

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

Gino Leonardis opened the meeting at 7:00 pm.

Please stand for the PLEDGE OF ALLEGIANCE.

This meeting was held in accordance with the Open Public Meeting Act and as such, proper notice of this meeting was published in The Observer and The Courier News and providing same to the Borough Clerk.

It is the policy of the South Plainfield Zoning Board of Adjustments, not to hear any new applications after 10:00 pm and no new witnesses after 10:30 pm.

ROLL CALL:

Present:

Gino Leonardis, Chairman
James Gustafson, Vice Chairman
Ken Bonanno
Maria Campagna
Darlene Cullen, 2nd Alternate
Robert Hughes
Frank Lemos, 1st Alternate

Absent:

Cindy Eichler

Also attending: Larry Lavender, Esq.; Bob Bucco, PE, CME, CPWM; Stanley Slachetka, PP, AICP

MINUTES: (2)

March 21, 2017 Meeting

Vice Chairman Gustafson made motion, seconded by Mrs. Cullen to accept the above listed meeting minutes. Those in favor: Mrs. Cullen; Mr. Hughes; Mr. Lemos and Vice Chairman Gustafson. Those oppose: None

April 4, 2017 Meeting

Mrs. Campagna made motion, seconded by Mr. Lemos to accept the above listed meeting minutes. Those in favor: Mrs. Campagna; Mrs. Cullen; Mr. Lemos; Vice Chairman Gustafson and Chairman Leonardis. Those oppose: None

RESOLUTIONS: (2)

- A. Case #07-17 -- 500 Carlisle LLC**
Block 118: Lots 5.02: R-10 Zone
500 Carlisle Street

Mrs. Cullen made motion, seconded by Vice Chairman Gustafson to accept the above listed Resolution. Those in favor: Mrs. Cullen; Mr. Hughes; Mr. Lemos and Vice Chairman Gustafson. Those oppose: None

- B. Case #20-16 -- Steven Van Der Werf**
Block 167: Lots 27: R-7.5 Zone
538 Franklin Avenue

Mr. Lemos made motion, seconded by Mrs. Cullen to accept the above listed Resolution. Those in favor: Mrs. Cullen; Mr. Hughes; Mr. Lemos and Vice Chairman Gustafson. Those oppose: None

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

**C. Case #08-17 -- Thomas Cheung
Block 172: Lots 2: R-7.5 Zone
111 Florence Place**

Mr. Lemos made motion, seconded by Mrs. Cullen to accept the above listed Resolution. Those in favor: Mrs. Cullen; Mr. Hughes; Mr. Lemos and Vice Chairman Gustafson. Those oppose: None

HEARING: (2 Residential – 1 Commercial)

**A. Case #04-16 -- Robert Cusick
Block 311: Lot 9: R-10 Zone
1055 New Market Avenue**

The applicant is requesting a Preliminary and Final Minor Site Plan with Use & Bulk Variances. Continued from January 17, 2017 hearing.

Chairman Leonardis reads a letter addressed to the Board Members from Walter K. Abrams, Esq. – attorney for applicant. Mr. Abrams was recently retained by Mr. Cusick. He is requesting an adjournment so he may have the opportunity to review the information from the previous attorney as well as discuss matters with his Planner who also was recently retained. The Board accepted the request and the case will be heard on June 6, 2017.

**B. Case #04-17 -- Shawn Janus
Block 426: Lots 7: R-10 Zone
140 New York Avenue**

The applicant is requesting a 7.4' front setback for roof over front porch and front steps.
Required 30' – Proposed 22.8'. Continued from on March 7, 2017 hearing.

Shawn Janus – 140 New York Avenue, South Plainfield, New Jersey – is sworn in. This is being continued from the March 7, 2017 meeting.

Chairman Leonardis addressed the applicant. Chairman Leonardis confirms with Mr. Janus that he has been in contact with the Borough Engineer, Leonard Miller, regarding the wall. Therefore, the Board has no jurisdiction. However, will continue with the variance for the front steps and roof over steps.

Chairman Leonardis asked Mr. Janus if there is any equipment being stored outside. Mr. Janus stated no. Chairman Leonardis asked if there was anything Mr. Janus would like to add to the discussion from the prior meeting. Mr. Janus again stated no.

Chairman Leonardis stated that there was discussion at the previous meeting about landscape and hardscape in the backyard. Again, the Board has no jurisdiction.

Mr. Lemos asked Mr. Janus if he is able to move the shed that is on the property line. Mr. Janus stated that the structure was there when he purchased. It is rotting which will make it hard to move. Mr. Lavender advises the Board that the shed is not part of this application and cannot be discussed.

Chairman Leonardis opens the discussion to the audience. No questions or comments from the audience.

Chairman Leonardis stated that at the previous meeting, there were some uncertainty as to if the Board had jurisdiction on certain concerns. With that resolved, the property is well established and maintained.

Mr. Lemos stated that the majority of homes in the neighborhood are built closer to the road and having the same front yard setback issue. The property looks much improved.

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

With no further questions or concerns, Chairman Leonardis calls for a motion to approve the application. Mr. Lemos made motion, seconded by Mrs. Campagna. Those in favor: Mr. Bonanno; Mrs. Campagna; Mrs. Cullen; Mr. Hughes; Mr. Lemos; Vice Chairman Gustafson and Chairman Leonardis. Those oppose: None

C. Case #18-16 -- James Felix Connors
Block 539: Lots 5: OPA-1 Zone
100 Main Street

The applicant is requesting a Conditional Use for a contractor's storage yard. Bifurcated application.

Mr. Lavender stated that the Publication and Notification is sufficient. The Board has jurisdiction.

James F. Clarkin, III, Esq. – Clarkin and Vignuolo, PC, 1100 Centennial Avenue, Suite 203, Piscataway, New Jersey – attorney for the applicant, addressed the Board. The application is for a Use Variance to continue the operation of an existing contractor's storage yard. Mr. Connors use, which has been in existence for a number of years, is consistent with the prior use for the past thirty-five (35) years. During that time, the property was used by Gemini Towing. Their use included the storage of tow trucks, flatbeds and motor vehicles that were impounded by the South Plainfield Police Department. This helps to prove the zoning case and the issue of Collateral Estoppel which means that the Borough has taken certain actions. It cannot turn its back and say it cannot continue to be used in the way it was before. Testimony will be heard on the history of the property from Mr. Connors and a representative from the Santa Barbara family who owned the property since the early 1960's until 2015 when it was sold to Mr. Connors. This is a bifurcated application. The applicant is only seeking a use variance today. If the applicant is successful, then will return with a site plan application with a full set of engineering plans. Testimony will also be given by Angelo Valetutto, PE. He will describe the property, the surrounding area and the three (3) structures on the property... the single-family home, the one (1) story masonry garage and office trailer. There is a non-conforming shed partially on the neighboring property which is proposed to be removed. There is an issue with fencing and whether it belongs to the applicant or not. Mr. Valetutto will prove planning testimony to justify the variance. The storage yard which has been existing on this property for thirty-five (35) years has no negative impact on the Borough's Master Plan or Zoning Ordinance. Mr. Santa Barbara will testify regarding the Gemini Towing business. Compare that business to Mr. Connors business which has a far less intensity then Gemini Towing. As previously stated, the Borough has fostered the use of this property by hiring Gemini Towing so all of the police impound vehicles would be stored on this property. Therefore, I make the Collateral Estoppel agreement and in all fairness, that it would be inequitable at this time for the Borough to shut off a use that has been in existence for decades. First will be Mr. Connors, Mr. Santa Barbara and then Mr. Valetutto.

James Felix Connors – 100 Main Street, South Plainfield, New Jersey – applicant, is sworn in. Mr. Clarkin questions Mr. Connors:

- Mr. Connors is the owner of 100 Main Street.
- Purchased the property on September 21, 2015 from the Estate of Robert Santa Barbara.
 - Introducing Exhibit A-1 – copy of the deed showing the purchase - Mr. Connors confirms that that is a copy of the deed he received. The Board reviews the deed.
- Beginning in 1982, the property was used as both... a private resident and as a contractor storage yard.
- Santa Barbara family owned the property in 1982.
- Gemini Towing were a tenant and used the property to store vehicles.
- Gemini Towing had a contract with the Borough of South Plainfield and all impounded vehicles were stored on the property.
- Mr. Santa Barbara had received a Certificate of Occupancy for Gemini Towing.
 - Introduced Exhibit A-2 – Building Department Permit Card - Mr. Connors reads from the Building Department Permit Record – 'Gemini Towing Certificate of Occupancy'. The Board reviews the card.
- Introduced Exhibit A-3 – Assessing Property Card – Mr. Connors reads on the first page 'Gemini Towing Business' and on the second page 'Commercial Use'.
- The property consists of a five (5) bedroom house, a masonry building and mobile office unit.
- Lives in the house with his wife and three (3) daughters.
- House meets zoning setbacks.

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

- Masonry building is one thousand two hundred seventy-four (1,274) square feet – one (1) story.
- Mobile office trailer is two hundred thirty (230) square feet.
- Company name – Quality Paving. Does paving and masonry work primarily residential. Few commercial clients. Hardscape, retaining walls, curbs, steps etc.
- Conducted business on property since date of purchase - September 21, 2015.
- Masonry building is used for tools. Intends to store small masonry dump truck and personal pickup truck in building.
- Mobile Office Trailer used as business office.
- Maximum employees – four (4).
- Employees do not park personal vehicles on property. Mr. Connors picks them up.
- No visitors or customers come to the property.
- Business vehicles – dump truck, masonry dump truck and pickup truck.
- Three (3) trailers.
- Hours of operation – 6 am to 5 pm – Monday through Friday.
- Rarely stores material on property.
- No vehicle maintenance done on property. Vehicle Maintenance done at CMC Trucking, Clinton, New Jersey.
- Vehicles washed at Truck Wash, Route 1, Edison, New Jersey.
- No fueling done on property. No fuel storage tanks on property. No intention to do so.
- Oil tank located by garage for heating system. Above ground.
- Four (4) structures on the property... house, masonry building, office trailer and shed. No changes to any structures have been made.
- New roof and painted masonry building.
- Shed located behind masonry building. Partially on B. Bengi LLC property – neighboring property.
- Fence extends into neighbor's property – Risoli Family and Borough of South Plainfield. However, not positive belongs to applicant. If it does, will remove.
- Has spoken with Mr. Risoli about the property. Mr. Risoli offered to purchase the property from him for more than what he purchased it for. Mr. Connors is not interested in selling. Per Mr. Connors, Mr. Risoli advised him that a developer is interested in purchasing his lot, the lot next door and the lot next to that. Mr. Connors said not interested in selling. Wants to keep his property. According to Mr. Connors, Mr. Risoli's exact words were *'that's going to be a problem'*.
- Corner lot.
- Side street – Bedford Avenue. Currently not paved... partially gravel.
- No summons issued by the Borough for the use of Bedford Avenue.
- Attorney received telephone call from the Borough Zoning Officer stating she received a complaint that trees were being cut. Mr. Connors has not cut any trees on his property or on Bedford Avenue. Not even a limb.
- The Zoning Officer never followed up since it never happened. Nothing was wrong
- Mr. J.J. Morris, Sr. investigator from the Middlesex County Health Department received an anonymous complaint that road millings were being deposited on the property. Mr. Morris inspected the property and Bedford Avenue. No road milling found. No summons given.
- Per Mr. Connors, never dumped road millings on property or Bedford Avenue.
- Applied for zoning permit. Was denied. Was told to apply to the Board for a variance.
- Introduced Exhibit A-4 - Denial of Zoning Permit - by Mr. Clarkin with a highlighted area stating *'Gemini Towing 1983 CO per Bldg'*. Reviewed by the Board.
- Since the denial, has begun process for Board approval.

Chairman Leonardis asked how was the house used while Gemini Towing was a tenant. Mr. Connors stated it was used as a residence. However, when he purchased it there was no one living in the house. Mr. Clarkin stated that Mr. Santa Barbara will be better to address the question.

Chairman Leonardis asked Mr. Connors and apologizes if the question has been already answered: How many pieces of equipment for the business? Two (2) dump trucks... one (1) is a small masonry dump and larger dump truck; regular pickup truck; two (2) equipment trailers; one (1) enclosed trailer.

Mr. Lavender asked that several vehicles were to be stored in the masonry buildings. Mr. Connors states yes... mason dump and pickup truck.

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

Chairman Leonardis continues questioning Mr. Connors:

- How many bay doors? Two (2) doors.
- What other equipment? Bobcat and roller.
- Are they being stored on the property? Yes... planning to store them in the storage yard.
- Is the storage yard fenced in? Yes... it was fenced in when purchased.
 - The perimeter? Yes... it was the storage yard for the impound.
 - Mr. Clarkin stated they are aware of the importance of screening and buffering the area from view. Mr. Slachetka's report stated the same and they do recognize it.
- Dumpsters? Tried to get residential pick up but was unsuccessful because it is an industrial area. Therefore, a dumpster.
 - Mr. Clarkin stated they can appropriately screen the dumpster.

Mrs. Cullen asked where the material for a particular job get stored. Per Mr. Connors, stored at the job site. Rarely ever on his property. The material that is currently on his property is to fix his own steps... front and side steps of the house.

Vice Chairman Gustafson questioned Mr. Connors:

- As your business grows, will there be a need to store materials on your property? Does not see a need. Orders only what he needs.
- Are you against a condition that would state that you cannot store or stock pile any material? Rarely ever. Mr. Clarkin reiterates Vice Chairman Gustafson's question to Mr. Connors... will you agree to, except for rare circumstances, that you will not store bulk material on your property? Mr. Connors agrees.
- Where do you store your paving machine? On the trailer? Does not have a paving machine.
- How do you lay macadam? His paving company is small. They dump and rake out the macadam.
- What do you have planned for this yard as your business grows and is in need of a machine? When he needs a machine, he borrows or rents one.

Mr. Clarkin asked Mr. Connors how big is a paving machine? Per Mr. Connors, it extends twelve feet (12') and approximately five feet (5') high. Mr. Clarkin stated that it can be enclosed in a fenced in area and not visible to the outside. Mr. Clarkin asked Mr. Connors would you have room onsite along with your other equipment to store such equipment. Per Mr. Connors... yes, I do.

Chairman Leonardis reiterates... two (2) dump trucks, pickup truck, three (3) trailers, bobcat, roller. No material stored onsite.

Mr. Lavender asked if Mr. Connors would except as a condition no storage of material onsite. Per Mr. Clarkin, Mr. Connors has agreed to the condition.

Mr. Lemos asked what is stored in the metal structure on the side of the masonry building. Per Mr. Connors, it is the mobile office trailer. Mr. Lemos continued... what about the RV? Mr. Connors stated that is his wife's and his. They had it prior to moving to this location. It's for personal use. It is parked for storage.

Chairman Leonardis asked Mr. Connors if he had any other 'toys'? Is he planning to store anyone else's 'toys'? Per Mr. Connors.... No.

Mr. Clarkin stated if a use variance is approved, will return with a site plan that will have a defined fenced in storage area. Within that area, will have an equipment layout.

Chairman Leonardis suggested that there needs to be some definition... separating residential from business.

Mr. Lemos asked if the trailer parked on the other side of Bedford Avenue belonged to Mr. Connors? Mr. Connors stated yes... he parked it there for a few days. He can move it. Mr. Lemos continued.... The application was submitted in September with a plot plan. The plot plan showed a shed partially on the neighbor's property. Why is it still there? Mr. Connors stated that the Borough Engineer advised him not to change or move anything on the property until he comes to the Board and issues are resolved. It can be moved at any time. Mr. Lemos expressed his displeasure of how unkept the property is currently. Mr. Clarkin reiterates, Len Miller, the Borough Engineer advised Mr. Connors not to touch or remove anything from the property until he is heard by the Board.

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

Mrs. Campagna questioned Mr. Connors:

- When talking about the shed... is it the small pink structure - a child's playhouse? No, that the children's playhouse.
- When you pull onto Main Street... on the right... is that a pile of wheelbarrows? They are wheelbarrows... two (2) or three (3). Uses them mostly for yard work but at times at jobsites.
- Earlier it was stated material is not stored on your property, what do you do with the excess material? Rarely have extra. Otherwise dumps them. He is very good at measuring how much material he needs.
- Where are they dumped? At a recycling facility... Weldon Concrete in Watchung for recycling.

Mr. Lemos asks if there is city sewer for the house. Per Mr. Connors... septic. Water? Well.

Chairman Leonardis stated that this may be a question for the Engineer... it is unclear on the drawings where the driveway is located.

Mr. Slachetka asked for a better understanding... Bedford Avenue will not be used in any way for the business. Per Mr. Connors correct. Is he using the gravel area across the street from Bedford Avenue? Per Mr. Connors, no. Mr. Slachetka stated if that area is being used, he would need permission from the property owner and would have to be part of this application. Again, is there intent to use the gravel area across from Bedford Avenue? Per Mr. Connors, no.

With no further questions from the Board, Chairman Leonardis opens the discussion to the audience.

Anthony Risoli – P.O. Box 174, Forked River, New Jersey – is sworn in. He is the Chief Executor of the Estate of Candida Risoli, his mother. There is an Assistant Executor, his son Jason. Who currently resides at the residence on Hamilton Boulevard next to the open lot. He is the sole beneficiary of the Estate. He would like to hear the testimony of Mr. Santa Barbara prior to his rebuttal of the information that had been supplied. He believes there is more information.

Mr. Lavender advised Mr. Risoli that he may only ask questions of the current witness, Mr. Connors, at this time. He may add testimony which he may be cross examined by Mr. Connors attorney. When Mr. Clarkin brings up any other witnesses, he has the same opportunity with those witnesses at that time.

Mr. Risoli stated he is very familiar with the history of the property. He has lived next door starting in 1954 when the home he was raised in was built on Hamilton Boulevard. The property in question was owned by Pasquale Conselina who lived at 1813 Hamilton Boulevard. Mr. Conselina looked for land to build his house and garage. This land is what is known as 100 Main Street. Mr. Risoli mixed the cement for the bricks that were laid by his father and uncle for the house and garage at 100 Main Street. The property is currently zoned as OPA-1. Mrs. Conselina passed and after some time, Mr. Conselina married Mrs. Santa Barbara. After a number of years, Mr. Conselina passed and the property was owned by Robert Santa Barbara, Mrs. Santa Barbara's son who lived with her when Mr. Conselina passed. Yes, it is septic. Yes, it is well. Mr. Risoli stated the well is contaminated. It may have been contaminated from the runoff from Gemini. Gemini was challenged by his father.

Mr. Lavender asked how does Mr. Risoli know the well is contaminated. Mr. Risoli turned to Mr. Connors and asked him very loudly and forcefully, is the well contaminated? Do you have a filtration system? Both Mr. Lavender and Mr. Clarkin interrupted Mr. Risoli. Advised him that he is making his statement to the Board. Mr. Lavender advised everyone in the Council Chambers that everyone will be civil to each other.

Chairman Leonardis addressed Mr. Risoli. You made a comment that the well is contaminated... how do you know? Mr. Risoli stated that there were plumbing permits in the building department. The same information the Board was given.

Mr. Risoli stated he does not know why Gemini Towing was allowed to operate in an OPA-1 zone. Mr. Risoli's father challenged Gemini. He was told by his father that they were 'grandfathered' in because of the business Mr. Conselina was running. Mr. Conselina did truck repair. That is why the garage was built with the oversized doors. Both sons were truckers. That is why the garage was built but there was never any storage. There was no hazardous material stored on the property except for welder sediment. Mr. Conselina was a welder. Mr. Risoli spent many hours with Mr. Conselina repairing trucks. Mr. Santa Barbara was issued a Certificate of Occupancy to rent

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

the property. There was never a variance filed to allow Gemini to run their business on the property since it is not allowed by zone. According to Mr. Risoli's father, Robert Santa Barbara was a Roman Catholic Priest who did not live in the house. His father who believed in his religious faith did not want to push the issue and challenge it through the courts.

Mr. Lavender stated that Mr. Risoli is challenging that Gemini was never an approved business in the Borough. Mr. Lavender stated that the evidence is proving differently.

Mr. Risoli stated that he was given a Certificate of Occupancy but never was issued a variance to operate legally in the zone. This is not a continuation of that business. He welcomes the applicant and his family to the neighborhood but does not welcome his type of business. He feels there is a hazard with his business. He sees pavers and trucks parked on his yard.

Mr. Lavender asked if there is any photographic evidence. Mr. Risoli stated yes. Mr. Clarkson asks Mr. Risoli if he took the photographs. He said no, one of his relatives did who is here.

Jason Risoli – 2529 Hamilton Boulevard, South Plainfield, New Jersey – is sworn in. Chairman Leonardis advised Mr. Jason Risoli that he may present the photos to the applicants' attorney first. Mr. Clarkin asked Mr. Jason Risoli when the photos were taken. Mr. Jason Risoli stated two (2) days ago. Mr. Jason Risoli described the photograph with having two (2) trucks parked on town property. Mr. Clarkin asked how does he know the vehicles belong to Mr. Connors' business. Mr. Jason Risoli stated he is 'pretty sure' he has pictures with the company name on them. Mr. Jason Risoli continues... here is a picture of a roller, a generator 'I think'... across the street on the neighbor's property. Mr. Clarkin asked when this particular photo was taken. Again, Mr. Jason Risoli stated two (2) days ago. Mr. Clarkin asked Mr. Jason Risoli if all the photographs were taken two (2) days ago. Mr. Jason Risoli stated no. Mr. Jason Risoli continues.... Photo of his mixing machine, trailer, generator. That picture was taken last year.

Mr. Lemos asked when you say generator, are you talking about the yellow box - compressor. Mr. Jason Risoli stated yes.

Mr. Jason Risoli continued... from across the street - some sort of container. He doesn't know what's in it. Maybe tar. Trailer. Mr. Connors stated that is not his. He does not know who put that there.

Mr. Jason Risoli continues.... Earlier, Mr. Connors stated that no employees park at the business. Here is a photo of an employee parking on the property. Mr. Connors stated that is a family members truck. Close up of the storage unit and trailer. Photo of extra blocks on his property. Mr. Lavender stated there was testimony that he is building steps. Mr. Connors confirmed. More pictures of bobcat on town property. Mr. Jason Risoli believes someone is living in the RV. When he walks his dog, he sees different colors of lights flickering. Mr. Jason Risoli stated, like his father, he has heard Mr. Connors is a nice man. They had one (1) conversation and he was respectful to him. He welcomes his family. He too has three (3) children. He doesn't want the business there. More photos. Trailers... 40' long. Here's a box trailer with Quality Paving on township property – Bedford Avenue. Vehicles parked in the middle of the roadway. The stone on Bedford Avenue is newer stone. He does not believe that he is not using extra stone onto the roadway. Even though it looks better, he is also widening it by doing so. He too has seen and heard chainsaws being used and trees falling. He did not call the police on Mr. Connors. He did call on the millings. He was concerned a member of the family would be aggressive if he went down Bedford Avenue. It is public property. The trespassing signs were not put up at the time. As far as the fencing, here is pictures of the fence against the chain link fence. It is a different color, different shape on purpose. His grandfather or his father had Gemini put the fence up. He did not want to look at the illegal activity that Gemini was conducting. If it comes down, he wants it to come down. The property ends at the utility pole. You can clearly see the two (2) trucks are parked on township property. Have been there for eighteen (18) months. Also, his concern is there is a halogen light on the utility pole. He does not know if it is owned by Mr. Connors. It does not look like a PSE&G light. His concern is how is the electricity getting to the light and if he has permission from PSE&G to install it on that pole. When the light goes on it lights up everything.

Mr. Lavender stated that Mr. Clarkin will have the opportunity to review the photos with his client.

As Mr. Clarkin is looking over the photos, Mr. Jason Risoli continued.... Vehicles are being washed onsite. Mr. Connors testified vehicles are not washed onsite. He has witnessed the commercial vehicles being washed with the

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

back end of the dump truck up in the air and banged out. The property that abuts is wetlands. He does not know if its gravel or tar that is running off into the wetlands. He too has a well. He is afraid of contamination. Mr. Santa Barbara has told him the well is contaminated. He did tell me he put in a well filtration system in but how do you sell the property with a contaminated well. That is why no one was living there. Mr. Jason Risoli questioned if there is a setback for a fence. He knows there is no permits needed. Septic in the ground. Earlier, Chairman Leonardis mentioned a fence between the house and garage. He believes the septic take is there. Parking construction vehicles on that field will not work. Mr. Connors testified that he does not store any asphalt on the property but you questioned him on his future use.

Mr. Lavender stated that Mr. Connors has agreed to no storage of material on the property if his application is approved.

Mr. Jason Risoli stated he had his well tested in 2016 and passed. He has three (3) small children. Mr. Connors has three (3) children. He does not want to see any children affected by the well water. He loves his well water better than town water. He uses his well water for gardening and everything. He does not want the well water to go bad. The sale of the property was a single-family house. The condition of the sale was approved by Inspector Dominic Demico as such. Certificate of Municipal Compliance stated as a single-family house not as a commercial property. Not sure why that was not submitted. He feels bad for The Connors. His attorney did not educate him enough that he bought a single family house, not commercial.

Mr. Lavender stated that whatever was presented as sale is not relevant

Mr. Jason Risoli continues... the house has been vacant since the death of Mr. Santa Barbara. He is concerned that someone is living in the trailer. He thanked the Board Members who came out to look at the property. He has residential garbage pickup. It was Pinto now it's All-Phase. Therefore, there is a residential pick up on the same block... not on the same street. Prior to operating his business at 100 Main Street, he believes Mr. Connors had a lot on Ryan Street. Mr. Clarkin objected. There is no relevance.

Mr. Lavender asked Mr. Jason Risoli if he has any questions for the applicant. If there are no questions for the applicant, Mr. Clarkin will review the photographs with the applicant.

Mr. Jason Risoli asked Mr. Connors if there is a filtration system on his well water. Mr. Connors answered yes. Mr. Jason Risoli stated that he was told by Mr. Santa Barbara that a filtration system was put in to bring the well water to drinking standards. He is concerned that his well will become contaminated. He would not like Mr. Connors well to be re-contaminated but his first priority is his own family.

Mrs. Campagna asked Mr. Jason Risoli to repeat his house number of Hamilton Boulevard.... 2529. Mr. Jason Risoli continued... he also owns the adjacent vacant lot.

Mrs. Campagna stated that earlier, that this was a OPA-1 zone. Was it ever anything else? Mr. Clarkin stated it was OBC-3 up until 2001. Mrs. Campagna had thought at some point it was in one of the M zones. Mr. Clarkin stated it was never in any of the M zones. To Mr. Clarkin's recollection, Mr. Nebenzahl was retained in 2000 to rezone the area of town from OBC-3 to OPA-1. Mr. Slachetka's report has a statement as to why it was rezoned.

Mrs. Cullen asked Mr. Anthony Risoli if the testimony made by the applicant that he wanted to purchase the property true. Per Mr. Anthony Risoli, no. There was no offer to buy the property. However, Mr. Jason Risoli stated that Mr. Connors came onto his property, started a conversation and did not want to go through the whole variance process. Mr. Jason Risoli stated 'it's the same rotten deal for the whole town.' Everyone had to follow the rules. He felt bad that Mr. Connors had bought the property with the assumption for commercial and he was not advised properly by his council. He told him he could probably find somebody right now who can offer him more than what he paid for it. He believes Mr. Connors paid \$240,000 and could find someone right now who would offer him \$250,000... Break even and walk away. He did not offer personally to buy it. Mr. Connors said no... he is not willing to sell it.

Mrs. Cullen asked Mr. Jason Risoli if he complained about Gemini. Mr. Jason Risoli stated yes. They would idle for an excess of ten (10) minutes at night. He complained about the idling of trucks and the operation of the business. Mrs. Cullen states, as a former Councilwoman, they were one of the towers for the town. She assumed there were things going on 24 hours a day. Mr. Jason Risoli stated that he believes in 2012 that Gemini received a summons for parking their vehicles on Bedford Avenue right-a-way. It is listed on the back of the property card. Mrs. Cullen asked

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

if he complained to the town when they use to impound the vehicles. Mr. Jason Risoli stated he would have to refer to his father. Impound means that the vehicles are there for a short duration of time. He did not complain about the cars. It was more the idling that was disturbing the neighborhood. He did complain about the leakage into the ground.

Mr. Lavender interrupted Mr. Jason Risoli. If Mr. Jason Risoli has more to say he may go ahead, However, he would like Mr. Clarkin and the applicant the opportunity to review the photographs. Chairman Leonardis stated that this is not Mr. Risoli's last chance to speak.

Mr. Anthony Risoli asked Mr. Connors where he cleans his tools... Onsite or offsite? Per Mr. Connors he cleans his tools on the jobsite. Mr. Anthony Risoli continued... how do you clean your paving rakes, shovels and wheelbarrows? Do you use gasoline? Mr. Connors stated no. Mr. Anthony Risoli asked Mr. Connors so how do you clean them. Mr. Connors proceeded to explain.... when at the job site, the asphalt is still hot. So he is able to use a scraper and scrap the asphalt off the tools and into a bucket. Mr. Anthony Risoli asked when you heat up your patinas do you use propane? Mr. Connors stated he does not heat his patinas. He said that when he buys it is already heated up and only has so much time to put it down. If it goes cold he doesn't use it. Mr. Anthony Risoli asked if the roller is water filled? Mr. Connors asked what do you mean. Mr. Anthony Risoli asked to add weight to the roller. Mr. Connors stated the roller is a weighted roller for asphalt. He does put water into a tank to wet the barrels. Mr. Anthony Risoli wants to know where he is going to park his roller. Mr. Connors stated in his side yard where he parks his trailer and other machine.

Mr. Anthony Risoli would like to give testimony to the Board. However, he would like the opportunity to ask further questions of Mr. Connors later. Mr. Lavender advised Mr. Anthony Risoli that when Mr. Clarkin has completed testimony with Mr. Connors, Mr. Anthony Risoli may no longer ask questions of Mr. Connors.

Mr. Anthony Risoli continued.... He has concerns with the carcinogens material flushed or stored on the property. He has a daughter-in-law, daughters and grandchildren who visit the area. A cousin who lives next door. This is an OPA-1 zone. The municipal building is in an OPA-1 zone. The funeral parlor next door or the Senator across the street would not like to have a business with carcinogens in their back yard. He wanted to know if The Board would put a paving company right here.

Mr. Clarkin would like to ask Mr. Anthony Risoli a few questions. The Board allows him to. Mr. Clarkin would like to know what carcinogens is he referring to. Mr. Anthony Risoli stated he got information from the internet. Mr. Clarkin asked him if he was a Chemical Engineer. Mr. Anthony Risoli stated he is not. Mr. Clarkin asked if he is an Environmental Engineer. Mr. Anthony Risoli stated no. Mr. Anthony Risoli continued... he has a document done by NJ Wells. Mr. Clarkin asked what does that report refer to. Mr. Anthony Risoli stated it refers to NJ wells being contaminated. Mr. Clarkin asked if it is a general statement. Mr. Anthony Risoli stated it is a general statement and that NJ wells are endangered. Mr. Clarkin would like to know the evidence that this particular well is endangered. Mr. Anthony Risoli stated this particular well, in this town, at this time.... No. Mr. Clarkin continued.... Have you seen any well water reports for Mr. Connors well. Mr. Anthony Risoli stated no. Do you have any facts to support that this well is contaminated. Mr. Anthony Risoli stated this particular well at this time with what is there... no.

Mr. Anthony Risoli continued.... The DEP settled a 10 million dollar suit. Mr. Clarkin stated irrelevant.

Mr. Lavender addressed Mr. Anthony Risoli. The Board hears your concern. However, that has no relevance to this case.

Mr. Clarkin reviews the photographs with Mr. Connors:

- Exhibit O-1 (trailer and two (2) trucks parked on Bedford Avenue) – taken two (2) days ago. Mr. Connors confirms they are his vehicles in the background. Mr. Clarkin asked Mr. Connors why they are parked on the right-a-way. Mr. Connors stated that he parked them there temporarily. They will be parked in the garage. Mr. Clarkin asked why did he park them there and not on his property? Mr. Connors stated he really has no reason.
 - Mr. Clarkin addressed Mr. Connors... you are asking the Board to grant you a use variance and to respect certain limitations on how you will use the property. What can you tell this Board to persuade them that you will use the boundaries of your property? Mr. Connors addressed the Board. He is willing to work with the Board. He will put them in my garage – mason dump and pickup truck.

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

- He will put the trailer nice and neat on his property and not on Bedford Avenue. He will redesign the fence where the dumpster is to block it off. All he is looking for is to live life with his three (3) beautiful children and wife. He just bought this property and scraping to be here. He would like his business to grow. This is his lively hood. This is what he wants to do. He does not put any containments anywhere. He does not wash his vehicles on the property. He goes to the Edison Truck Stop.
- Mrs. Cullen commented that she has not seen the photographs. She addressed Mr. Connors... you parked on Bedford. You have the property on Main Street. Why are they parked on Bedford and not on Main Street?. Mr. Connors stated to be honest, Gemini used to park there. Mrs. Cullen stated but you are not Gemini. Mr. Connors stated that most times he does park them on his property but sometimes on Bedford. He has the room for them in the garage.
- Mrs. Campagna asked Mr. Jason Risoli if he took the picture. Mr. Jason Risoli said yes. Mrs. Campagna continued... what is Exhibit O-1 and when was it taken. Mr. Jason Risoli stated taken last summer. Most of the pictures were taken two (2) days ago. Some from various times last summer. Mrs. Campagna asked Mr. Connors when did he take ownership of the property. Mr. Connors stated September 21, 2015. Therefore, he would have owned the property. Mr. Clarkin stated he did testify that they are his vehicles. Mrs. Campagna wanted to know where are the vehicles currently. Mr. Connor stated on a job site
- Exhibit O-2 (cinder blocks middle of photographs) - What are they there for? Rebuilding his own steps.
- Exhibit O-3 (white pickup truck) – A family member’s pickup that is not employed by the business.
- Exhibit O-4 (trailer and tank) - That it is his blue trailer. The tank is not his. Gemini towing left the tank behind.
- Exhibit O-5 (fence back of property) -
 - Is anyone is living in the office trailer? *No.*
 - Has anyone ever lived in the office trailer? . *No.*
 - Chairman Leonardis asked if anyone has lived in the RV. Mr. Connor stated no. That is for him and his wife. Before the purchase of the property they would go to Long Beach Island and park it there. He had a FOR SALE sign on it but has not found anyone interested. He cannot wait to get rid of it.
 - Mrs. Cullen asked if there are any TV’s or lighting in it. Mr. Connors stated no TV’s. Lighting that comes with it. Mr. Connors stated he does have an occasion BBQ in his yard. That is what may be referred to as noise.
 - Mrs. Cullen would like to know what direction they are looking at in this photograph. Mr. Jason Risoli stated that it is facing south on township property. To the right of the fencing would be the utility light. The light is shining down onto Bedford Avenue.
 - Vice Chairman Gustafson asked if the utility light is on the plans that are before the Board. Mr. Clarkin stated no because they did not put any site improvements on them.
 - Mr. Clarkin asked Mr. Connor if he had put the light in. Mr. Connor stated no... Gemini had it installed by PSE&G. When he bought the property, PSE&G asked if he wanted the light. It would be a special add on for the business. He asked how much and PSE&G told him \$40 a month. Mr. Connors said no, he do not want to pay it. PSE&G come and disconnected the light and it hasn’t been used since.
 - Mr. Slachetka would like to know is that the pole on the adjoining Borough property or the one on Main Street. Mr. Connor stated the pole on the Borough property.

Mr. Clarkin stated that he is not going to do anything with the remain photographs.

Mr. Lavender explained to Mr. Jason Risoli that Mr. Clarkin had chosen the photographs that he wanted his client to testify to and submitted. He has the opportunity to submit something. There is a difference of giving the pictures to look at or being submitted. Mr. Jason Risoli would like all the photographs submitted.

- Exhibit O-6 -- A car, white trailer and yellow dump truck with flatbed trailer. A machine on the trailer. All parked on Bedford Avenue.
- Exhibit O-7 -- Same as Exhibit O-6 but in a different angle.
- Exhibit O-8 -- White pickup truck.
- Exhibit O-9 -- ‘Bobcat’
- Exhibit O-10 -- Roller and ‘Bob Cat’ on trailer near office trailer.
- Exhibit O-11 -- White box trailer with “Quality Paving & Masonry” written on side.

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

- Exhibit O-12 -- Portable mixer.
- Exhibit O-13 -- Close up photograph Exhibit O-4... blue trailer and tank.
- Exhibit O-14 -- Roller, compressor and part of yellow dump truck.
- Exhibit O-15 -- Different angle of Exhibit O-4... blue trailer and tank.
- Exhibit O-16 -- Yellow dump truck.
- Exhibit O-17 -- Different angle of Exhibit O-5... Fence in back of property.
- Exhibit O-18a -- Different angle of Exhibit O-11... White box trailer with "Quality Paving & Masonry" written on side.
- Exhibit O-18b -- Another angle of Exhibit O-5 & Exhibit O-17... Fence in back of property.
- Exhibit O-19a -- Trailer with 'bobcat' and roller.
- Exhibit O-19b -- Page with four (4) photographs. Different angle and sections of a wood stockade fence.
- Exhibit O-20 -- 8'x10' page of cement blocks and pallets.
- Exhibit O-22 -- 8'x10' page of small dump truck and larger dump truck.
- Exhibit O-23 -- Page with four (4) photographs. Further view of Exhibit O-10 (Roller and 'bobcat' on trailer near office trailer); a tank; further view of Exhibit O-11 & O18a (White box trailer with "Quality Paving & Masonry" written on side)
- *NOTE: no Exhibit O-21 – clerical error.*

Chairman Leonardis asked if there are any pictures taken within the past few days of the gravel area.

Mr. Jason Risoli reads the Exhibit numbers of the photographs that were taken two (2) days ago... Exhibits O-8; O-9; O-10; O-11; O-13; O-15. All were taken the same day. The rest were taken last summer. Chairman Leonardis asked to see those Exhibits again. Chairman Leonardis stated that he was there a few days ago. The site does not look like this. Looks like someone put down $\frac{3}{4}$ " fresh gravel. Chairman Leonardis asked if any of the Exhibits show what the site looks like now. Mr. Jason Risoli stated he purposely has not gone down Bedford Avenue. Does not want confrontation with Mr. Connor or his family. They have 'No Trespassing' signs up. As much as it is his right to go down Bedford Avenue, it may seem inflammatory to him. That's why some of the pictures are from the woods when he was not there.

Chairman Leonardis stated from his visit, there were a lot of stone that was spread. He asked if Mr. Connors put the stone there. Mr. Connors stated that stone has always been there. He does regrade it... level it.

Mr. Slachetka asked Mr. Connors, as depicted on the site plan, is that the actual area of the gravel. Mr. Slachetka continued. To reconfirm what was asked by Chairman Leonardis... you have not expanded or increased the gravel area since you have been there. Mr. Connor stated no. Mr. Slachetka continued... you mentioned you compacted the area. Have you added any material on Bedford Avenue or lot 1.01 or additional material into the area. Mr. Connor stated no... he graded it and compacted it. He did put some stone on his property. Mr. Slachetka.... Re-iterates you did not add any material to the right-a-way. Mr. Connor stated no... only on his property.

Chairman Leonardis stated when he made the right-hand turn onto Bedford Avenue, he was driving on what he believes is cleaned crushed stone. Who put that there? Mr. Connors stated it was not him. Chairman Leonardis holds up a picture and stated that this is what he saw... clean crushed stone on top of old crush. Mr. Connor stated that when he regrades and scrapes it... the stone comes up top. He did not add any new stone. He stated he constantly regrades it. He uses his 'bobcat'.

Chairman Leonardis stated when you make the turn it is a street... but also it is the throat for an open yard. If this is approved, the street needs to be delineated. Mr. Clarkin stated the delineation concept is an excellent one. He believes it should be handled by way of a fence. There are standards for fences in the front yard. Something sturdy but will delineate. He is thinking something like a post and rail across the entire frontage of Bedford Avenue.

Chairman Leonardis continued. There needs to be something. You don't know where the center of the street is. Where the edge of the road is. Mr. Clarkin stated he has to look on the survey. He does not know if there are any property marker pins. If there are none, they will have to be marked with pins or monuments. Exactly at the property yard.

Mr. Bucco stated that can be made as a condition of approval. Chairman Leonardis agreed.

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

Mr. Lavender reminds the Board that through photographs and possibly testimony, there may be some violations that Mr. Connors has to address but that is not the standard for approving the variance before them. Keep that in mind.

There are objectors. He wants to make sure that the correct factors are used to make a decision. Parking in the areas that should not be is the responsibility of someone else in the Borough to decide.

Chairman Leonardis addressed Mr. Jason Risoli, the reason for a lot of the photographs is to show that Mr. Connors was parking off his property... correct? Mr. Jason Risoli responded yes. Differentiation of the fences... one (1) being chain link and the other privacy fence to show the delineation of the property lines as shown on the site plan.

Mr. Clarkin requested a clarification from Mr. Jason Risoli. Is the chain-link fence his. Mr. Jason Risoli does not know. The privacy fence is Mr. Jason Risoli's. Mr. Clarkin stated that the chain-link fence does encroach onto Mr. Jason Risoli's property. Does Mr. Jason Risoli have an issue if Mr. Connor removes the chain-link fence. Mr. Jason Risoli stated he has no problem with the chain-link fence being removed. The wooden fence he does not want removed. It is for privacy. It goes back to when Gemini was there. Mr. Jason Risoli stated he understands that if he takes the wooden fence down it will be at his own cost.

Chairman Leonardis reiterates the concerns of Mr. Jason Risoli -- well water contamination; parking his vehicles not on his property; parking of business equipment off his property; cleaning and scraping of equipment on his property that can potentially contaminate the well water and the abutting wetlands. Chairman Leonardis asked Mr. Jason Risoli what other concerns does he have. Mr. Jason Risoli stated how will Mr. Connor be able to park that amount of construction equipment on a 100'X100' lot with a single-family home. Chairman Leonardis asked Mr. Jason Risoli if he is sure it's 100'X100' size lot. Mr. Jason Risoli apologizes.... Its 100'X200' size lot with a single-family residence. Mr. Jason Risoli continued. It is a non-conforming zoning issue. It is an image issue. It's a valuation problem. If his father ever goes to sell his property, the typical conforming use would be; light retail; professional; medical. It will negatively impact his property. Chairman Leonardis asked if Mr. Jason Risoli's property next door. Mr. Jason Risoli stated yes. Mr. Anthony Risoli stated that they have two (2) properties which fronts Hamilton Boulevard. One (1) with a house. Chairman Leonardis asked what zone is that property in. Both Mr. Risoli's stated OPA-1.... The whole block is OPA-1. Chairman Leonardis asked is residential allowed in OPA-1. Both Mr. Risoli's stated it is. Chairman Leonardis asked did they had checked the ordinance. Mr. Anthony Risoli stated as far as he knows, there were two (2) residences when they changed it in 1993 from OBC-3 to OPA-1.

MR. Lavender reads to all in the Council Chambers the description of OPA-1 as listed in Mr. Slachetka's review letter:

'The OPA-1 Professional Office Zone permits business, professional and service offices (described in the ordinance as including banks, credit services, security and commodity brokers and dealers, insurance carriers and agents, real estate services, photographic services, advertising services, employment agencies, consumer and mercantile credit and collection services, duplicating, mailing and stenographic services, data processing, medical, dental and health services and laboratories, engineering and architectural services accounting and bookkeeping services, and research activities), as well as funeral homes, parks, playgrounds, schools, commercial swimming pools (public or private), public buildings and clinics.'

Mr. Clarkin points out... no single-family home.

Mr. Jason Risoli stated that his family has concurrently occupied the property since 1955. Mr. Anthony Risoli corrected to 1954. Mr. Jason Risoli continued - the property owned since 1953, house built in 1954 and occupied since 1955. There are other homes that have been concurrently occupied in the zone. Conforming or non-conforming, they have been concurrently occupied.

Mr. Lavender stated it is understood.

Mr. Jason Risoli stated he wishes someone would come in and purchase the houses in that part of town. He continued by stating 'there should not be any houses in that part of town.' Unfortunately, it was farm land and there are a few houses left.

Chairman Leonardis stated that several hardships have been identified: Contamination of water; contamination of wetlands; noise; off-site parking; imagery. Are there any additional hardship that have not been identified with this

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

business or any other concerns? Mr. Jason Risoli stated he does not have anything else but there may be some from him (pointing to Mr. Anthony Risoli) and others in the audience.

Mr. Anthony Risoli stated he wants to give some history of the property and dealings with the town. When HK Trucking across the street came to the apply for their variance before this Board, he came with the same concerns. He believed that some of the stipulation for that business was that they can only park trucks on the property for sale and repairs done on the impervious coverage. Also, a retention basin to control the runoff. Mr. Jason Risoli stated that is a M-3 zone... not a OPA-1 zone. This Board gave them that stipulation even though it was not required.

Chairman Leonardis stated that the Board understands the hardships. He would like to know how to mitigate the concerns. Are there any additional hardships? Mr. Anthony Risoli stated from his point of view, he is concerned about the health and welfare of his family. Chairman Leonardis stated that the Board hears him and understands. Mr. Anthony Risoli stated enforcement should be in the stipulations.

Chairman Leonardis asked if there were any further questions from the audience.

Robert Bengivenga – 133 South Plainfield Avenue, South Plainfield, New Jersey – owner of the property next door to the applicant, B. Bengi is sworn in. Mr. Bengivenga stated he did not have the opportunity to look at the plan. Mr. Bengivenga reviewed the plan. Mr. Bengivenga asked Mr. Connor if he had a survey done at the time of purchase. Mr. Connor stated yes. Mr. Bengivenga asked Mr. Connor are you sure you have a survey that shows the property boundary. Mr. Clarkin stated to Mr. Connor that he does not have a copy. Mr. Connor stated he paid cash for the property. It is determined that there is a chance that there was no survey done at time of purchase.

Mr. Bengivenga continued questioning Mr. Connors. Are you sure this is an accurate survey? Mr. Clarkin stated that he is not sure Mr. Connors is qualified to answer the question. Mr. Connors stated that to his knowledge the survey was done by Mr. Jack L. Held from William Held Associates, Inc. Plan of Survey of Tax Map Lot 5 Block 539 dated June 1, 2016. Mr. Bengivenga asked Mr. Connor how many sheds are on the survey. Mr. Connors stated one (1). Mr. Bengivenga asked Mr. Connors if there are any other sheds or toys on the property behind the building. Mr. Connor asked if he is referring to his daughter's playhouse. Mr. Bengivenga stated he believed it's a toy because it is pink. Mr. Connors stated that is his daughter's playhouse. Mr. Bengivenga continued... that is not shown on the survey. Mr. Connors stated that was added after the survey. Mr. Bengivenga asked if the other shed was added prior to the survey. Mr. Connor asked Mr. Bengivenga to repeat the question. Mr. Bengivenga said that earlier Mr. Connors stated there were two (2) sheds behind the building. The survey is only showing one (1). Mr. Bengivenga is not sure if that is his shed on Mr. Connors property or Mr. Connors shed on Mr. Bengivenga's property. Mr. Bengivenga continues... the reason he is asking about the sheds is when he drove by today there were two (2) sheds and when he drove by last year there were two (2) sheds. And there is only one (1) shed on the survey. Mr. Connors stated isn't everyone allowed a garden shed. Mr. Lavender stated that there are rules regarding accessory structures. A shed is an accessory structure. Mr. Connors stated they are pre-existing. They were there when he bought the property.

Chairman Leonardis stated he understands Mr. Bengivenga's concern which is his concern. Mr. Bucco agreed. The survey was done by a Professional Surveyor so why was the second shed not on the survey. Chairman Leonardis stated that you paid for the survey and things are missing. Mr. Connors asked if the he is being asked if he added the shed later. Chairman Leonardis stated he is not accusing him of anything but it does not seem that the survey is representative of what is really there.

Mr. Clarkin stated the engineer may have the answer.

Angelo Valetutto, PE -- AJV Engineering, 424 Main Street, Woodbridge, New Jersey – is sworn in and accepted as a Professional Engineer and Professional Planner. Mr. Valetutto stated that he presumes that the one (1) shed is drawn onto the survey because it spans between Mr. Connors' property and Mr. Bengivenga's property. If there is a second shed, it may not be on Mr. Connors property. Mr. Valetutto has known Mr. Held since 1981. Yes, he may have made a mistake, however, he believes that if the second shed is not on the survey it is not on Mr. Connor's property.

Chairman Leonardis asked Mr. Connors if he is using the shed. Mr. Connors stated no.

Mr. Clarkin asked if he is using either shed. Mr. Connor stated no.

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

Mr. Bengivenga asked Mr. Connor to show him where the other shed is. Mr. Connor stated and pointed that it is between the shed that is drawn on the survey and the garage. Mr. Bengivenga stated therefore it is on your property. Mr. Bengivenga stated you are showing me that the shed is on your property. Mr. Connors stated yes. Mr. Clarkin asked Mr. Connor how do you know that it is on your property. Mr. Clarkin asked do you really where that property line is. Mr. Connors stated not really.

Mr. Bengivenga stated that the other shed abuts against the garage. One foot – 2 feet (1'-2') from the garage. Mr. Connor stated its about three to four feet (3'-4') from the garage.

Mr. Bengivenga asked Mr. Connor if he allows anyone else to park equipment either on his property or the road way of Bedford Avenue. Mr. Connor stated no. Mr. Bengivenga continued... another person or relative. Mr. Connor stated no. Mr. Clarkin asked Mr. Bengivenga personal or business vehicles. Mr. Bengivenga stated business vehicles. Mr. Bengivenga asked Mr. Connors if he knows a Miles Delaney. Mr. Connor stated yes. Mr. Bengivenga asked did Mr. Delaney ever had the opportunity to park his vehicles on Mr. Connors property. Mr. Connors stated no. Not even on the roadway? Mr. Connors stated no. Mr. Clarkin stated that Mr. Connor does not have the ability to allow anyone to park a vehicle on Borough property.

Mr. Bengivenga asked Mr. Connors if any leftover material or blacktop has ever been dumped on the roadway. Mr. Connor stated no.

Chairman Leonardis stated that the Board has heard three (3) to four (4) times about the pink house. What is it? Mr. Connors stated he has three (3) girls... 6 year old coming 7; 4 coming 5 and 18 month old. This is for the girls. Chairman Leonardis asked if it is a wood structure? Play Skol? Mr. Connors stated it is a wood structure.

Mr. Lavender asked Mr. Connors where he got the pink house. Mr. Connors stated at a job site. He bought it, took it home and repainted it. Mr. Lavender asked is this something like a little house for a girl. Mr. Clarkin asked Mr. Connors what is the size? Mr. Connors stated he is not too sure. Mr. Hughes commented that he measures for landscape and is not too sure what size. Mr. Connors stated to give him a minute. Mr. Connor stated 5'X7', 5'X6'. Mr. Lavender asked if it is a mini-dollhouse. Chairman Leonardis reiterated its made out of wood. Mr. Connors stated yes, it's made out of wood. Mrs. Connors stated it is a Wendy House for the girls. Mr. Clarkin asked the Board for identification purposes, would the Board look at a photograph on the phone. Mr. Lavender stated for identification only. Mr. Clarkin stated for identification purposes he is holding the applicant's wife phone and on the screen, is a pink doll house or play house with a little white fence. The phone with picture is passed and viewed by the Board members. Mr. Lavender stated it's not a shed or a house that you can store tools in.

Chairman Leonardis stated that the Board was able to get verification on the pink house... it's a doll house.

Mr. Clarkin stated that he has advised Mr. Connor he has to delineate the property. He needs an appropriate separation from the business portion of the property and the residential. The pink house should be moved much closer to the single-family home and it will be.

Chairman Leonardis asked if there are any more questions for Mr. Connors. Mr. Bengivenga stated that the doll house is not what was being discussed earlier about the 'other' shed. Mr. Bengivenga stated when he pointed to the shed he pointed to the one on the property line that is not the shed he pointed to near the building. The Doll house is in the front of the building. Mr. Bengivenga points out on the survey where the doll house located and where the other shed is located.

Chairman Leonardis clarified... there are two (2) sheds and a doll house. Mr. Connors stated yes. Mr. Lavender stated that one (1) shed is not reflected on the survey. Mr. Connors stated it is not really a shed. It is a UPS airplane box... Chairman Leonardis stated a cargo box.

Mr. Bonanno stated he did see the box and didn't think it was a shed but was not sure what it was. It is a size of a shed. Mr. Clarkin asked Mr. Connors if he uses the cargo box. Mr. Connors stated no.

Chairman Leonardis asked if it belongs to Mr. Connors. Mr. Connors stated it came with the property.

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

Mr. Slachetka asked if the cargo box is secured or does it sit there. Mr. Connors stated it sits there. Mr. Connor continued... he does not use either shed... one (1) is rotten and one (1) he does not like. Mr. Lavender asked if he could get rid of them. Mr. Connors stated yes.

Mr. Lemos asked Mr. Connors about the RV. He would like to know how he was able to park it where it is. Mr. Connors stated he reversed it in. Mr. Lemos reiterated... you backed it in on the right side on the block building. Mr. Connors stated he went from the left side of the office trailer. Mr. Connors stated he drives trucks for a living so he is pretty good.

Chairman Leonardis stated when the property was purchased, was there a survey? Where did you believe the entrance of your property was? Mr. Connors stated the entrance to his property is at his property line. Chairman Leonardis continued... from a driving standpoint, where is the entrance. There are no curbs. Mr. Connors stated there is a line from Main Street down Bedford. When you refer to where the entrance is, it can be anywhere along the line. Chairman Leonardis asked Mr. Connors that is what you believed. Mr. Connors stated yes. Chairman Leonardis stated its all gravel.

Mr. Lavender stated you believe you can pull into your property anywhere because the gravel. Mr. Connors answered yes.

Andrew Santa Barbara – 49 Claremont Drive, Hillsborough, New Jersey – is sworn in. Mr. Clarkin questioned Mr. Santa Barbara.:

- At one time did you family own 100 Main Street? *Yes.*
- When did your family own the property? *In the 1960's until my uncle passed away in November of 2011.*
- After 2011, did the property remain in the estate? *Yes.*
- Ultimately, did the family estate sold the property to Mr. Connors? *Yes.*
- Over the years, did you visit the property? *Yes.*
- A few times... often? *Often.*
- Was the property ever leased to Gemini Towing? *Yes.*
- Are you familiar with the business operation of Gemini Towing? *Yes.*
- What can you tell the Board about the operation of the business?
 - *A 24 / 7 operation.*
 - *A towing company.*
 - *Approximately six (6) vehicles – tow trucks. Two (2) very large – two (2) flat beds - two (2) smaller tow trucks.*
 - *Approximately, eight (8) to ten (10) vehicles parked to the left of the garage at all times.*
- Do you know how those vehicles came to be on the property? *They were impounded vehicles.*
- Impounded by the South Plainfield Police? *I do not know where they were impounded from.*
- Do you know how many employees Gemini had? *The owner and approximately three (3) or four (4).*

Mr. Lavender asked how long did Gemini use the property. Per Mr. Santa Barbara from 1982 until Mr. Connor purchased the property.

Mr. Clarkin stated that is consistent with the Certificate of Occupancy that was granted in August of 1983.

Mrs. Campagna asked Gemini owned the property? Mr. Santa Barbara said they never owned it. Mrs. Campagna continued... Gemini was a tenant until 2015? Mr. Santa Barbara stated that when he sold the property to Mr. Connors, Gemini was still leasing the property. Mrs. Campagna continued... Gemini were still operating? Per Mr. Santa Barbara stated yes. The father passed away and the son took it over. He believes it may have changed names but it was still the same company... Gemini. Mrs. Campagna asked Mr. Santa Barbara does he know where they went. Mr. Santa Barbara stated they went somewhere off of Route 287 in a new location.

Mrs. Cullen asked Mr. Santa Barbara if he had any complaints while he owned the property. Mr. Santa Barbara stated that there were never complaints until his uncle passed away in 2011. Mr. Risoli and Mr. Bengivenga wanted to purchase the property from him which he turned down. That's when he started to receive complaints... improper parking and things of that nature.

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

Mrs. Cullen continued... do you have knowledge of the well being contaminated. Mr. Santa Barbara stated yes. Mr. Clarkin asked what knowledge do you have. Mr. Santa Barbara stated water testing. Mr. Clarkin continued... what type of contamination is there. Per Mr. Santa Barbara, some type of dry cleaner agent. The contamination was fixed with a filtration system. Before the house was sold, the water was test and water test came back with no contamination. Therefore, the filtration system is working. The septic system is in the middle of the yard between the house and the garage so they cannot park vehicles on it. Mr. Clarkin asked Mr. Santa Barbara to point out on the plan where the septic field is. Mr. Santa Barbara stated the septic tank and the leach field is between the house and the garage. Mr. Lemos asked is that where the pink building is? Mr. Santa Barbara stated I have not been by the house recently, so I do not know where the pink building is. Mr. Connors stated the pink building is nowhere near it.

Mrs. Cullen asked Mr. Santa Barbara if he knows the condition of the septic system. Mr. Santa Barbara stated he does not. He did not have the septic system tested.

Mr. Lavender asked if the two (2) audience members approach him to purchase the property. Mr. Santa Barbara stated through phone, not in person. Mr. Lavender stated you sold it to Mr. Connor instead. Mr. Santa Barbara stated he had intention to purchase it himself through the Estate but it did not work out so he had to put it up for sale. Mr. Lavender asked was it a business decision. Mr. Santa Barbara stated no. One (1) of the other members in the Estate did not want him to purchase it. He had to sell and divide it.

Mr. Lemos asked has there been any attempt to get Municipality water and sewer. Mr. Santa Barbara stated he had inquired about both and was told no. Mr. Lemos repeated... they told you no.

Vice Chairman Gustafson asked the Professionals, when a well is contaminated doesn't it get tested from that point forward. Previous applicants who had contamination would have consistent testing from year to year. Mr. Bucco stated if it is contaminated, minimally the well should be tested yearly. Vice Chairman Gustafson continued, in South Plainfield, aren't wells supposed to automatically comply with yearly testing. Mr. Bucco stated he does not know the answer. He would have to look into the Ordinance.

Mr. Clarkin stated the particular answer notwithstanding the state regulations or the South Plainfield Ordinance, it would be appropriate for this Board to make that a condition for at least annual testing.

Mr. Slachetka asked Mr. Bucco, do the regulations for the wells fall under the jurisdiction of the County Health Department. Per Mr. Bucco, correct.

Chairman Leonardis asked Mr. Santa Barbara if the property was listed with a realtor for sale. Mr. Santa Barbara stated yes... with Russell Williams.

Mr. Jason Risoli asked Mr. Santa Barbara how the property was listed... as commercial or residential in the Multi Listing Services. Mr. Santa Barbara stated he had Mr. Williams send him a copy of the listing.

Mr. Lavender asked who Mr. Santa Barbara listed the property with... Berkshire Hathaway.

Mr. Clarkin reads the listing... zoned as commercial. Per Mr. Santa Barbara, it was listed as mixed use commercial.

Mr. Jason Risoli continued.... When Mr. Santa Barbara had the well tested there was indication it was contaminated with a dry-cleaning agent. Did they tell you where it came from? Mr. Santa Barbara stated he called the Middlesex County Environmental Department and the South Plainfield Health Department. No one was able to tell him where it came from. Mr. Santa Barbara assumed it came from Boro Auto Wrecker which is contaminated and not far from the property. He also assumed it may have come from the car wash across the street. Mr. Santa Barbara stated it did not come from Gemini Towing. He had a Phase III Environmental study done and there were no contaminants.

Mr. Jason Risoli asked if there was any knowledge of underground oil tanks and if he ever had a sweep done. Mr. Santa Barbara stated there was an underground oil tank that was remediated by Quick Environmental. The entire property was swept and nothing found. Mr. Jason Risoli asked how many tanks were removed. Mr. Santa Barbara stated one (1). Mr. Jason Risoli stated that typically during that era, there were two (2) tanks. Mr. Santa Barbara stated it was a one thousand (1,000) gallon tank. Mr. Jason Risoli stated the reason he brought that up was when the tanks were installed, they usually did a two for one special.... Buy one (1) one thousand (1,000) tank and were given a second one thousand (1,000) gallon tank and attached them so they may buy wholesale. Mr. Santa Barbara

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

reiterated that he had Phase III environmental study. The one (1) tank was remediated by Quick Environmental. He has a 'No Further Action Letter'.

Mr. Clarkin reads the remarks from the listing... "a unique opportunity to own this updated Cape Cod located in a commercial zone with a detached garage currently being rented out to a towing company."

Mr. Slachetka stated that the realty listing from the stand point of zoning and planning issues does not matter for the decision. It is the zone and use of the land the two most important items.

Mr. Lavender stated that there are a number of items that were brought up that are a valid concern but have no relevance to what is before the Board.

Mr. Jason Risoli stated he understands, he wanted his concerns entered into record.

Mr. Slachetka asked with regards to the towing company, was Mr. Santa Barbara aware or knew when the various sections of gravel were put on the roadway or across to the adjoining property. Did he recall or is aware of any expansion of the business over time? Did they expand into other areas other than the portion of your property they leased? Mr. Santa Barbara stated through the years Gemini encroached on the area around them. They were parking on the right-a-way. Mr. Santa Barbara got a ticket for that. They had at least three (3) containers across the street from Bedford Avenue. They did the cut out that is across the street. They got summons for that. The inspector at that time and does not remember the name made Gemini remove everything and clean it up. Got a summons from the people who own the property. He had assumed that Gemini had permission to use the property. Since it is not his property he does not know how Gemini ended up using that space.

Mr. Slachetka asked Gemini never received approval to use the right-a-way or the property across the street. Mr. Santa Barbara stated to his knowledge, no. Mr. Slachetka continued... they received summons and the resolution to the summons was to cease and desist. Mr. Santa Barbara stated they were told that the only property they were to park on was 100 Main Street. Mr. Slachetka asked if Mr. Santa Barbara is aware of any DEP approvals where they can encroach into any wetland areas. Mr. Santa Barbara does not know where the wetland area is located. Mr. Slachetka asked if he is aware of any DEP approval. Mr. Santa Barbara stated no. Mr. Slachetka reiterates.... Over time they expanded, there were summons issued and it was recognized that those uses were not permitted in those locations

Mr. Santa Barbara made a clarification... There is no delineation of the road. The curb comes from Main Street and cuts around a little bit. The town has never maintained the road. Gemini was the one who plowed it and he is sure Mr. Connors plows it now. Mr. Connors maintains it far better than Gemini has ever.

Chairman Leonardis stated we do not have the authority to let anyone park there. Mr. Santa Barbara understood.

Chairman Leonardis asked again.. when Mr. Connors bought this property, no survey was done. Mr. Connors stated he was not sure if one was done.

Mr. Clarkin asked to review the deed. After review of the deed that was submitted earlier as Exhibit A-1, under the metes and bounds, it is indicated and read by Mr. Clarkin 'a survey was prepared by Brunswick Survey on August 21, 2015'. The property is 100'X200'.

Chairman Leonardis asked Mr. Connors if before he purchased the property did he walk the property with his realtor. Mr. Connors stated yes.

Chairman Leonardis asked did anyone tell you that this was a road. Mr. Connors stated he was aware it is a street.... A paper street. Mr. Lavender asked Mr. Connors what is his understanding of a paper street. Mr. Connors stated a right-a-way... an entry to his property.

Vice Chairman Gustafson asked for a clarification on what a paper street is. Is it the town right to claim property? Mr. Lavender stated that is his understanding. Mr. Clarkin stated the town has rights to the paper street if it is shown on the tax maps.

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

Vice Chairman Gustafson discussed whether this is a legitimate road. If there are no parking signs on the road, they are subject to the police. If it is a road in South Plainfield, you cannot park commercial vehicles overnight on the street. But if there are pickup trucks parked on the road or on someone else's property it is up to the person to complain and the police to enforce. If he was parking his trucks there, then the only summons would be parking commercial vehicles overnight on the street.

Mr. Lavender stated that is what he was concerned earlier and made the statement that any violations Mr. Connor may be guilty of is a different frame work.

Vice Chairman Gustafson continued.... Let's get off of the road and concern ourselves with the issues. Can it work in the zone? Does it meet the tests? It's a bifurcated application.

Mr. Slachetka stated that these are legitimate issues when addressing negative criteria. Whether or not there is any detriment to the public good or zone plan of a community. Understanding the capacity and limitation of the site for the proposed use is relevant consideration and spill over affects onto public right-a-way or property is relevant consideration of the Board.

Mr. Clarkin agreed. He has tried to impress upon the applicant that he needs to operate his business on his property and demonstrate that he can do so. That will largely come at the site plan portion of the application. He has demonstrated he can with the respect of the size of his vehicles and the number of vehicles that can indeed be fitted into a fenced in outdoor storage area.

After reviewing the tax map, Chairman Leonardis confirmed that Bedford Avenue is on the tax map and goes from Main Street to Easton Avenue to West End Avenue. Mr. Clarkin asked to confirm... on the tax map? Mr. Lavender stated yes.

Mr. Santa Barbara stated clearly the road does not go through.

Mr. Clarkin stated but the public has rights in that area.

Chairman Leonardis addressed the Board... we all understand the boundaries of the lot. Is everyone clear on the survey? It shows a gravel area in the road and beyond the road. We are looking at the boundary on the south side. The decision that we have to make tonight is that... do we believe this applicant, this use, should be allowed on this property. That is what we are here to think about.

Mr. Lavender made a public disclosure that he has a working relationship with the next witness, Angelo Valetutto, PE. However, Mr. Lavender is not a voting member.

Angelo Valetutto, PE -- AJV Engineering, 424 Main Street, Woodbridge, New Jersey – re-introduces himself to the Board. He was sworn in earlier. Mr. Clarkin questioned Mr. Valetutto.

- Did you prepare the change of use for this application? *Yes, I did.*
- This property has been described as 100'X200'? *That is Correct.*
- Corner Lot? *It is.*
- OPA-1 zone? *It is.*
- Can you describe the surrounding properties. *We have heard from the neighbor to the North. Across the street, we have a car wash. To the south and remainder around the property is Borough owned. There are other uses in the area permitted.*
- Nearby Valley National Bank? *Yes sir.*
- Rear of the shopping center building? *Correct.*
- United Rentals across Hamilton Boulevard? *Yes sir.*
- HK Trucking facility? *Yes... to name a few.*
- Does this property meet all the bulk requirements in an OPA-1 zone? *It does as shown on the General Notes on the one (1) sheet drawing.*
- Do each of at least three (3) structures... excluding the shed or sheds... the house, the masonry building and storage trailer meet all the acceptable setback and height requirements? *Yes, they do.*
- Contractors storage yard is not permitted in an OPA-1 zone. *Correct that is why we are here.*

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

- Municipal Land Use Law permits the granting of the use variance in particular cases for special reasons. Is that true? *Correct... under statute 40:55d-70. As exactly verbatim of what you said.*
- What constitutes a special reason in your mind? *Special reason in my mind are looking through what purposes for the act under 40:55d-2 would be met by granting of this application.*
- In the act of the Municipal Land Use Law? *That's correct.*
- Any purposes of zoning that would be advanced by granting the use variance? *Yes... I believe there are a number of them. I will read them into the record then I will go through them one by one. By believing that they are advanced... Purposed A - to encourage municipal action to guide the appropriate use or in a manner which will promote the public health, safety, morals and general welfare. Purpose C – to provided adequate light, air and open space. Purpose G - to provide sufficient space in appropriate locations for a variety of uses to meet the needs of New Jersey citizens. Purpose H – to encourage the location of transportation routes which will promote the free flow of traffic while discouraging location of facility which result in congestion. Purpose I – to promote a desirable visual environment. Purpose M – to the more efficient use of land*
- How does an applicant go about proving that an application meets and promotes the general welfare? *By proving that the property is particularly suited for a proposed use. As in terms of most important - safety... ingress and egress from the adjoining properties since we are a non-permitted use in this particular zone*
- Have you formed an opinion if this property is suitable for Mr. Connors contractor's storage yard? *Yes... my opinion is that it is particularly suited for the use. There are several reasons... first its size and shape of the property. The lot has 20,000 square foot of area which is twice the required size for the zone. It is sufficiently large enough to continue the existing single residential use by Mr. Connors and his modest contractor's storage yard use. There is also use to store the vehicles that he has whether it will be in the existing masonry building or in his fenced in area. As testified by Mr. Connors, it can be done so without any overnight parking or parking any type of duration in the Bedford Avenue right-a-way.*
- Would part of the particular suitability proof be the existing of the two (2) structures... the masonry garage and the office trailer? *Yes sir. Due to the fact that we indicated earlier that they all situated in which they do not create any bulk variance in terms of the setbacks where they are located from any various property lines.*
- They provide the necessary space and facility for the operation of the business? *That is correct.*
- Can you distinguish this property from the surrounding properties? *Yes sir. First, as I previously mentioned the property is unique because it has both a single-family home on it which is the main focus for vehicles traveling along Main Street. The secondary use, the contractors use, is situated in the masonry block building, trailer and in the fenced in storage area which is in the westerly end of the property and most remote from Main Street. The secondary distinguishing factor is the property already has a structure as we indicated to support the use of Mr. Connors business and to have the parking area in the fenced in area.*
- Do you have an opinion of continuing having a contractor storage yard here will serve the interest of the Borough? *I did as per your request. We secured a number of google earth maps and I would like to display them. They might help some questions that I was listening to in terms of second storage building showing as a container and being used by Gemini Towing over the years.*

Mr. Valetutto stated that the quality of the mapping got better through the years.

Mr. Valetutto describes the Google Earth maps:

- Exhibit A-5 -- Dated December 31, 2001. Showing the single-family residence. Showing the masonry structure in the back. Showing vehicles parked throughout the property...off the property...in a fenced in area...on Bedford Avenue...off Bedford Avenue... in the area beyond the limits of the property. It is important to note that the survey performed by Mr. Held and the drawing shows the stoned area. It wraps to the east by the masonry structure. Across Bedford Avenue, you see the stoned in area.
- Exhibit A-6 -- Dated July 4, 2007. Six (6) years later. The structures are all the same. It shows a lineup of flatbed tow trucks directly in front of the masonry building and in the area just to the east. Mr. Clarkin asked how many tow trucks. Mr. Valetutto stated a total of six (6). Mr. Valetutto continued... it does show an area in the back which is the fenced in area. You begin to see the storage of vehicles. It shows a couple of sheds... The one against the building and the one that seems to straddling Mr. Connors property and the adjoining property.
- Exhibit A-7 -- Dated June 17, 2010. Showing five (5) flat beds in the central location. You can see the number of vehicles in the containment area has increased significantly. As well as vehicles through the area... across Bedford Avenue and beyond Bedford Avenue. The shed is still indicated. The second shed that Mr. Held did not indicate looks like a container.... A UPS container that Mr. Connors testified earlier.

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

Mr. Clarkin asked what is the structure at the bottom right hand corner? Mr. Valetutto stated that is the car wash.

- Exhibit A-8 -- Dated November 5, 2012. Showing four (4) flatbed trucks. The number of cars in the containment area is approximately the same. It shows what looks like four (4) ship cargo containers to the southerly side of Bedford Avenue. It shows the residential property that Mr. Risoli resides in... to the west of the property.
- Exhibit A-9 -- Dated October 11, 2014. Showing four (4) flatbed trucks. Two shipping containers across Bedford Avenue. A boat. One (1) shed. Looks like through enforcement, the vehicles shown on previous photos along Bedford Avenue and the south side of Bedford Avenue have been cleared out. The structures are still the same. The roof looks purple. It was a cover on due to leaking.

Exhibit A-5 through Exhibit A-9 are reviewed by the Board.

Mr. Clarkin continued to question Mr. Valetutto:

- Does this application provide adequate light, air and open space? *It would and evidence is the fact that all the structures on the property meet all the setbacks in which terms of the development of the bulk standards provides that there would be an appropriate amount of light, air and open space.*
- Does it meet all the height requirements? *Indeed. The tallest is the two-story brick dwelling which is at 30'.*
- You mentioned Purpose G which is to provide sufficient space in an appropriate location. Would this purpose be advanced by granting this application? *Yes sir. First the property is on a side street and not on the main thoroughfare, Hamilton Boulevard. There are two (2) lots that separate this lot from Hamilton Boulevard physically and provide excellent buffering and screening. In addition, the use is modest in scope and it easily fits on the lot. In addition, the use is compatible with the car wash directly across Main Street. It is located only 150' from Hamilton Boulevard so that minimal amount of traffic from Mr. Connors use does not have to travel through any residential neighborhood to get to a main thoroughfare.*
- Can you comment on Purpose H – which is encouraging the location of transportation routes that discourage congestion. *Yes. Again, continuing with the adjective, it is a modest use. Clearly with the number of dump trucks and trailers it will not generate a substantial amount of traffic. It will not cause traffic congestions or hazardous condition. It is clearly significantly less than what was shown on the Google Maps for the last 15-16 years.*
- Can this applicant promote the desirable visual environment? *Yes. While we cannot prove that point today, it is something that can be by virtue of, once we are fortunate enough to be approved this evening, to return with the site plan where we can do the landscape, fencing and the separation of use. All the things that have been spoken about that would provide an improvement esthetically which is also special reason.*
- Purpose M - to promote the more efficient use of land. Is that special reason present here? *Most definitely. We are utilizing property that has both a single-family dwelling and the masonry structure with the trailer in the rear yard. It has the utilities albeit septic tank and well. Obviously, if there is an ability to eliminate a septic and well, one would try to do so. It is a question of proximity... as we heard from the earlier witness whose family had attempted to get some relief from the Borough. However, there is nothing that we are proposing that would require the septic tank to be made larger or the well to be increased in its depth for capacity.*
- Let's turn to the negative criteria. Can you give the Board your opinion whether this variance can be granted without substantial detriment to the public good? *Yes. When comparing the use that Mr. Connors has been occupying and seeking the board approval this evening, this is a modest use on a piece of property that is twice the size of the requirement for the zone. It doesn't impact negatively with light, air and open space because it meets all the setbacks. Its immediate and quick access to Hamilton Boulevard as not to create an issue with congestion or to be driving within residential areas to get to a main road. The fact that Mr. Connors has the ability to park his vehicles either within a block building or within a fenced in area so as to minimize the visual impact with having trucks in the zone which the use is not permitted.*
- Do you have an opinion that this variance can be granted without the impairment of this Borough's Zone Plan or Zone Ordinance? *There will be no impairment, much less a substantial impairment. The property as we have shown and have testified has approximately 35 years use in the terms of not only storing vehicles but storing vehicles that were impounded for a number of variety of reasons which have potential to leak fluids into the ground and cause issues with wells and drinking water in the area. It would be detriment if we were using a new non-confirming use. But this is not the case. One of the adjacent properties is owned by the Borough and they control how that property would be utilized.*

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

- Have there been any other applications for other non-conforming uses to your knowledge in this area? *Not to his knowledge. Although he notes there are uses in the area that are not permitted. But cannot testify if they are pre-existing to the Zone Ordinance or the change of the Ordinance that would have made them non-conforming.*
- The relationship of this property to the Borough's Master Plan. *After the 2000 Master Plan zone designation from OBC-3 which is a commercial retail to an OPA-1 which is commercial administrative office development. As the Planner noted in his report, the intent of that change was to limit the commercial retail development not located in the Historic Downtown District. Continuing this non-retail use promotes the Master Plan goal. The OPA-1 goals are to improve esthetics and traffic flow. As we testified earlier, our traffic will be extremely light. We have the ability during the site plan stage to give the buffers, screening and the significant esthetics improvement.*
- Are there any aspects of the uses that are permitted shared by with the applicant's business? *I believe so. With regard to the zone, there are uses such as funerals home, government and public buildings that are uses permitted in the zone both of which would have vehicles that would most likely be stored outdoors. Most funeral homes with regard to the hearses don't have the ability to park within the typical parking garage. The Borough can put a Public Works garage or another municipal use on their adjacent property.*
- Enhanced proof and reconciliation requirement. Can you reconcile granting this use variance with the fact that the contractors storage yard is not permitted in this zone? *When this area was considered and rezoned from OBC-3 to OPA-1, the governing body was aware through its Professionals and Planning Board and ultimately Mayor and Council, that the existence of this use on this property. They took no action in terms of deliberately prohibiting it. The Zoning Ordinance does have a prohibition provision in the M-1 zone. In a M-1 zone, residential uses are expressly prohibited. In essence, the Borough tactfully permitted this use to continue. If it was so offensive, one would think that the Borough would have expressly prohibited its continuance.*

Chairman Leonardis stated that in the negative criteria, we had the opportunity to restrict the zone and we did not. Mr. Valetutto stated yes. Chairman Leonardis continued, does that automatically mean it is approved? Mr. Valetutto stated most definitely not. Just making the point that it is the grey area.

Mr. Clarkin reiterated that what the Governing Body could have done was what they did with the M-1 zone where they strictly prohibited single-family dwellings.

Mr. Slachetka requested a clarification. Your testimony was that by not adding to the prohibited list that the Governing Body passively approved it. Mr. Valetutto apologized if his response to the Chairman seemed as though they approved it. He meant that they left that part of the process to applicants to come before the Board to prove their case.

With no further questions from the Board, Chairman Leonardis opens up the discussion to the audience.

Mr. Bengivenga asked Mr. Valetutto does he consider this a mixed use or contractors yard. Mr. Valetutto stated its clearly a mixed use. Mr. Bengivenga continued... Would this be considered the type of use in an M-3 zone or an OPA-1. Mr. Clarkin stated he would like to answer the question. Mr. Clarkin stated that it is his understanding that a contractor's storage yard, going back as far as twenty (20) years ago, is not a permitted use in any zone in the Boroughs' zone scheme. Mr. Bengivenga asked do you consider heavy equipment in M-3 zone or OPA-1 zone? Mr. Clarkin asked if he is referring to storage of heavy equipment? Mr. Bengivenga stated yes. Mr. Clarkin continued... hypothetically if this equipment is heavy equipment. Mr. Valetutto interrupted by stating from a technical point, he is not sure he would consider the equipment as heavy equipment. Mr. Valetutto continued... Heavy equipment is the type of equipment you see with the big rollers. This is a small contractor that works primarily residential driveways. He works on some masonry. As he indicated, he primarily works with residential customers and rarely has a need that would require the heavier equipment. They come in. Drop it off hot. Rake it out. While he is rolling it, he is cleaning his equipment as we heard from his testimony. I am not sure this would qualify as heavy equipment. Certainly, heavier then what would be considered as residential use but my opinion not a heavy use. Mr. Bengivenga asked would you consider a tandem truck as heavy equipment. Mr. Valetutto asked what size tandem truck? Mr. Bengivenga proceeds to say 18-20 yard. Mr. Valetutto stated you are talking about a heavier truck... yes. Mr. Valetutto continued... Mr. Connors indicated his truck is a mason truck and that clearly is not a tandem truck.

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

Chairman Leonardis stated that there is a mason truck and a larger dump truck. Chairman Leonardis asked Mr. Connors what size it is? What is the weight on it? Mr. Connors stated it is a tandem.

Mr. Clarkin asked Mr. Valetutto would he classify that as a heavy truck. Mr. Valetutto stated he would classify as moderate.... Not heavy.

Mr. Bengivenga continued... the size of the property being commercial and residential is 20,000 square feet. Mr. Valetutto stated yes. The size for M-3 zone would be 40,000 square foot. Mr. Valetutto stated he is not sure. He would have to yield to the Board's Professionals.

Mr. Lavender stated we are not discussing a M-3 zone. Mr. Bengivenga stated he was asking for his knowledge. Mr. Bengivenga stated that Mr. Valetutto had stated that Mr. Connors property is 150 feet from Hamilton Boulevard. Mr. Valetutto stated approximately. Mr. Bengivenga asked if Mr. Valetutto would like to reconsider that distance. Mr. Valetutto stated again, approximately. Mr. Bengivenga continued... under 100? Mr. Valetutto addressed Mr. Bengivenga by stating that he is making his case better. Mr. Valetutto continued... The purpose was that Mr. Connors did not have to travel through a residential zone to get from his property onto a street that is able to accommodate his equipment. Mr. Bengivenga stated he likes the facts to come out... Just like the shed was not shown.

Mr. Jason Risoli asked Mr. Valetutto... would normal upgrades like storm water management be imposed upon for a variance for a property with gravel or would there be an expectation to have a non-impervious surface like asphalt with appropriate curbs and storm drainage on the paper road leading out to Main Street that already has drainage. Mr. Valetutto stated forgetting that the purpose of this hearing is getting a use variance bifurcation and if fortunate enough to get approval, tonight's approval means nothing if we cannot satisfy this Board and these Professionals with our site improvements. Putting that aside, the property has existed in this fashion for at least 16 – 17 years as evidence with Google Earth maps. By taking a road that is gravel, and my recollection it is clean gravel, and to pave it will increase the runoff, creating more problems. Clearly, what we have in terms of the predecessor, not in terms of entitlement by the tenant, they expanded the gravel off the property. That is something, if we make this hurdle, to be removed and planted with grass and other items. As far as storm water management, the Board Professionals would have to be satisfied at the site plan. I am not sure if that answered your questioned.

Mr. Jason Risoli asked if there was any reason why Google Maps did not have the New Jersey Department of Environmental Protection 2012 wetlands map that surrounds the property. Mr. Valetutto stated you would have to ask Google Maps. Mr. Jason Risoli stated he has it on his phone. He knows he cannot submit it as evidence but asked if anyone would like to look at it. Mr. Jason Risoli continued that he would like the Board to at least look at the 2012 wetlands mapping from the NJ DEP that surrounds that property and to take into consideration storm water and drainage calculations. We do not want further deteriorate the block and area based on the fact that we let it go on... we, as a town, let it go on for so many years.

Mr. Lavender stated that he believes the Engineers can speak to him about that.

Mr. Jason Risoli continued... we made our mistakes the last 35 years. That doesn't mean we have to continue making our mistakes.

Chairman Leonardis stated that it is on the list of hardships and understands it is something he is concerned about.

Mr. Jason Risoli continued... it is left up to the Board to determine how to use the property. 'If you are going to do it... do it right.'

Mr. Bucco addressed Mr. Risoli... This is a bifurcated application. If it is approved to move forward, all the issues will be addressed. That is standard operating procedure. If there are environmental issues, an environmental scientist will look at the wetlands delineation and make sure they are properly shown on the plans. Storm water management will be reviewed by drainage and hydraulic engineers who do this on a regular basis. By testimony, the well was contaminated. The well will be inspected to make sure it is working properly. County Health Department and the Borough's Board of Health approvals will be needed. All the issues and engineering concerns that were mentioned tonight will be properly evaluated... again, if this goes to the next step.

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

Mr. Jason Risoli asked with the buffering, he is assuming they are taking into account that the frontage property is on Main Street or is buffering the amount of space between 100 Main Street and Hamilton Boulevard? How is buffering determined? Mr. Valetutto stated just the fact of the land separation with the property owned by the last gentlemen and your property. Mr. Jason Risoli asked if it does not take into account for the trees and shade. Mr. Valetutto stated not in the context he was using in terms of land separation... buffering from the road. Mr. Valetutto continued... Again, once we hopefully get past this hurdle, we will have to do a number of improvements in terms of the site plan before we return to the Board providing them with our own buffering, landscaping and fencing

Mr. Jason Risoli continued... on the mapping, the blow ups, Mr. Connors mention that the storage tank was Gemini's. Is it shown on those maps as a reference of time? He does not know if he added it.

Chairman Leonardis asked Mr. Jason Risoli if he is referring to the aircraft cargo box. Mr. Jason Risoli stated no... it was the round storage tank that Mr. Connors stated was Gemini's.

Chairman Leonardis stated if the use is approved, everything must be shown on the site plan. He expects:

- Location of each vehicle will have a bumper location where everything would be parked.
- A clear delineation by means of a curb or something, so people are not driving up to the side of the house and parking on the incline or grass.
- Clearly identified septic leaching area.
- Clear separation of the residential from the trucks and equipment.
- Proper buffering. Assume those trees that are there are not there.
- Lighting if there is going to be any lighting.
- Mr. Risoli's concern about the wetlands.

Chairman Leonardis stated that is the minimum he expects. He wants to make sure the property looks more residential then commercial.

Mr. Slachetka stated that one of the arguments that were made was the suitability of the site. That in fact there is sufficient space to provide the adequate buffering and design the site in a way that would make it more residential then commercial. In other words, making it more conforming as its use.

Mr. Valetutto stated that the burden would be on the applicant.

Mr. Slachetka stated that the Board would like to take non-conformities and try to make the site more conforming. Mr. Valetutto agreed.

Mr. Slachetka continued... if the Board makes a determination that they are going to grant the use variance, that does not lock in the location of the gravel area or structures. The assumption is that the burden of buffering and screening is on the applicant. Mr. Valetutto stated as it is on every application.

Mr. Slachetka asked how would granting of the use variance best serve the Borough. Mr. Valetutto stated in two (2) matters... one (1) is with the improvements. Two (2) the burden is on us to proof significantly downsizing from the prior use by Gemini. We all know that a denial is best for the Borough. However, sometimes it is better to grant an approval and add restrictions.

Mr. Slachetka continued... the point is to make the use more confirming, less intrusive, minimize the impact and concerns the property owners have. Therefore, granting this variance is a means to get to the end result of providing further controls and further protections on the adjoining property owner's. Mr. Valetutto stated correct.

Mr. Valetutto stated that the testimony Mr. Connors gave, the intended use on the property, the restrictions and improvements would benefit both Mr. Connors and would not be detriment to the Borough.

Chairman Leonardis stated that if this was a residential use and someone wants to park their motor home next to it... all good. If this was a contractors storage yard a tandem truck would be normal. When you come back you don't want the best of both. Try to minimize the huge vehicles. We started with two (2) dumps... one (1) is now a tandem. We knew nothing about the RV... now there is a RV. It grew. It has to shrink. It has to shrink in terms of sheds. It has to shrink in terms of vehicles... big vehicles. Where will the tandem be parked? In front of the garage or next

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

to with high trees. We are trying to get two (2) things on one (1) property to work together. You cannot have the best of both. Mr. Valetutto stated he understood.

Chairman Leonardis asked if there are any further questions.

Mrs. Campagna asked Mr. Clarkin that she would like to hear from the applicant that he understands what it is that everyone is talking about so it does not become a situation where he doesn't really agree with what the Professionals are talking about.

Mr. Clarkin addressed Mr. Connors... The Board, the Board Professionals, Mr. Valetutto and I have talked about how this is about the opportunity for this piece of property to be improved. You bought it in largely in the condition it is in. This Board wants to hear that you realize you have to put some money into this property. Do you understand? Mr. Connors stated he understands. Mr. Clarkin continued... you will have to deal with issues like landscaping, fencing to delineate the property, buffering the property, lighting, storm water management and possibly the maintenance of Bedford Avenue. Mr. Connors stated yes. Mr. Clarkin asked Mr. Connors if he is willing to put his 'best foot forward' to address all these issues. Mr. Connors stated yes.

Mrs. Campagna addressed Mr. Connors that he would not be renting the use of his property to another business. Mr. Connor stated Gemini was a renter when he purchased the property. It was not suitable for him to have Gemini continue to rent.

Mr. Clarkin reiterated to Mr. Connors that the Board wants his pledge that he will not lease any part of his property to anyone else. Mr. Connors stated no... he will not.

Mrs. Campagna stated that the big storage unit and RV cannot be rented out. Mr. Clarkin stated he will except the voluntary condition that no other business anywhere on this property. Also, you will not see the RV on the site plan. You will not see the UPS cargo container that masquerades as a shed and you will not see the shed partially on the property and partially not.

Chairman Leonardis stated he would like to understand the timing.... If site plan is approved.

Mr. Slachetka stated there does need to be some time limit in which the variance is granted and the application coming forth for the site plan approval.

Chairman Leonardis stated... he would like a time frame for site plan application and if approved, a reasonable time when the site work would be completed.

Mr. Lavender stated he does not believe this is an unreasonable request.

Mr. Clarkin stated they will phase the improvements. Delineations should be in Phase 1. The area the equipment and vehicles being stored should be in Phase 1. Some of the others go into Phase 2. Six (6) months for Phase 1 to be completed and another six (6) months for Phase 2 to be completed. Mr. Clarkin stated that the Board may choose what is in Phase 1. However, from what he is hearing, delineation along Bedford Avenue, separation between residential and commercial, parking of vehicles and equipment are most important. That is why he suggested those items first.

Mr. Slachetka asked when does the applicant anticipate returning for site plan approval. Mr. Valetutto stated out of anticipation, he would meet with Mr. Connors and work some details out. When the time comes, he will put it down on paper.

Mr. Slachetka stated there is an existing use on the property. Currently, things are happening on the site. We want to get to the point where we have control as to what is happening on the site. With all the testimony heard from your Professionals on how this will become more confirming, we need a specific time frame. A clear time frame in granting the use variance approval to returning before the Board for a site plan.

Chairman Leonardis stated that there is economics involved. There is money that needs to be brought forward. He wants to make sure it is clear that that is something that is going to have to get done. At the point that it does not get done, the use will stop.

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

Mr. Clarkin stated that the resolution can be written in such a way that it indicates if the bench marks are not met that this use variance is revocable. It is only based upon the applicant's representation that the site is going to be improved and that is what is driving the Boards decision.

Mr. Anthony Risoli asked if there was a 'start marker' for the plot plan. It stated that the surveyor had a starting point. Is there a metal mark in the street? Mr. Valetutto stated it shows the point of beginning. It is behind the curb line.

Mr. Anthony Risoli repeats his question. He wants to know where is the 'point of beginning' as a marker. How do we know that that survey is applicable like Mr. Bengivenga pointed out?

Mr. Clarkin asked every time a surveyor does a survey; do they have to put in a marker? According to Mr. Bucco...no. Mr. Anthony Risoli asked therefore is this an acceptable plot plan accepted by the Board.

Chairman Leonardis stated that this is sealed by the surveyor. His insurance covers it.

Mr. Clarkin stated that the applicant did agree to having corner markers. It is important to eliminate some suggestion of inaccuracy.

Mr. Anthony Risoli stated that it meets the bulk variances. Do you mean in an M-3 zone or in a OPA-1 zone which there is no storage? What did you base the square footage determine to meet the standards? Mr. Valetutto stated it is the bulk standards of the particular zone. 10,000 square feet is required. We have 20,000 square feet. That is the first phase of bulk requirements. Then you look at the setbacks for each structure.

Mr. Anthony Risoli continued... in OPA-1 there are more buffers that are more restrictive than other zones. Like Vice Chairman Gustafson stated, Mr. Connors is limited on the growth of his business. He should be made to understand that. This may not be the right piece of property for him to have a future in his business.

Mr. Lavender stated that is a business decision.

Chairman Leonardis stated that if this site plan is approved, it needs to look like a house with a two-car garage. Vehicle stored inside with a little storage outside.

Mr. Anthony Risoli stated he has some experience with construction. If you cannot park it... You cannot use it... You cannot make money with it.

Chairman Leonardis stated it is understood.

Mr. Bengivenga stated that they are not against Mr. Connors. They want to make sure their properties are protected so in the future they can do something with it.

Chairman Leonardis asked Mr. Bengivenga besides all that has been discussed, is there anything more. Mr. Bengivenga stated he believes the board did a great job and covered everything. He does not want to see a situation in the future that would cause his property to be less valuable.

Chairman Leonardis stated that he expects the property to look nice.

Mr. Clarkin stated like the property on Hollywood. The drive isles were paved and the other areas left stone.

Chairman Leonardis stated that is his expectations. One day those big trees will come down. We do not need an RV, a boat and other junk showing up on the property. You have to keep it clean.

Mr. Bengivenga stated he would like to see property markers. Mr. Clarkin stated that will be done.

Mr. Slachetka asked Mr. Clarkin is 90 days sufficient for site plan application submission.

Mr. Clarkin stated 120 days to submit a site plan application with drawings.

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
April 18, 2017

Chairman Leonardis asked what will be done in the interim. The road cannot be used. Township property cannot be used. Mr. Clarkin stated that he is telling Mr. Connors that if any of his vehicle are in the public roadway or someone else's property he will be finding a new attorney. He will not stand behind someone who is not going to play fair and square. This is a great opportunity to fix up the property. In the interim, the doll house is getting moved. The RV is going to disappear. The vehicles will be kept out of Bedford Avenue right-a-way.

Mr. Clarkin stated that in the event that this vote does not result in an approval, he needs to reserve the Collateral Estoppel.

Chairman Leonardis stated that the Board made it clear of what their expectations are.

With no further questions or concerns, Chairman Leonardis calls for a motion to approve the application. Mrs. Cullen made motion, seconded by Mrs. Campagna with all the conditions and with the time limit. Mrs. Campagna continued by stating using Vice Chairman's Gustafson words that usually applicants come in for forgiveness that is it nice to have an applicant come in for permission. Those in favor: Mrs. Campagna; Mrs. Cullen; Mr. Hughes; Vice Chairman Gustafson and Chairman Leonardis. Those oppose: Mr. Bonanno and Mr. Lemos.

INFORMAL HEARINGS: None

OLD BUSINESS:

NEW BUSINESS: None

CORRESPONDENCE: None

EXECUTIVE SESSION: None

ADJOURNMENT: 11:15 PM

Respectfully Submitted,
Joanne Broderick
Recording Secretary