mr. LaPollo then questioned the property marking. The property markers which mark the corners of the property. Mr. Polistina responded he was sure the applicant needs to know how the edges of the property are so we would do that in conjunction with the approval.

Mr. LaPollo was concerned through the same area he found one concrete marker there today, but it looks like and on the map it looks like a portion of the neighbor's property was dug into, restored, but a property marker was never replaced – determine the boundary and its concrete marker. Mr. Polistina responded get that concrete monument put back in to delineate the property line. Mr. Polistina asked the applicant if they had any objections to put the monument back. The Applicant didn't have any objections.

Mr. LaPollo addressed a pile of green marl millings and asked if the material is not always put back in the pit. Mr. Polistina requested to wait for the point to hear from the applicant. They have addressed all the checklist item except the two. The soil map and the financial guarantee which will be conditions if so inclined to grant Completeness. This should be the first motion. After the motion, you will have the opportunity to ask whatever questions you would like and the applicant will give testimony.

MOTION: A Motion was made by Joel Spiegel and seconded by Ron Esposito to accept the Engineers Report with conditions for Items:

A12. A soils map. The soil map as required by the checklist would be provided

A15. A financial surety, guaranteeing performance of the requirements of Subsections B and C in the form of a letter of credit, certified check, surety bond or other recognized form of financial surety acceptable to the Pinelands Commission. There is one in place which runs through July of 2015. If the Board is inclined to grant Approval, it (the financial surety) will have to be extended to co-inside with the two year period for the permits.

A roll call vote was taken with aye's all.

Mr. Tom Darcy introduced himself. He represents Ferris Associates. He had a package of information to hand out to the Board. It was key to Mr. Polistina's report as far as we are making our presentation. It was something we want you to see.

Mr. Coombs swore in two witnesses. Linda Bloomfield and Mark Herrmann. Linda Bloomfield, Managing Member of Ferris Associates, LLC. and Mark Herrmann an Engineer with Paulus, Sokolowski, & Sartor.

Mr. Darcy explained this is an application for a two year renewal for resource extraction facility located on 4th Rd. in the Borough. This facility has been operation since about 1976. It is about

30 years old. At the time of the last renewal in 2012 a number of outstanding items had to be addressed not only for the Borough, but also for Pinelands. The applicant has been working on it. We have a Conforming Certificate of Filing from Pinelands issued in February of this year. It indicates the restoration and the over mining has all been taken care of and restored. It was an ongoing process. The applicant will continue to maintain the vegetation on a regular basis. I would like to follow Mr. Polistina's report closely and demonstrate there are no issues with the report and will comply with all recommendations and address each one of the Items.

Mr. Darcy called Mark Herrmann and asked a series of questions to which Mr. Herrmann affirmed. Mr. Herrmann is a professional Engineer in the State of New Jersey. He has been licensed by the state for 5 years. He acknowledged the plan was prepared by Monarch Engineering and he had a chance to review the plan. There is also a set of plans, 7 sheets, prepared for the Borough and Pinelands Commission by Monarch Engineering. He testified he visited the site. He prepared tax maps, USGS map, Pineland's management areas, Zoning District areas and submitted them in response to Mr. Polistina's report. He is familiar with the site and with the proposed operation.

Mr. Darcy addressed Mr. Polistina's report. There are some Items he would like to see on the plans as revisions. Mr. Herrmann is going to be the Project Engineer from this point forward. Any revisions requested by Mr. Polistina will be provided and certified by Mr. Herrmann under PS & S for Ferris Associates. The operation was originally approved in 1986 with a mining area of approx. 8.93 acres. There is no change in the current proposal for the renewal of license with respect to the area. The original Pinelands approval of 1986 limited extraction to no further than 65 ft. below the natural grade. The proposal complies with this condition.

Mr. Coombs asked if the elevation lines in the existing conditions exhibit marked as A2 are based on sea level or based on the natural grade here in Folsom. Mr. Darcy answered typically they would be key to the USGS. Mr. Darcy asked Mr. Herrmann to estimate what the highest elevation around the pit is generally. The lowest elevation is 7 ft., so as it stands it is about 30 ft. at maximum. It is well within the 65 ft. limit the Pinelands originally established. The original Pinelands approval of 1986 required a 200 ft. buffer to property lines. There is no change proposed with the buffer. The original Pinelands approval also required a 300 ft. buffer of Freshwater wetlands. There is no change in the current application. All those are exactly the same.

Mr. Darcey continued, Mr. Polistina's report asked for additional detail on stockpile. They have been stockpiling the topsoil and also mining. He asked Mr. Herrmann if he would prepare a plan satisfactory to Mr. Polistina to show where the stockpile areas are going to be and what types of measures will be taken to check the integrity of the stockpile as part of a Condition of Approval. Mr. Herrman affirmed he would. The requirements of Chapter 20:55-B9 the mining should take place in 20 acre units. The total mining area here is less than 20 acres. That provision does not apply to this particular site. The Pinelands Certificate of Filing of February 3, 2015 had two conditions in it. One was all resource extraction activity should be located at least 300 ft. from any wetlands. The plans comply with the requirement. It meets that condition. The other Condition is no resource activity shall occur lower than elevations of 70 ft. The plan proposed with this Condition.

Mr. Polistina's report recommends certain Conditions be continued that were in the 2012 Planning Board Resolution. The removal of all trash, equipment and debris not actively utilized in extraction operations, securing a street sweeping contract prior to commencing the operations, restricting access to the site by requiring all vehicles to use the 4th Rd. entrance (a paved entrance). The plan complies with these Conditions. The fourth Condition is to initiate weekly site inspections to insure blocked ATV & motorcycle trespass. Mr. Herrmann affirmed this was an acceptable Condition to agree to. There are no issues with the installation of No Trespass signs and coordination with neighbors, Borough Officials, and State Police to validate compliance. We will be able to comply with all of those requirements.

Mr. Cappuccio asked if all the trucks will be in and out by 4th Road. Mr. Darcey answered that is right. It was the recommendation this Board made in 2012. Fourth Road would be the primary ingress and egress and not 13th Street. Mr. Cappuccio asked how many truck a day. Mr. Darcey responded it depends on the market demand, sometimes there is a big order and sometimes not. Mr. Darcey questioned Ms. Bloomfield if there is any idea, a ball park figure, of the volume of trucks. After careful consideration Ms. Bloomfield answered, at the most, this operation can be changing, 30 – 50 loads a day, but not every day. Mr. Cappuccio responded it is a lot of traffic for the road. Fifty trucks in and out will be 100 trips a day. Ms. Bloomfield added, it would be very rare. Mr. Cappuccio questioned the width of the road with two trucks passing each other. Mr. Polistina stated the Board, at that point, thought it was the most logical way for trucks to access the site because it was quicker to get to Route 54. It was a wider road and more stable road, but the road is probably 24 to 26 feet wide. You can have two way traffic as long as nobody is parked on the street, but they have to go slow and be careful. Mr. Cappuccio asked if it would be better to have one way in and another way out. He expressed concern about passing close to the edges (of the road), with no curbing and the road is starting to break up all over as it is. Mr. Polistina stated less traffic is better for the road. Access from one way and exit out the other it will make the impact on these individual portion of the roadway. Mr. Cappuccio expressed concern for the residents. There is all residential homes on both roads. Mr. Pino advised against using 13th Street because it is where the ball park and children are. Mr. Polistina recalled it was the discussion last time. We thought 4th was shorter and will get to the State Highway quicker. The trucks will get out of the Borough Roads to the State Highway and not impact. It was the rational used why the board restricted traffic at 4th Road.

Mr. Esposito asked the hours of operation. Mr. Darcey answered generally 6:00 to 6:30 am in the morning. This is not a night operation. They will not be mining there after dark. Early mornings and cleaning up at 5:00 pm or 6:00 pm. Mr. LaPollo responded the Noise Ordinance is 7:00 am to 11:00 pm. Mr. Coombs added, previously in the 2012 Approval there is testimony during hours of operation from 8:00 am to 6:00 pm and possibly Saturdays 8:00 am to 12:00 pm. He asked if it likely to change. Mr. Darcey answered they like to get started early, but if a Municipal restriction limits it to 7:00 am, they would have to comply with it. Mr. LaPollo answered, it is a Noise Ordinance it is not a Work Ordinance. It allows for a certain amount of decibels after or before. Mr. Darcey stated they would have to comply with it and added early starts in the morning for these types of operations are very normal.

Mr. Cappuccio re-addressed the issue of ingress and egress. Previously the trucks came in one way and out the other. They didn't travel the same way. He asked why it is different now. Mr.

Polistina responded it wouldn't have to be. The Board in 2012 approved a different way, but since they are back for another Approval and if the Board thinks it makes more sense to enter from one direction and exit from another it is something they can be instructed to do. Mr. Esposito thought the trucks going by the playground (down 13th Street) is an important safety issue and wouldn't recommend going 13th Street. Mr. Pino stated children dart out in front of cars which drive down the road. Mr. Pitale added there is limited sight intersection also. Mr. Darcy stated they have no objection to limiting the traffic ingress and egress to 4th Street. It is the way the Board had it before. Mr. Pino stated the children do not exercise due caution. He mentioned he coaches there and they do not pay attention.

Mr. Coombs referred to the Noise Ordinance. It is 11:00 pm to 7:00 am. On the property you would need to comply with the decibel limits for the actual mining and not necessarily the trucks. Those are in force from 7:00 am to 11:00 pm. There is a 65 decibel during the day.

Mr. Cappuccio addressed the encroachment on neighboring properties. He received a letter indicating the mining activity dug past one marker. The town foreman wrote him a letter and explained when mining they dug past the marker. Mr. Darcy asked for clarification. Mr. LaPollo explained when Mr. Ellsworth was mining outside of the dig limit, he encroached on the marker. He used the site plan exhibit to demonstrate which marker was encroached. Mr. Darcy requested it be Condition of Approval to put the marker back in and make sure there is no further encroachments. Mr. LaPollo expressed concern for the other properties and make sure the rest of the properties were not encroached on. Ribbons were put up, but he had no idea what they are. Mr. Darcy explained the mining limits will be specifically marked in accordance with the Monarch Site Plan so it will be very clear to the Municipal Inspectors and all of the workers working there where the limits are they can mine. We have no objections to make it very clearly prior to any mining operations. Mr. Cappuccio stated according to the map there are no monuments for property limits. There are only mining limits. Mr. Darcy explained it is because they are not going to be working up in that area at all. Mr. Pitale clarified Mr. LaPollo's concern that a monument needs to be put in there because the area was disturbed. Mr. LaPollo reiterated the area was disturbed. He believed the monument was already removed. The Engineer found the other concrete monument. Someone marked it out already. Mr. Pitale explained he needs to make sure it is restored in the area. Mr. LaPollo answered correct and concurred with Mr. Pitale. Mr. Darcy answered the area was previously disturbed and should not have been. There is no problem putting it back in. Mr. Coombs asked for clarification if it would be fill and not just planting seedling and vegetation. Mr. Darcy asked if they were talking about putting back in the property. Mr. LaPollo told Mr. Darcy he was correct. He added there looks like there was an attempt made to put fill back in there and it appeared seedlings were planted there at one time. Mr. Darcy believed the area is supposed to be restored and more trees planted. Mr. LaPollo added there is a Jersey barrier up on the encroached property to keep the quads out. The property owner would like to have it pushed back off of his property. Mr. Coombs asked if there is a plan to fill it. It seems to go down to about 77 on the surrounding edge next to the neighbor's property and 96 or 97. Is there a plan to put in the 20 feet of fill and to bring it up to 90 on the neighbor's edge on the corner. Mr. Herrmann answered there is no proposal to bring it back to the existing of what was there prior.

Mr. Darcy called Ms. Bloomfield for testimony and asked her if she is the managing member of Ferris Associates, LLC; and if the acknowledgement submitted in the package lists Ferris Associates, LLC as the owner and the applicant is responsible to make sure the operation stays in compliance with the Board's Approval. Ms. Bloomfield answered yes to statements. Mr. Darcy asked Ms. Bloomfield to tell the Board what the status of the two year financial surety currently in place and runs from July 2013 through July 2015. Ms. Bloomfield answered her account has already been debited in February. I do not get a copy of the Letter of Credit, thinks the town is in receipt of the new one. If they do not have a copy of it, I have already paid for it. I would thing the town is in receipt of the new one. If they are not, I have already paid for it. The Letter of Credit has already been renew from 2015 to 2017. She included a copy of the current Letter of Credit and agreed to contact the town and get a copy of the new one and provide the Board with a Copy of it for their permanent file. She asked for the town to confirm with her if they received it from the bank yet. She agreed to make sure it is done in plenty of time so when the expiration date comes up the new one will already be there. She re-affirmed as the Applicant she will comply with the following list conditions previously imposed by the Board.

- 1.) Remove all trash, equipment, and debris not actively utilized in the operations.
- 2.) Secure a street sweeping contract prior to commencing operations.
- 3.) Restrict access to the site by requiring all vehicles to use 4th Rd. entrance and exit.
- 4.) Initiate weekly site inspections to insure blocked ATV and motorcycle trespass
- 5.) Install no trespassing signs and coordinate with neighbors, Borough Officials, and State Police to validate compliance.

Mr. Pitale asked when the date of the last activity on the site as far as mining or extraction. Ms. Bloomfield couldn't recall the date, but the town stopped the mining by violation at the time. Mr. Darcy stated there has been no mining after this Boards approval of August on 2012. All the activities on the site have been only restoration activities.

Mr. Coombs asked if the frequency of use is changing on the property. Mr. Esposito referred to the discussion where the approximated number of how many truck a day changed. Mrs. Bloomfield explained it is a different Operator so it is a different operation. Mr. Cappuccio asked if there is a limit on traffic as far as trucks in and out of it.

Mr. Pitale asked if they will still be mining gravel for baseball or general mining for fill. Ms. Bloomfield answered general. She mentioned the equipment was stolen and scrapped. She has been to a criminal hearing for the last year having to deal with it. She believed the Township had some things stolen by the same people.

When asked if it will be a year round operation, Mrs. Bloomfield answered no it is weather permitting. There is not to much going on in the winter. She would like to start as soon as they have Approval.

The Chairman asked the Solicitor if two years since the last mining begun, if the operation is deemed abandoned. The Solicitor answered the issue with abandonment is mentioned in Mr. Darcy's report. He thought Mr. Darcy was going to address it and satisfy the abandonment issue. Mr. Darcy stated at the Board Meeting in 2012 this was a major issue because. the

licenses had not been formally renewed by this Board. Since that time Ferris has been continuously operating there in terms of restoration. They haven't been mining to sell for money, but they have been actively restoring since 2012. It hasn't ceased operations at all. In the Pinelands Certificate of Filing there is no question about whether the site has been abandoned or if it still is a permitted. It is a topic the Pinelands required this Board address in 2012. The 2012 Pinelands letter warned us they needed this Board to make findings and fact for conclusions along the issue which the Board did do in the Resolution. In contrast, the Pinelands has not raised those issues when issuing the Certificate of Filing this time because they have been involved in the restoration process. Earnie Deemus has come down and did inspections when Ms. Bloomfield had been in touch with him on a regular basis. With respect to the abandonment and permitted use issues don't arise for this particular renewal. The Chairman asked the Solicitor if the explanation of the activity has continuously occurred was satisfactory. The Solicitor thought we need a finding from August of 2012 there had been an abandonment. During the hearings, the applicant presented information regarding their operations, employees and history. There also has to be an intent. In this case if the Board is satisfied they have to show proofs if there is steady restoration, reclamation activities over the past years is not an intent to abandon. The Chairman wasn't sure if the restoration part of it was actually part of the mining process. He knew it is a result of it, but wasn't sure if it was considered activity. Mr. Darcy answered by the Ordinance it is and it requires it.

Mr. Cappuccio asked the Borough Engineer how 4th Road will hold up under 100 trips per day. He questioned if 4th Road is sturdy enough for this amount of traffic or if traffic running 8 or 9 months per year will cause the road to break up. He expressed concern for the town to have to pay to fix the road 2 years from now. Mr. Polistina responded it is a municipal roadway. It is going to be difficult to say it is solely related to mining operations. There are a lot of factors snow and ice. It would be difficult to say it is them. Certainly 100 trips a day in and out is going to have an impact on the road. A road will typically last 20 – 30 years. It could lessen the life cycle of the road by 5 years. I don't know it would be true to say it was solely related to this operation using the municipal road. This town may have an obligation to maintain the road.

Mr. Polistina questioned Mr. Darcy about the acreage. The total site is 55 – 58 acres. In 2012 we talked about a 19 acre area that was going to be mined at that time. What is the area now with zoning district 200 foot buffer? What is the total area, with 200 foot buffer, as reflected on this permit? Mr. Darcy responded the mining activity itself is going to be limited to 18.9 acres. Mr. Polistina reconfirmed the mining limits it is still 18.9 acre. Mr. Darcy responded it was what was originally approved by Pinelands in 1986 and it has been renewed every renewal cycle. This was not changed. Mr. Polistina stated it was within 20 acre limit specified so the 18.9 acre will be undertaken collectively, but as you leave you will be restoring the areas that are mined. Mr. Darcy answered, that is correct.

Mr. Coombs asked if there is an estimate of how much fill is left to be extracted. Mr. Polistina responded he had 267,000 cubic yards from the last draw.

The meeting was opened to the public. Mr. Coombs swore in Mr. Ben Pagano, 2201 14th Street, Folsom. Mr. Pagano stated he had the opportunity to walk the site with Mr. LaPollo for

4 ½ to 5 hours. We did a thorough inspection. Walked the perimeter several times. Two years ago I stood before this Board and told the Board there were several piles of marl, concrete, and water with two different levels. At the time Mr. Polistina felt we should have a water test done and agreed with him. I came to find out on the checklist it was never done and the pile of the marl and asphalt is still sitting out there which is approximately, according to Mr. LaPollo's checklist from his inspection, is 250 yards of material. I am asking the Board to have the water test done, as I did two years ago, before any Approval will be granted. Behind there where the pile is my well 1400 feet and it is upstream.

There are numerous spots that were never graded or planted. He submitted pictures for the Board to review. He questioned the due diligence to have that size area never planted over a two year period. He also took the time to find there was markers are not there and where the markers are. He was very distained to find the back section of the property (Inaudible) . The west end is the same distance as it was two years ago. He submitted a picture to the Board to pass around and explained the area of 300 feet has never been touched (restored). Mr. Cappuccio asked if they (Ferris) were supposed to put trees or what they were supposed to do. Mr. Pagano replied it is the buffer area and he pointed it out on the site plan. He explained 325 feet is all water. Mr. Polistina questioned if the area was previously all over excavated. Mr. Pagano answered yes, all the way to the back of the property. Not only did they not reforest the area, but they even went further than 200 feet when mining the previous operation.

He continued explaining the markers which are there is exactly where no work is done whatsoever. The property corners should be installed and marked. There is lath and pipes there. There is not a single piece of lath with any documentation written on the wooden piece of lath to know what it is or what it is for. Not a single word on a single piece of wooden lath out there.

Mr. Cappuccio asked who is supposed to inspect the work they (Ferris) has done. Mr. Polistina answered it is a combination. There are a few regulatory authorities to oversee this. The Borough has some over site. Once they (Ferris) actually start activity of reclamation we (the Borough) definitely have some over site. The Pinelands Commission has oversight and Cape Atlantic Soil Conservation. The area Mr. Pagano is referring to ceased operation a couple years ago. There were some things going off in the mid 2000's. The notes show there was a tenant who operated the facility and the operation stopped around 2002. It was discovered he had done some over excavation of some of the areas reflected on the (site) plans. They worked with the Pinelands Commission before the 2012 approval to restore these areas to plant saplings, to make sure they took care of the erosion. It was done before the 2012 Approval, before they appeared before the Board, before they could get the Certificate of Filing from the Pinelands. There was a lot of work done prior to the 2012 Approval. If more things need to be done the Applicant has an obligation to restore the property. Mr. Pagano agreed, but added the whole back end have new trucks through there, there is the pile dirt where restrictions are available, and there is a big puddle full of **52:59 soap/silt?** A previous member of the Board went over there and definitively saw there was two layers. This is why I believe marl asphalt piles are probably contaminated with some kind of oil. I'm not sure what it is, but I do know there is two layer of level in the ¼ inch puddle of water for 100 or so yards. The whole back area has not been raised, but see from the pictures there is a lake there. A lake that should be graded like the rest of the place is graded and forested and planted. It hasn't been touched.

Mr. Pagano asked about the vertical slope limit. The vertical slope limit is 70 ft. from the buffer zone. What kind of pitch of an angle will they have in an area where it is 80 ft. to an inch if 2 ½ inches is 200 ft. Mr. Polistina answered 3 to 1 is the general requirement. There were some notes in 2012 they can ever source some of these areas at the 10 to 1 slope. There was some conversations about restoring some of these areas where they had over excavated with seeds. The real steep slopes they had restored at a 10 to 1 slope. Mr. Pagano continued in this particular area it will be tremendous if they excavate that far. Mr. Polistina responded some of the areas just get too tight to excavate. Mr. Pagano stated they are allowing them to excavate the buffer zone. Mr. Polistina stated this was discussed in 2012 and to be clear nobody wants resource extraction operations there. They are not permitted. Not by the Pinelands and not by the Borough. If this were a brand new operation, we would be having a much different conversation. The situation is at one point in time was a fully operated resource extraction facility. As long as they continue the operation as a legal non-conforming Use, they have some rights to continue. This is why we went through three different hearings three years ago. The abandonment issue was if they had given up those rights it would be a different conversation. They had continued the operation. For that reason they still have rights to continue a legal non-conforming Use. Mr. Pagano stressed his point that it has been two years they (Ferris) haven't done due diligence to even touch this end of the property. It was never even planted referring to the pictures submitted. The area where the forestation is so easy was never even planted. He was referring to 400 feet (never planted). Mr. Polistina reassured he would look again with Mr. Polistina. I will go out there and look. They planted a lot of saplings. Mr. Pagano agreed he is right the saplings are there. Referring to the pictures he submitted he explained the area where the saplings were planted and where the buffer mark is. Mr. Polistina reassured again he will absolutely get all of the buffers reestablished. Mr. Pagano stressed he wanted to point out where it was the easiest they (Ferris) didn't do due diligence. Mr. Pagano continued, he came in two years ago and complained about the pile of dirt dumped there and a water test being done, but it was never done. Mr. Polistina could not recall the area, the water test, or marl. Mr. Pagano explained marl is very slick when it gets wet and hard when it is dry. It is full of asphalt. There is 250 yards of it sitting there and somebody dumped it there. Mr. Polistina agreed it must be gone. If it is to the extent something is contaminated they (Ferris) will be obligated to take care of it as well.

Mr. Pagano asked the Board to keep in mind they (Ferris) have had 2 years to comply. These are all major areas that have not been touched after all the documentation, all the bond posting, all the Engineering expense, and all of the Attorney expense they haven't even touched it. It is a lake.

Mr. Pagano turned his attention to the problems with the ATV's (all-terrain vehicles). There is also concern about blocking areas of ATV's. There is an ongoing area in the front right next to the gate. It is constant in and out. It keeps growing. He suggested one of the pieces of concrete right in front of it will stop it. It is the same thing in the back. They (the ATV's) come right across down the railroad track. I am right in that spot and they cross over right onto his property. He explained from the site plan the spot where the ATV's come into and they cross over onto his property. The back of his 20 acre property, from 14th Street, looks like it has a dirt bike track. It is destroyed with ruts everywhere. He has pictures of the gate not being locked. Trucks from

Philadelphia with trailers bringing 4 wheelers in driving all through back behind and in front of his house and nailing illuminated spikes into the trees so when it gets dark they can find their way back all through my woods. I have suffered tremendous devastation to this 20 acre piece of property. He understood everything can't be blocked, but these openings have been there for a long time. They haven't been blocked.

He left the area with Mr. LaPollo. As they left they went down 4th Road and took dirt all down 4th Road. One of the conditions were they put an asphalt apron, but he suggested it needs rick rack stone, #4 stone, no less than 1 ½ inch of stone so the side walls (of the tires) get clean. Let's keep the silt on the site. The asphalt apron is not working. Mr. LaPollo's truck doesn't have dual wheelers, but those tri-axles with 3 set of axels, with 12 wheels in the back, with the space between the dual wheels will hold on to the mud and will be shooting mud all up and down 4th Road. Mr. Polistina responded they have to provide stabilized construction. We wanted them to pave the portion off of 4th Road to try to protect our existing municipal roadway to the extent possible. Having rick rack right against the edge of the road doesn't do that. Having a paved apron does. Mr. Pagano couldn't agree with Mr. Polistina more and agreed the piece of asphalt put there protect the integrity of the road. It was a very good move to protect our road on and off, but there is still 75 to 100 feet of the railroad track where heavy stone should be and maintained and it is not on the list. Mr. Polistina agreed and explained it is absolutely required not only by the Borough, but by the Cape Atlantic Soil Conservation.

Mr. Pagano suggested the property should be silt fenced because of the erosion all over the property. He thought it was deplorable. He suggested before to silt fence the whole job to keep the sediment, which goes down the road from the site, on the site. Anything that runs off of the site will stay there with silt fence.

The property corners need to be established because that is where the buffer zones are. Each pipe not there somebody broke off. If there are property corners, we can always find the buffer zone. It is horrendous there is only 10 markers and 16 markers missing.

Mr. Pagano didn't know a lot about bonding, but if you (the Borough) had to go into there and fix everything from start to finish \$ 243,000.00 doesn't sound like enough of money. We would have to start trucking topsoil in, and grading, hydro-seeding. Mr. Polistina explained the amount is \$124,344.00 and includes grading, topsoil, limestone, fertilizer, seeding, plantings, soil erosion, and sediment control. We will never restore this. Mr. Pagano stated when we finally finish Atlantic Soil Conservation will want it restored. Mr. Polistina agreed and added it will never be restored to the Borough's satisfaction no matter how much is spent. It is impossible. Mr. Pagano questioned if they were going to approve something which will be impossible to restore. Mr. Polistina stated to bring this property back to what you would like to see is never going to happen. Mr. Pagano would like to see it forested. Mr. Polistina stated it is never going to happen because over time it is still going to be a big hole.

Mr. Pagano explained he didn't want to seem disrespectful by no means to anyone, but he lives there. He turned to Ms. Bloomfield and stated you live in North Jersey. Ms. Bloomfield corrected him and explained she lives in Seaside Park, nowhere near North Jersey. Mr. Pagano apologized and added he was appalled he came here 2 years ago about the same spot and openly

spoke about this and it hadn't even been addressed. Two years is a long time to comply and that dirt is still out there and it could be contaminated. He asked if everyone has seen the pictures of the green marl. The pictures were passed around. Mr. Pagano also pointed out one of the markers demonstrated for 1160 ft. and another 335 ft. the back of his property. It is a spot where major draining has to be done and planting. More work to fix it there than has been done so far. Mr. Coombs asked how close the body of water is to the areas that are supposed to be marked and if it is passed to the areas to be mined. Mr. Pagano explained it is passed the buffer zone and it is 300 in the area of the catty corner. Using the site plan he showed Mr. Coombs where it is in conjunction with his property and explained the neighbors' property was impeded upon. They fix it now, but they did nothing across the back of my property. Mr. Darcy asked Mr. Pagano to show him where the water is. Discussion about the water and asphalt and marl ensued. Mr. Darcy pointed out the tree line on the site plan, but Mr. Pagano explained there are no trees where the site plan indicates trees to be. Mr. Pagano explained to the Board there is no tree line there whatsoever. It is all wide open clear.

Mr. Pino thought in order for mining to proceed there were certain deficiencies some of which Mr. Pagan pointed out and some of which were brought up at the last meeting. He believed to the deficiencies we added things like apron and other points. He felt like Mr. Pagano raised major points. He thought both may agree there is still more work to be done. He suggested moving forward with it. He didn't know how much deficiency needs to be corrected, but suggested to move in the direction of a continuance if the Board is moving on it at all. Mr. Pagano couldn't understand how they didn't touch major areas and didn't maintain the buffer markers and how the Board could move on and continue after they have had 2 years to do it. He asked for someone to explain it to him. The Board Secretary confirmed for Mr. Pagano that Mr. LaPollo was with him and wrote the check list.

Mr. Pino acknowledged there governing bodies for the over site of the operations: the Engineering and the Municipal. The felt the Board needed to come to terms on which of them will be the primary. It seemed to him there were some items not being addressed. He thought a more aggressive follow up to what work is being done should be established and some type of documentation submitted. Mr. Pagano stated there is a major amount of grading in the back. Water needs to be removed and dirt brought in to grade. Mr. Pino did not question the deficiencies which needed to be done, but the question was how to move forward. Mr. Pagano reminded the Board it has been 2 years since the last he appeared before the Board, but questioned the demonstration of corrections. Mr. Darcy stated the Cape Atlantic Soil Conservation Department issued a Soil Conservation Permit on this in December of 2014 only four months ago. They were satisfied with the conditions of the site. The Pinelands Commission also issued a Certificate of Filing for this property in February of 2015. Only a month ago. The only conditions they had in there was to respect the 200 foot boundary/buffer to the property line and the 300 foot buffer to the wetlands. We have two regulatory agencies who have come out and issued permits and reviews on this property in the very recent past. We have no objections to your Board Engineer coming out and doing inspection of this site and advising Ferris Associates of any deficiencies he believes which are existing on there and make recommendations for continuing restoration. Mining is an ongoing projects and Ferris Associates is committed to doing what is required under your Ordinance and complying with regulatory agencies. If the Board Engineer submits a list of things which need to be done, we

will do it. He did not dispute what Mr. Pagano said, but a lot of things are subjective and we would like an objective standard by which we can measure whether Ferris is in compliance. He thought regulatory agencies and the Board Engineer is a good measure of that. He encouraged the Board to renew the license subject to the Board Engineer coming out and doing inspections. If things need to be done, than Ferris needs to do it. Mr. Pino responded part of the problem is there are several people monitoring the site not just the Soil Conservation. He thought the situation was more involved. It is not as simplistic as responding based on the Engineer. Mr. Darcy explained he didn't mean to imply the simplicity of the situation he meant to counterbalance. There have been regulatory agencies have come out and inspected the site and felt comfortable enough to issue reports on it. Mr. Pagano reiterated the parts of the property hardest to restore are the parts near my property and they have not been touched. He asked the Board to think very seriously about the Approval after having two years to comply and haven't even touched the area he was talking about and the pile of fill dirt dumped there illegally and is still there. Mr. Darcy stated they are in compliance with Chapter 200-55. Every single item the Board Engineer put up we have addressed. We are voluntarily saying if Mr. Polistina goes there and finds something in addition to his report, Ferris Associates will fix it. Mr. Pagano stated two years ago there was going to be a water test and it never got put on the books or done. Mr. Darcy explained there is no requirement under the Ordinance or it would have been tested. Mr. Coombs asked Mr. Pino if he was proposing to table the matter for a month to meet on site and look at the conditions on the site and agree to what conditions if any should be added on to the new permit. Mr. Pino agreed because all of the parties do not agree with what is going on out there. Mr. Pagano as a neighbor is will be most vigilant because it is directly infringing on him. Mr. Coombs added it was one of the original conditions in the prior decision resolution. There would be coordination with the neighbors. Mr. Pino added he was not clear which position is exaggerated or overstated. He realized everyone had a vested interest and the Boards overall interest is to do the best for our community and trying to adhere to our interest.

Mr. Pino made a motion to get the issue clarified to as to what exactly needs to be done before we can move forward. Mr. Esposito seconded the motion. Mr. Darcy asked which parties needed to get involved. Mr. Pino explained there is at least one neighbor who has a vested interest here, have the Engineer involved, and listen to both parties. He thought it would be best to do an onsite type of thing. Mr. Polistina explained this whole recurring event was done in 2015. Mr. LaPollo, the applicant, and myself went through set all of the markers out. Some of them are gone. At that point in time we thought it satisfied the Pinelands Commission, but we are happy to do it again with the neighbors. We would ask for the markers to be put back out so we can see exactly where the limits of the mining will be and the impact outside of the markers. Mr. Pagano requested doing a water test. Mr. Polistina added we will get a water test. Mr. Pino thought the only viable alternative is for the parties to agree what issues they are raising will be addressed. Mr. Polistina stated there was no time frame imposed. The Resolution said mining will proceed and prior to mining the restorations issues would be resolved. Now it is three years later no mining is started and some of the restoration hasn't happened. We expect to find prior to the mining we would get all of these issues addressed. If the Board wants to impose limitation on the Applicant to do it in a certain period of time it can be imposed. Mr. Pagano suggested starting with the Checklist Mr. LaPollo went out (to the site) and created. Mr. Coombs thought the Checklist is a great idea, but ultimately should be a point list of conditions.

Mr. Darcy made one last comment. He thought Ferris Associates has made a reasonable effort for the last couple years to try to bring this site into compliance with the Ordinance. No Municipal violations have been issued against this site. We have complied and agreed to every single Condition the Board's Engineer has put into his report. He believed we (Ferris Associates) are in compliance with meeting the standards. He didn't have any problem with the Board Engineer going out and doing an inspection and make recommendation for additional Conditions. He felt the Board was well within its' discretion to approve the application tonight and make Conditions to the Approval. Mr. Pino expressed the Board did not want to seem unreasonable. The Board is trying to address many needs. Part community and part business. Mr. Darcy believed the Board Engineer is reasonable and wouldn't impose any unreasonable request. Mr. Darcy questioned Ms. Bloomfield if she had any objection to Mr. Polistina going to the site to make an inspection and recommendations contingent on the Approvals. Mr. Bloomfield answered she absolutely did not.

Mr. Coombs swore in Mr. Ken Jantz, 2114 14th Street, Folsom. Mr. Jantz stated for the past 15 years he has had a contaminated well. The well was handled by the super fund. He didn't know where it was contaminated from, but there are several people on 14th Street area and around here who had bad wells. It is now cleaned up. They (Ferris) is talking about digging 70 ft. My well is 65 ft. He (Mr. Pagano) saw petro chemical or something that looks like petro chemical sheen on water. What will happen when they dig 70 ft. and hit my water, your water (indicating to several of the people in the meeting) because you are my neighbor. What will happen when the petro chemical goes into the aquifer? I want my water tested and I wouldn't mind having 23 wells tested because I don't want to live with a bad well anymore.

Mr. Polistina clarified the mining is not going down 70 ft. The average, if 267,000 cubic yards are mined, is about 10 ft. There are areas at elevations of 76. There are areas of elevations of 90. Those will be taken to 7. The areas at elevations of 76 will be 6 feet down. The areas at elevations of 90 will be taken 20 ft. down. The average over this area is about 10 ft. Mr. Pagano testified the contour on the map (site plan) are worthless because there are areas and contour lines all over it and it is flat ground. There is no range. It's just flat. Maybe it is a good idea to set a benchmark off a railroad track exactly how deep they will excavate. Mr. Polistina stated that is absolutely something that is part of the Approval. It is set at elevations 70 and not that they haven't over excavated before. Discussion ensued between Mr. Pagano and Mr. Polistina about the elevations.

Mr. Pino asked if the neighbors were satisfied with the Engineers judgment in evaluating the site fresh and making determinations as to the deficiencies. Mr. Pagano questioned how much further can be excavated from the hole. Mr. Polistina explained they can excavate 3 ft. at the lowest point. Mr. Pagano asked if that would be 70 ft. Mr. Polistina explained it would be elevation 7. Mr. Pagano asked if it would be 2 elevations 70. Mr. Polistina answered correct, it is 2 elevation 70. Mr. Pagano explained it was the benchmark he was looking for. Mr. Polistina explained at the lowest point in this pit they can only take 3 ft. out. Mr. Pagano stated 70 ft. above sea level. Again, Mr. Polistina told him he was correct. There are 267,000 yards estimated last time. It would be about 10 ft. over the 19 acre area. He explained he needed the marker put back. Discussion ensued about setting the markers. Mr. Darcy explained they will re-flag and make sure the markers are there on the entire area of excavation and call the

Engineer. Mr. Pagano explained he was not against Ferris Associates, but he want to make sure his ground water is protected and for them to stay on their property and he would stay on his. He explained he came there two years ago to make sure the operation remained within the parameters. He explained he didn't see due diligence after two years and to grant you any kind of Approval scared him.

Mr. Pino asked if Mr. Pagano would be satisfied if the town Engineer goes onsite fresh with all of these concerns make an evaluation which will become a must do proceede for Ferris Associates. Mr. Pagano answered yes. Mr. Jantz added he would like some water testing. Mr. Darcy stated water testing is not required by the Ordinance, but if these gentlemen feel that strongly about it they should go to the governing body and ask to modify the Ordinance. Mr. Polistina suggested going to the site and taking a look at the surface water because if there is a situation green marl has created some contaminants in the water we will deal with the situation. Mr. Cappuccio asked if they were agreeable to a water test. Ms. Bloomfield answered, if Mr. Polistina as the Engineer recommends the water test, they will do it. Mr. Polistina explained he will look at the surface water and determine if it should be tested.

Mr. Pino suggested making a Motion. Mr. Coombs explained there was a Motion on the floor for meeting the prior approval. It has to be resolved first. You can carry the first Motion. Then if you wish to make a second Motion after that. You can table the Motion until next month and in the intervening time meeting on site between parties and representative and Engineer and neighbors.

A vote was taken It was decided to table the Motion until next month and in the intervening time conduct a meeting between the parties.

A roll call vote was taken with 4 ayes, 2 nays, and 1 abstention.

INFORMAL REVIEW: Burley & Laura Clark request an informal review of the Eckhardt property at Block 401 – Lots 6 & 101. They are interested in purchasing the log cabin for themselves and subdividing a front portion of the property into a buildable lot. They are interested in purchasing Block 401 – Lot 5 the Struckus property, if possible, and re-subdividing it to include the paddock and metal stable.

Mr. Coombs swore in Burley Clark, 102 Blue Meadow Lane in Cedarbrook. He is considering the purchase of the log cabin located at 1315 Mays Landing Rd. Prior to making the purchase he questioned the feasibility of subdividing the property. Mr. Helbig assisted him to lay out a proposal for the Board to look at and decide if it seemed reasonable or not before proceeding with the purchase. It is a question of feasibility and the Boards opinion and based on the feasibility he would determine a purchase price and moving forward or not.

Mr. Clark distributed a plan of the current lot. It included proposed changes he would be interested in making. He explained on page 1 there is about 10 or 11 acres. The Village Residential District is 8.786 acres and 1.321 is in Agriculture. He proposed on, page 2, to turn 1 parcel into a total of 3 parcels. New lot A on the right (on the submitted plan) 2.039 acres in the

Village Residential one to build a home for his parents there. Over to the left he explained he proposed lot B. It would notch around a little country currently there. The parcel would amount to 2.08 acres (in Village Residential) and .544 in the Agricultural Zone. He hoped to keep lot 101 in the middle for himself. It would amount to 3.426 acres of Village Residential and .777 of Agriculture. Mr. Coombs asked why doesn't lot C take in the metal stable as well. Mr. Clark answered he hoped to include the metal stable in the parcel to the left for someone who could potentially be operated by someone who would want to board horses. He explained he was not in that business or didn't have that hobby and didn't have an interest in it. It is intentionally being left out to leave the option open to either lease it to someone in the profession or hobby. The other metal barns horseshoed around the property would remain on our lot (101) and anticipate using one of them for baseball because his boys are involved in the sport. The third barn he would like to use as storage for plow equipment for the businesses he operates in Glouster and Washington Townships. Mr. Coombs asked if lot 5 was part the application. Mr. Clark explained lot 5 is not on the market, but he understood it could become available for sale soon. If it is the case he would have an interest in making the lot 5 part of the equestrian part on the left and possibly fixing the house up a little bit and selling it as an equestrian type farm or ranch and incorporate lot 5 into lot B. To the left of lot B there is a 100 ft. frontage on Mays Landing Rd. which does not comply with the Ordinance. He would request a variance for the flag lot because there will only be 100 ft. frontage on it. If he were to find someone to use the stable and paddocks he would like to put in a drive way that would run down the 100 ft. parcel to use for trailers to go back to the stables and paddock and would not have to use the main driveway to bring the horses to and fro (the stables). Aside from the one variance he believes everything complies. Both new lots A & B are 2 acres according to Mr. Helbig's calculations and they would comply.

He would leave up some of the trees between lot 5 and the driveway to give lot 5 privacy and there is still room for a 20 ft. driveway. His real aspiration is to acquire lot 5 and make it more sizeable. He would not subdivide the lot.

The question arose about who owns the other half of the stables. Mr. Clark was trying to understand the situation and explained as well as possible. There is a 10 year lease from a farm who purchased the subdivided farm in the back of the property. It is a 10 year renewable lease for half of the stable. It was affecting what Mr. Eckhardt is able to do with the property. He was aware the property has been on the market because of the situation and is willing to accept the situation for what it is and do the best he can with it. Should you be able to work with this the way we have it plotted out we can still make sense of the purchase. Otherwise Mr. Eckhart will continue to find himself tied to the situation because of some bad advice he received.

Mr. Coombs explained Mr. Eckhardt did not want to move the stable and Mr. Pitale explained the County did not want to move the property line. Mr. Burley will seek to meet the farmer and make sure there will be some sort of relationship they can both work with depending on whether the Board decides his plan is reasonable. Mr. Coombs asked if the farmer was using the stable at all. Mr. Clark explained he is definitely not. The stable is not being used at all as things stand and the lease is currently in effect. It was determined the lease has been in effect maybe a year.

Mr. Pitale asked if the lease incorporated the fenced in area or just half of the building (stable). Mr. Clark explained it included the whole fenced in area. There is a total lease of about an acre.

Mr. Coombs asked if he had an interest in and would consider talking to the farmer about dismantling the stable to relocate onto the new lot B. Mr. Burley felt the stable was in amazing condition. He would just rather rent his half to the farmer, but to his understanding the farmer has no interest. Mr. Clark only concern he had was the exception property in the corner as described in deed restriction 1.00 acres. The farmer could build a home there if he so choose. It is not likely, but if it were the case he might have an interest in the one acre again. Mr. Cappuccio asked the Board Engineer if this piece is acceptable to pineland as far as the acreage. Mr. Polistina responded Option A there is one variance discussed. Less than 3.2 acre will require an advanced septic system. It is the minimum for building septic system. The Pinelands Commission will require it. He believed it would meet all other zoning requirements. Stables, housing horses are allowed in the Village Residential. He didn't see an issue with the Use. Based on the plan Mr. Clark submitted, Mr. Polistina thought the only thing it would not conform to the Borough Board would be the lot with variance on Option A. On Option B has the same issue and would still have to grant the 100 ft. variance.

Mr. Clark explained Option A is the more interesting option for us and it will put Mr. Eckhardt in a position to receive a better offer from us because we can make more sense of the property if Option A is reasonable. We would be asking for just 35 ft. of variance as opposed to 100 ft. We are requesting a flag lot which he thought was typical here. Mr. Polistina responded there have been provisions for flag lots. He did not think the Borough does. They are such large lot sizes. It is not uncommon to see flag lots in South Jersey.

Mr. Clark explained his intention for the center lot would be to relocate here with my family, two boys and myself. He owns and operates Chic'fi'lay businesses in Washington and Gloucester County and thought this is a nice location for us to be able to do business up there and still live in the country.

Mr. Coombs explained we are not approving anything because this is an Informal Review. The Board Members believed the presentation was reasonable. Mr. Clark felt if the Board believed it was reasonable he would move forward and come back to the Board with a formal plan.

Pitale asked if there were any other matters for the Board. Hearing none he announced the next scheduled meeting.

Mr. Pitale announced the next scheduled meeting will be April 15, 2015 at 7 pm.

Meeting adjourned at 9:10 PM.

Respectfully submitted,

Susan Carroll
Board Secretary