

**Township Of Chatham Board of Adjustment**  
**March 18, 2010** **Regular Meeting**

Meeting Called To Order – 7:30 P.M with the reading of the Open Public Meetings Ace

**Roll Call:**

Mr. Lawrence Dalziel	Mr. Parker Godwin	x	Mr.Karl Schmidt
Mr. Glen Nelson	Mrs. Francine Alcorn	x	Mrs.Kathryn Kenny
Mrs. Therese Hough	Mr. Philip Vivona, Alt.#1		Mr. Joseph Contorno, Alt.#2 x

**Minutes:** January 21, 2010 & February 18, 2010

**Motion** to approve January 21, 2010 and February 18<sup>th</sup> as corrected was made by Mr. Nelson and seconded by Mrs. Hough. All in favor.

**Christopher & Gina Zarro**  
**125 Longwood Avenue**  
**Block 72, Lot 7**

**Calendar BOA-09-72-7**

Mr. Edward Collins, Attorney

Mr. Collins said at the end of the last meeting the Board Engineer requested that we obtain an updated survey showing the overhang and its affect on the setback line. That has been provided (James Halsey dated February 22, 2010) and was also imprinted on the revised plans.

Mr. Dalziel – a technical issue that needs to be resolved – I was not present at the last meeting so I was given a copy of what was supposed to be a transcript of the last meeting to listen to and when I attempted to listen to the tapes there was nothing but static so unfortunately I can't certify that I am eligible tonight. I just wanted to put that on the record. There are 5 other members that are eligible.

Mr. Shaw – we concluded the testimony and we were actually in the middle of deliberation by the Board and their concerns. Perhaps Mr. Ruschke could advise us as to whether or not the documentation that was submitted provides the engineering correctness/details that was required.

Mr. Ruschke – it provides clarification regarding the discrepancies. It is done by a licensed surveyor.

Mrs. Hough asked if there was anyone else with comments now that we have the correct plans. As there were none she asked that we move to vote on the application.

Mr. Nelson - Moved that we accept the application as amended with the revised plans.  
Seconded by Mrs. Kenny.

Roll Call - In Favor - Mrs. Kenny, Mr. Vivona, Mr. Nelson, Against - Mr. Schmidt, Mrs. Hough

Mr. Shaw - The resolution will be prepared for the next meeting. Once it is adopted you can then go to the Building Dept. We will need five copies of the revised plans as soon as possible.

**Mr. & Mrs. Beecher**  
**34 Hilltop Terrace**  
**Block: 68 Lot: 6.**

**Calendar BOA 09-68-6**

Mrs. Kenny asked to be excused.

Mr. Shaw – advised the applicants that we will only have four people available to vote on this application. It would require 3 out of four votes to pass.

Mr. Dalziel – said this was the same issue he had in the last application – he was unable to listen to the tapes due to the static.

Mrs. Hough – the reason they tell you this is if you are uncomfortable with that you can request to have this carried to the next meeting when there are more people available.

The Beecher's requested to go forward.

Mrs. Hough – read the site report into the record.

Mrs. Hough asked if Mrs. Beecher had anything to add to the application.

Mrs. Beecher – said they had submitted revised plans showing a change made by the architect - A24.

Mrs. Hough – so the dimensions of the new stoop area are going to be 33 out from the house?

Mrs. Beecher – 31 – that is the only change in the plans.

Mr. Ruschke – said the proposed front yard setback of 31 ft is correct based on the revised plans.

Mr. Shaw – just curious as to whether it revised the issue of an extra step in the landing in the front. The plans, as revised, at 31 feet reflect the size of the front stoop that you are intending to have?

Mrs. Beecher – that is right.

Mrs. Hough asked if there were any comments on the application. That being said the public portion was closed. She then asked if the Board had any questions. There were none. That being said we can entertain a vote on the application.

Mr. Nelson - moved that we accept the application as amended with the new plans provided. Seconded by Mr. Schmidt. Roll Call: In Favor – Mr. Vivona, Mr. Schmidt, Mr. Nelson, Mrs. Hough.

Mr. Shaw – the resolution will be memorialized at the next meeting and after adoption it can be submitted to the building department. We also need 5 additional sets.

**Mr. & Mrs. HOIE**  
**2 Rolling Hill Drive.**  
**Block 102.2 Lot 31.**

**CALENDAR BOA 09-102.2-31**

Christine Miseo, Architect

Mr. Dalziel – gave a rundown of the process tonight. This is an introductory hearing on your application. We ask for a brief out line of why you are here. There will be a site visit on April 3<sup>rd</sup> with a follow-up hearing next month.

Ms. Miseo – we are here tonight for a front yard variance on an existing non-conforming property. If you would look at my SP1 of the survey you can see a small thatched area on the far left side of the dwelling that says area of new roof. The reason we are here is because the existing house has a hipped roof and we are looking to make the end of the roof a gable end. The front yard setbacks are existing none conforming. The Rolling Hill side of 5 1300 hundreds of a foot and the side street yard was not conforming by 4.37 feet. We have not added any square footage to the house. The area we are adding is only for visual beauty/character of the house. Our addition to the home was over what would be the living room/dining room/kitchen side of the split that need no variances. The only thing that needs a variance is this small 5 ft. area of roof. We had come in with a full set of working drawings that looked like this picture and it was brought to our attention that we needed a variance. We then submitted working drawings that had the roof still hipped. Our framer soon came to the area. Mr. Hoie and I had a meeting with Mr. Impink and said to him our framer is telling us if he does it now it's included in the cost of the project. If you don't get your variance it will cost more to take it out. If I build it like the plans now it's going to cost 1.5 times what it will cost to take it down. We brought this dilemma to Mr. Impink. Mr. Impink said this was all prior to any roof/framing being done, he told us he would not stop us, not give us a red tag, - he knew that we had already filed for a variance. Now I noticed that there was a letter forwarded to us from Mr. Impink saying that he had not given us permission to do it. Mr. Hoie questioned Mr. Impink and he said to do it at your own risk but I didn't give you permission. You go before this board to get permission. We said OK but it sounds like semantics. That letter makes it sound like we did this without talking to you. And he said it shouldn't be an issue because you are going before this board on the merits of the variance. It's irrelevant whether you did it already. I will be honest with you, I was a little upset because I felt his letter was very damning especially since I think the letter was prompted because I spoke to your engineer and I mentioned to him that Mr. Impink and I had an actually meeting with the owner to discuss this well after the variance papers were submitted and he didn't believe me. Basically he told me that he found it difficult that I would have this meeting. Then all of sudden this letter from Mr. Impink comes up. I believe it was pushed on Mr. Impink to write this letter. That is what we were led to believe. We did not ask permission but we did ask him if he would stop the job or if there would be any problems. He

told us he was a framer in the past and knows how framers do things that he didn't feel it would be a problem. Technically he did not give us permission.

Mr. Dalziel – is the letter part of the application.

Ms. Miseo it was part of the paper work that I got back from the Engineering Report. I didn't get it until just recently and it was with the Engineer's report.

Mr. Schmidt – do you have a set of plans approved by the Township, signed out by the Township Official showing the roof as currently constructed.

Ms. Miseo – yes and that should be in your package as well. That was another piece that was requested that we provide this Board of what was approved.

Mrs. Hough – the lot grading plan shows the hip roof.

Mr. Dalziel – you have a permit for the construction. M. Miseo said they did.

Mr. Dalziel – the permit plans that you had did not show this? Ms. Miseo – they show what you have attached to the Engineering Drawings. I believe I had also submitted them to the Board.

Mr. Dalziel – I am looking at plans marked as A1 dated 6/16/09.

Ms. Miseo – that is what was submitted to the Building Department for a permit. Right after we received the permit we then started pursuing the variance. This was not built until about December. That is when we sat down with Mr. Impink to say the variance is taking longer than we want, the framer is on us to get this finished, what do we do? These are the numbers, we are in a quandary. He also told us that this type of variance was **deminimus** because you are not adding square footage, adding no living space – we can have Mr. Impink at the next meeting if you doubt what I am telling you. I know I am under oath but,

Mrs. Hough - I am surprised that you would have gone forward with this given your experience in this field.

Mr. Dalziel – I agree.

Mrs. Hough – I am very surprised that you are actually standing here saying this knowing your experience.

Mr. Dalziel – you don't have approval to do this and you constructed it. You are basically slamming it in the face of the Board – oh we'll get approval – lets go ahead.

Ms. Miseo – No which is not what I said to you at all.

Mr. Dalziel – that is not what you say, that is what I say.

Ms. Miseo – we understand that if we don't get approval that it has to be taken down. Believe me that is not what we prefer – it's an existing non-conforming.

Mrs. Hough – are there any variances attached to the building.

Ms. Miseo – The house itself is not conforming (existing non conforming).

Mrs. Hough – you could have constructed the house without any variances.

Ms. Miseo – yes. We felt that the design was better to have a gable vs. the hip.

Mrs. Hough – I understand that, I am just saying that you have experience with Boards and I am surprised that you went forward with this knowing the lay of the land.

Ms. Miseo – the problem we had was with the builder, unfortunately.

Mr. Dalziel – you are an experienced architect, you know how to control this.

Mr. Schmidt - there is not a problem with the builder. The builder is going to build what you tell him. I am looking at 2 plans now. The plan that I think does not need a variance with the hip and the other one that does. You had 2 clear choices as to which way to build. It wasn't the builder's choice; it was the applicant's choice.

Ms. Misteo – we had asked the builder not to build the roof and wait for that side of the house because there was no addition on that side of the house. We asked him to just finish up the addition on the right side of the house. Unfortunately he gave us a difficult time financially saying that if he couldn't build it now he wasn't going to build it. If he had to come back later to build it would be a high monetary difference. We've had problems, and Mr. Impink is aware of the problems with this builder from day one.

Mr. Schmidt – and understanding all that you still could have put it up the way it did not need a variance. You and the applicant chose the route that needed the variance. I understand the difficulty with the builder and taking something down vs. putting it up if it wasn't constructed but this is not the builders' issue. You could have, at that point with the builder, built this house without the need for a variance.

Mr. Dalziel – someone instructed the builder to go ahead and frame this portion. Whether it was you or your client, someone gave the instruction to do that.

Ms. Miseo – yes, and as I explained we did after we had discussions with Mr. Impink about the financial difficulties of getting the variance and doing it later vs. doing it and having to possibly take it down, that the builder basically told us it would be cheaper if he had to take it down later than come back and build it.

Mr. Dalziel – and you understand that the financial consideration is not something this board considers.

Ms. Miseo – Absolutely, I am just telling you the history because you had asked. I wanted to explain that. In terms of if you look at the variance on its own merit, basically what we are looking at is to change the roof line on an existing non conforming roof that does not increase any living area and basically it takes a small hip roof and turns it into a gable.

Mr. Dalziel - is this an attic? Do you have floor plans you can submit?

Ms. Mideo – this is an attic only. Yes, but I don't know if the paperwork was submitted had it. The space is intended for storage. It became a function of aesthetics vs. having a clipped gable vs. a straight gable.

Mr. Shaw– the application describes this as a hardship but you are testifying aesthetics.

Ms. Mideo – the hardship is that the house is an existing non conforming structure on the lot. It has to do with where the house was originally set on the house or if at the time the house was built if a variance was given. It is possible the zoning has changed.

Mr. Dalziel – do you have any photos of the house before it was altered?

Ms. Mideo – said they did and she submitted them for the board to review.

Mrs. Kenny - the paper work was originally submitted on October 28<sup>th</sup>? Construction on the house was started September?

Ms. Miser – we had already gotten the building permit for the areas not needing a variance.

Mrs. Kenny – in looking at Mr. Ruschke's submissions, November 4<sup>th</sup>, incomplete; Jan. 13<sup>th</sup>, incomplete; Violation – February 11<sup>th</sup>. Why so long to get the application submitted.

Mr. Ruschke – what I was trying to do is accurately depict the application. I wanted the Board to see what was approved during the lot grading phase vs. what was approved previously. I just wasn't getting the information from the applicant the way I believed it should have been presented to the Board. Just for clarification what is in front of you right now with the addition that was initially submitted to the Township for approval. It was denied. Because of that denial then they made the cutback. This was initially disapproved, this was proposed to get the lot grading approval so this is when the building permits were issued and then they ended up building what was initially submitted which was denied. That is generally what the history was.

Mrs. Mideo – We received a letter that there was a denial because of the roof line. We made modifications to the roof line and then after about a month of living with it and nothing had been built yet, but looking at the pictures the owners came to me and said we really want it the way we had originally designed it. So, we said fine, let's go for a variance. Hopefully we can get it fairly quickly. Some of the information that was requested from us had to do with foundation locations, surveys of the on-going construction – that was the first letter of denial where that had nothing to do with the variances. The setback lines had to be clear on the survey. The surveyor was upset as he felt that they were clear. The previously approved architectural plans had been submitted. There was some confusion in terms of revision dates. These were the things that were deemed incomplete. The second letter we received had other things requested that had not been included on the first letter. I believe they had to do with metes/bounds, deed restrictions which took a while for Mr. Halsey to get to. They were things that we felt delayed the application but didn't necessarily have to do with the roof line. (A deed description on a piece where we are not changing the footprint but those things were

provided. It wasn't until either the end of November or the beginning of December that we went to Mr. Impink and told him this was taking a lot longer than we thought. What is your take on this? What do you think? Basically, his exact words were he felt that the variance was **deminimus**. He used that specific word. Mr. Hoie can testify to this, met with him last week again. She asked the applicant to explain the conversation he had with Mr. Impink.

Mr. Schmidt – before you testify, I just wanted to point out that given your professional experience in front of this Board and others, I am sure you have advised your client that Mr. Impink has no ability to represent what this Board may or may not do.

Ms. Miseo – yes we were aware but I think it is important for the Board to hear what my client's conversation with Mr. Impink was.

Mr. Hoie– He just said to go before the Board and ask for permission to build the gable. It is basically the Boards job to say yes or no that we can have the roof this way.

Mr. Michaels, Board Planner - looking at the front elevation there is a dormer on the left side and it also appears to infringe on the setback.

Ms. Miseo – most likely we would remove it and relocate it. They have been added for light and more storage space.

Mr. Vivona - how long has the gable/dormer been in place:

Ms. Miseo – mid to late December. Basically it was erected before the snow hit.

When asked if they were currently living in the house Mr. Hoie said they were not. They hope to move in with the next few weeks.

Mr. Dalziel asked for questions from the audience/board. As there were none he advised that the site visit will be on the 3<sup>rd</sup> of April around 9 am. The matter will be carried to the April 22<sup>nd</sup> meeting w/o further notice. Mr. Dalziel also asked that they provide a photo of the house before it was altered and the floor plans.

**Michael Rosselli & Glen Kashuba  
Chatham Day School  
700 Shunpike Road  
Block: 135 Lot: 1 & 9.  
Chatham Day School**

**Calendar BOA 09-135-1 & 9**

Mr. Shaw said that he and Mr. Simon had spoken briefly before the meeting concerning how he was planning to address this pending application in light of the various reports and subsequent hearing that will be scheduled for Chatham Day School. He asked that Mr. Simon address the status of the application.

Mr. Simon – Based on the presentation by the applicants (Chatham Day School) and some conversation that took place the last time we were together, namely that the application will be presented as a new DeNovo application including the site plan review and not merely as an

amendment for the prior approvals of the Planning Board and that coupled with Mr. Ruschke and Mr. Michaels reports that the application seems to be reviewed in consideration of the entirety of the schools operations and based on that and the professional comments from all sides and what is intended to be produced as part of the application and doesn't appear that the Board will really need to address, at least at this point, whether the former Planning Board approvals were valid or invalid and therefore we feel that its procedurally efficient and fair at this point to withdraw our application with prejudice. We are not waiving any rights obviously to possibly attacking the validity of the Planning Boards prior approvals if the need should arise. At this point we will withdraw our application.

**Chatham Day School  
700 Shunpike Road,  
Block 135, Lots 1 & 9.**

**Calendar BOA-09-135-1 & 9**

Steve Schaeffer, Attorney

Mr. Schaeffer thanked Mr. Simon for his comments. He said he was happy to report that notice had been done and we could now proceed.

Mr. Schaeffer – I agree with Mr. Simon – this application is going to proceed as a full site plan review. We hope you understand that we will be providing a lot more detail and if it becomes too much detail I will try to gauge it and move it along for everyone's best interest. I would like to start off with A47 which is an overview which will frame out the application. First of all we are dealing with Chatham Day School, 700 Shunpike Rd Block 135 Lots 1 & 9. I should tell you that all the calculations were based upon the idea that those lots will be merged and will be if we are fortunate to get approval. Chatham Day School now consists of 6 buildings located in a clustered section primarily in the north section. The reason I am going over this is because there have been previous applications with impervious coverage where variance were required. I want to be clear. As far as coverage currently the building coverage is 2.15% where 10% is allowed; we will be going to 3.6%. Lot coverage is 13.2% where 15% is allowed. We will be going to 14.99% and yes we do have a work sheet that has every square foot that was submitted to the engineer. I am sure people will be looking at it closely. Our proposal is a 2 phase construction project to expand the two story main classroom building and reconfiguring the parking. In the end 6 buildings will become 2 buildings consisting of an administration building and a classroom building. Phase one will consist of demolition of 4 of the existing buildings and swimming pool located in the north eastern section of the site, closest to the Madison residents. There will be removal of a portion of the existing driveways and parking areas. We have 2 phase construction but there is a third phase to this application which we felt was better to combine as part of our application and that is mediation plus some environmental conditions which we will have testimony on. Phase one will consist of a new 9,112 sf addition to the existing academic building which will be fully integrated with that building - Consisting primarily with the new gym which the school doesn't have. Phase 2 will be an addition of 5895 sf of a modern dining hall/kitchen and kitchen music room/drama/stage/art room multi purpose room and an enhanced library. There is new parking which will be added in phase 2 so that we hope to end up with a total of 127 parking spaces. You will hear testimony of related improvements for phase two. These are the approvals we need. Preliminary/Final Site Plan Approval, Conditional Use, Institutional Use in the R2 Zone. In your parking requirements Institutional Use is not broken out by type of Institutional Use it is one per hundred. We are going to

present proofs that a school doesn't really need that, especially Pre K thru 8. We really don't need that many (example – churches or like institutions). The second variance we need is steep slope variance. We will be disturbing steep slopes, we can't avoid it at the site. A lot of them are man made and obviously you will hear testimony and justifications for that relief. There are 2 pre-existing non-conforming conditions which we are not changing and that is the Administration Building in the school building. The 2 buildings that will remain are within 14.1 ft. of each other where in the Institutional Zone they have to be at least separated by the highest building which in our case is 33.6 ft. (pre-existing condition). There is a tennis court which is an existing condition which will not change. As an accessory structure, technically it is supposed to be 100 ft. from the property line and you will hear testimony as to whether it is a structure or not. Your ordinance provides that in this zone you can have a fence for a tennis court within 10 ft. of the lot. It is an interesting dynamic with regard to the tennis court but we can get into that when we present our variances. There are certain things we are eliminating from our past applications. We are eliminating one of the deficiencies between buildings in institutional use setting. We are also eliminating in at least 4 areas rear yard setback by removing the four structures/buildings that are up north nearest the Madison border. We redesigned our building so that we comply with the rear yard setback to the building where before we did not (the main building w/additions – not the three buildings up north).

In terms of the witness you can expect to hear - we have 3 Engineers (Environmental, Acoustical Sound Engineer, Traffic Engineer), a planner, an operations person for the school and an Architect. As Mr. Shaw just indicated I will try to request a special meeting if needed. One of the things that were important in Mr. Ruschke's review was to provide an Environmental Impact Statement. We brought that tonight. Before I proceed with the next witness does any member of the Board have any questions? There being none Mr. Schaeffer called Mr. Gregg Redington (expert) as his first witness.

Mr. Greg Redington, Civil Engineer – said he drafted the plans submitted to the Board. The plans consist of 14 sheets – A48 - Sheet #1 org. date 12/14/09 revised 3/1/10. Plans were revised in accordance to the Township's professional reports. The first thing I will refer to is an aerial photograph of the property (March 18, 2010) which is called Chatham Day School Aerial – 15.15 ac. The property is orientated at a 45 degree angle towards the north. To the north, above the property, is the Borough of Madison, specifically Peach Tree Lane. To the West is Gibbons Place and on the far side of Gibbons Place are residences. To the South is Shunpike Road and further south of that there is a single family residence surrounded by farm/wood lands. To the West we have a completed residential development. Our site is wooded for the most part. The topography is quite hilly. The contours vary up to 62 ft within the property. For the most part the property drains towards Shunpike Road and toward the Northwest it drains to Gibbons Place.

A49 - photo of selected exhibits were submitted/passed to the Board Members.

Mr. Redington – Next I would refer you to Sheet No. 2 – Existing Conditions – which has not been altered. I was pointing out that it was a wooded lot and this show the topo lines which vary up to 52 ft.-The highest point being up towards the Borough of Madison and the lowest point being down to Shunpike Rd. Currently on the site there are a number of things that are active – woods, driveways (active/abandoned), parking areas (55,775 sf asphalt w/include driveways, 79 parking spaces), in terms of sidewalks and patio's there 17,272 sf. There are a

total of 6 buildings on the lot. The current lot coverage is 13.2%. The stone professional building was probably the original house and that building has a first floor of 2176 sf with a second floor of 1450 sf. Building #2 is the classroom building/office (depending on how long you have know about this property) and that is 6356 sf on the first floor and 6356 sf on the second floor. Building #3 is a separate single story building currently used as a dining hall and is 1801 sf. Building #4 is a small pool house building that is adjacent to the pool and is 406 sf. Building 5 – single story (1854 sf) & 6 (1546 sf) and look like old residential buildings. There is also a Tennis Court that is actively used. There is an in ground pool which has been abandoned. There is a play ground located in front of the older stone structure which is active. The existing building coverage is 2.1%.

The drainage of this property as previously mentioned drains toward Shunpike Road. The developed area is relatively condensed to the northwest. The eastern/southern portions are mostly untouched and are natural wooded areas as is the southwest corner. Most of the developed area is in the north east of the property. The majority of the area drains into a detention basin which is piped under the driveway to the open swale which is pumped into the municipal storm water system and piped across Shunpike Road. There is some parking lot lighting along the existing parking lots and there is some directional signage.

This property is in the R2 zone of the Township (residential). Institutional uses are accepted as a conditional use.

I would now like to talk about the details of what we are proposing. The Chatham Day School started with the Darsey School. There are a few things they don't have that are critical to the school. They do not have a gym. They do not have a dining hall that can be gotten to without going outside. They don't have a kitchen where they can cook food for the students. They don't have a library, a music room, art room, stages, or a fitness area. To provide a well rounded education they need these facilities. As an Engineer the first thing I looked at what they had to work with. The hardest thing to work with is the grading on the site and the limited criteria on the site is the impervious coverage restriction. All our designs are focused around that-understanding that the basic needs of the school are to keep the children close, to keep them inside during school and to minimize vehicular traffic.

With that I would like to discuss a colorized rendition of Sheet 3 (A50) dated March 18, 2010 - called Site Plan Exhibit – page 1. Due to the fund raising issues they felt the most prudent was to propose a phased approach. They have prioritized what is most crucial for their school. For this phase one incorporates a gym, a dining/multi purpose room, bathrooms, storage. The proposed addition is 9,912 sf. They also are proposing to restripe their existing parking lots and change the total of parking spaces to 77 spaces as opposed to 79. They want to alleviate a few oversized spaces and also to permit the required number of handicapped spaces. They plan to reconfigure their drop off arrangement by adding 280 linear feet of sidewalk on what will be the drop off/pickup area. This will speed the process and avoid congestion on site. Later on there will be another expert to discuss traffic who will further discuss the proposed. Mr. Steven Golden has submitted a report. As part of phase 1 we want to include the removal of number of existing impervious things. Phase one will actually reduce the impervious coverage.

Re: Exhibit 51 – March 15 2010 - Chatham Day School Site Plan Over Lay Exhibit. The reason I put this up is to show you graphically where our proposed improvements are relative

to where the existing conditions are. We are proposing to remove an abandoned driveway (western third of the property), the buildings proposed to be removed are buildings no. 3,4,5, 6 and the pool. There is a driveway associated with those buildings (5 & 6) which will be removed. The removal of all of those impervious items offset the additional building and adjacent sidewalk so the net result of phase one is the reduction in the impervious coverage. For that reason we haven't proposed any storm water management changes. They will be addressed later in phase 2.

Mrs. Hough – re: proposed parking area. Is this the same proposed parking area that we dealt with in the first application?

Mr. Redington – it is changed slightly.

Mrs. Hough – there was a question in the first application as to why the parking seems to be located a little bit further into the flatter area.

Mr. Redington – we shifted it a little bit.

Mr. Dalziel – to clarify my understanding as to what you said about the offset of the impervious - Is it a one for one? Is the impervious that you are removing less than what you are adding? You were not quite specific.

Mr. Redington – currently the existing impervious coverage is 13.2%. With the completion of phase one including all of the demolition of the existing structures and the construction in the proposed areas in phase one the new impervious coverage will be 12.2%.

Mr. Dalziel – so you are saying that with the addition of the building but the removal of a pave areas, etc. you are reducing the impervious coverage.

Mr. Redington – correct.

Mr. Redington – Exhibit A52 – Dated 3/18.10 – Colorized version of Sheet No. 4 in your packet – Site Plan Exhibit Phase 2. For the convenience of testifying I incorporated on these sheets some zoning calculations. Phase 2 incorporates a building to provide a music room/art room/ library/staff room. We are changing around some interior designs from phase one to incorporate a stage/dining hall/kitchen. On the site we are proposing a new parking lot which will provide a circular flow. It will also provide the ability to the school of reducing the phasing for events that they have. Currently, because of parking conditions they have to phase various events. It will also facilitate a better drop off/pick up area – 15-16 cars. There will be more sidewalk. In this proposal our impervious increases bringing us to the limitations of the zone. The proposed impervious in the new area, the parking lot and building, for phase One and Two are all in the general area of the existing improvements. The drainage is still able to end up in the existing detention basin and filter out the same as it does now. We have improved drainage to compensate for not only the storm water regs which have changed since the existing basin was built but also to incorporate for the additional impervious coverage on site.

Mr. Ruschke – I think we should go into a little more detail because I think members of the public should hear it. I think you should just describe it, what kind of inlets, show how it is flowing.

Mr. Redington – before I get into the technical detail we had have a detail draft of what we have done. The part of phase one proposal is to put in sidewalk along the edge of the existing parking lot (40 cars). Our objective is to keep the vehicles and pedestrians away from each other. (gave a brief description of the function of the parking/pedestrian drop off/pick up area)

Mr. Redington – we looked at the parking lot which is to facilitate the phasing of events and we felt it would be better to not build an impervious parking lot for those parking spaces. We are proposing to stabilize the grass area for parking spaces that would be infrequently used. The total number of parking spaces is 127.

Mr. Schaeffer - in terms of visibility of the parking areas from neighbors from the north – will they be able to see that row of parking or the ones to the north.

Mr. Redington – from Peach Tree Lane there will not be any visibility of either parking lots. The parking lot is 77 ft. away at its nearest point to the property line. Peach Tree Lane is somewhat beyond that. The grade differential is significant enough that you almost have to stand on the property line and look down thru the trees and then you might catch some parking lot. There are 2 other elements of phase one that I like to mention. One, we are proposing a solid fence to installed along Peach Tree Lane in the area of disturbance. Right now there is an old fence there – chain link - which will be removed/replaced. We are proposing a fitness area on the western portion of the developed area of the site which will consist of 4 pods, jogging path, etc.

Mr. Shaw – could you just identify where those are on the drawing.

Mr. Redington – re exhibit A50 they are roughly on the western portion of the property, 2/5<sup>th</sup> of the way there are 4 square areas – they are just off the existing parking lot.

Mr. Schaeffer - while you are in that area could we talk about the dumpster location.

Mr. Redington – re: Sheet A2 there is an existing conditions plan. There is a small dumpster area shown in the same general vicinity – in the area of the abandoned driveway. Currently it is not in use because the garbage company refused to service it due to grades/wires. The dumpsters actually being used are in the staff parking area (SE). We are going to remediate that imperfect condition. We are going to propose a dumpster area that is close to where it shows on the existing conditions plan (w) which would be ideal for a truck pickup but keep the dumpster far enough away from the school so there will be no conflict.

Mr. Schaeffer – so in terms of drainage, the existing parking lot drains toward Shunpike, the water gets picked up in an existing catch basin which then pipes into a swale which drops into a retention basin?

Mr. Redington – there are some roof drains and an existing pipe which will tie into a basin. There are 3 locations that the water comes into. We are proposing to use those 3 as they are and add one. The additional location is what we will use to drain the new parking lot. The

new parking lot will have new catch basins, etc. and will be piped to a recharged filtration basin and then it will sheet flow over rip rap into the existing retention basin (which has been enlarged). One of the conditions is the dirty water coming off the parking lot. With all the new paving we are adding it will be brought to this sand area. I prefer the sand area because you can see the clogs, see if it needs maintenance, etc. It is easier to maintain.

Mr. Schaeffer - Is it your testimony that we comply with the Chatham Township Land Use Ordinance?

Mr. Redington - as I mentioned we will go thru Mr. Ruschke's report. There are some technical comments in there but nothing unusual. For the whole scope of this project the total impervious that will increase is 1.8%. It is easy to satisfy. Re: new storm water regs – essentially the volumes have to be reduced from the existing conditions. Water has to be cleaner than what is existing. The water will be less and cleaner after phase 2 is constructed. It will be less after phase 1 is built.

Re: Wetlands – as far as I know there are no wetlands on this property. A letter has been written to that extent. We will follow up with a letter to DEP for a letter of intent for Interpretation which in this case would be a letter of absence of wetlands. There are wetlands off site on the other side of Shunpike that could have some buffering locations to our property but none of these implications are anywhere near, I don't think wetlands play a part in this application.

Mr. Shaw – perhaps you would want to also address, while you are reviewing the parking design in the previous plan, why you have requested sign waivers.

Mr. Redington – from a parking standpoint there are some design waivers pertaining to parking space size. There are some parking spaces (14) that even after the restriping will be narrower than the 9 ft. width. Those spaces are in the northern section of the existing parking lot and also in the western section of the existing smaller parking lot those two remain. Among those number of spaces (33) 14 are less than 9 ft. in width (approx. 6 inches). We have a parking lot in phase one with 77 spaces and phase 2 is 127 spaces. We only have 14 spaces that are relatively far away from the building, in this case will be staff parking, which leaves the open spaces for the use of parents, consultants, visitors, etc. These spaces will be labeled as employee spaces and therefore I think they meet with the ordinance.

Mr. Dalziel – I notice you don't indicate which ones they are on the plans.

Mr. Redington – the plans can be revised to specifically mention all the spaces so you know which ones conform and which don't.

Mr. Dalziel – will staff parking be somewhat delineated then?

Mr. Redington – I am ok with consigning it on the pavement.

Mr. Schaeffer – we are between asking for a waiver from it and saying we can comply if we relegate it as staff parking. We would ask the Board Professionals what the best thing would be to do. Originally we were just going to ask for a waiver because of the relatively small amount.

Mr. Redington – we are going to restripe the lot anyway so we can probably group them together or separate them – however the Board wishes. Professional speaking I would like to present to the Board that we cluster small car parking, label it as small car parking for staff parking only and have 2 areas for that. One would be in the existing parking lot to the west with up to 7 spaces there. In the larger lot on the north side we can label another 7 spaces as small cars staff only parking.

Mr. Dalziel – if you are restriping the lot why can't you make them adequate size.

Mr. Redington – because the lots have the curbs on them which we are now proposing to change. We can have 14 parking spaces 4 being 8.5 ft or have 12 parking spaces all of which meet and then have the striped 4' area which would not be used.

Mr. Redington – there is one other parking sign waiver and its in the area of southern portion of the developed site there is an existing parking lot which was probably the original parking lot for the Stone House. We are depicting 11 spaces in that area. One side of the lot is bordered by a curb and the other side by a retaining wall. If our parking spaces are regulated length than it leaves an isle 22 ft. wide. The Township requires 24 ft. Our option was to either shorten up the parking spacing and ask for a waiver for shorter spaces or shorten up the isle. The school has been using this facility for 5 years and they have managed without incident. Striping it will give more control.

Re: Steep Slopes – Exhibit A53 dated 3/18/10 – Sheet #11 – Slope Disturbance Plan Phase A & B. The terminology is steep slopes. The Township defines them in three categories. 15-20%, 20-25% and over 25%. It is arguable whether a steep slope should be started at 25%. When you regrade property from an engineering standpoint it is very common a 3 on 1 grade is a tolerable grade when you are designing a detention basin or building a swale. It is tolerable because it is not a dangerous grade where people can fall off of. You can maintain it with a walk behind mower and 3 on 1 slope is the equivalent to a 33% slope just to put it in prospective what a steep slope really is. We meet the criteria for the first 2 categories because the town allows a significant disturbance of those steep slopes. The town allows 20 & 30% disturbance respectively of those slopes. When they go over 25% all of a sudden the tolerance level of the town goes from 20% down to 1%. They decide at 25% slope, which if it were 20 ft. across, would be 5 ft. high, so 5 ft. high down to 0 there, they decide only 1% of that area should be disturbed to meet the ordinance. We exceed that because we have a property that goes 62 ft. in elevation across it. The reason the steep slopes, from my understanding and professional experience, want to be maintained are because of aesthetic views. None of the steep slopes we are touching can be viewed off this property. The other issue is nature gave us these steep slopes and they are meant to be there for a certain reason, such as foliage, trees, etc and we want to maintain nature as it was given to us. My comment to that is that many of these steep slopes that we may disturb, particularly the ones around the building/parking construction are man made steep slopes. The nature of them kind of evaporates a little bit. A third issue is erosion. Steep slopes are prone to erosion which is dangerous and affects everything down stream. Our drawing show that on the steep slopes we are disturbing that we will be either eliminating the steepness of the slopes which would reduce the erosion impact or in the area where we will be putting back the steep slope we will be stabilize them with vegetation and other means so that there won't be any erosion. The last thing I want to mention is that the areas we are disturbing, particularly around the building,

we are talking about a 5 – 6 ft. slope disturbance. We are not taking this 20 ft. mountain and knocking it down and leveling it out. We are taking an area adjacent to our existing parking lot. When the parking lot was built it was built on a hill. To flatten out that hill they had to take some material out of the top of the hill to the bottom of the hill to make a flat parking lot. The result was a 5-6 ft. grass slope which is approaching the design slope of 33%. It is very high. Because we are building another parking lot we have to define that as a disturbance of steep slopes. We have over 3 acres of steep slope on this property and because of the adjacent steep slopes and man made steep slopes and slopes that are to be disturbed in a remediation area we will be disturbing roughly a little over a quarter of an acre.

Mr. Dalziel – the numbers you have for these steep slopes include page one, page two and remediation?

Mr. Redington – it has been broken down as much as we possible could. We broke it down in terms of the range. 15-20%, 20-25% and over 25%. Changes and totals.

Mrs. Kenny – so when you use the term steep slopes you are referring to all of those three.

Mr. Redington – yes and then we address what percentages we propose to disturb.

Mr. Redington – there is another phase of this project that I haven't mentioned as yet. That is the remediation of some contaminated material that is on site. Re: A53 – on the western portion of the property (Shunpike and Gibbons) is a wooded area that has been tested and shown to have some contaminated material. I think the school found out about this when they purchased the property. Whitman Environmental will testify on this matter. In short, there is an area in the western portion, one on the central northern portion of the property as well as an area on the southern western third of the property. This area for the most part is wooded and the remediation involved would mean trees would have to be cut down, soil will have to be exported (1120 cu yds) and the remaining area the existing soil will have to be blended which is an operation using the existing soil in the location that it is and they blend the top grading and the soil together with the intention of the mixture will alleviate the damage.

Mr. Schaeffer – We do have with us tonight our Environment Consultant who has been working with DEP. I think it is important to get this out. The level of contamination that we are talking about is so low on the level of concern that your professionals as well as some of the environment people participating and they say don't you have an alternative instead of removing that soil? Put a sign/fence around it. We are going to address that in the future. I just wanted to get on the table that we are not talking about serious contamination here as obviously that would be a major concern because it is a school and there are children. If the DEP thought there was any concern it would be a problem. This is contamination from former farm use, fill, demolition of buildings etc. as well as some very low level pesticides. We will address how we will do it, why we will do it. We will look into the alternatives so you don't have to disturb steep slopes and possibly trees that we wouldn't ordinarily have to disturb. We have a different expert on that.

Mr. Dalziel – in respect to your drawing number 11 – I noticed different shadings there that represent different slope gradations. Those which are used in your calculations can you tell me where those are.

Mr. Redington – sheet number 11 depicts 3 shadings. There is a legend on the lower left hand of the sheet. The very lighter shading is the 15-20%. The medium shading is 20-25% slope and the darker grading is greater than 25%. Those are quadrants between contour lines and that is why you get a checker board where you have the shading.

Mr. Dalziel – the portions of the drawings that I used in your calculations are not differentiated in any way. Tell me how the numbers are derived from that shading.

Mr. Redington – we use disturbance limits. The disturbance limits are outlined. Within the disturbance limits – for instance page one – we calculate the area of each shading and then that total area within that disturbance area would be calculated to get total sq.ft. That is done 3 times for each disturbance area and total all the way through the disturbance areas.

RE: Tree Removal Plan - sheet number 10 - Unfortunately I don't have an exhibit for this. We went out on the property and we had a surveyor locate trees in the proposed disturbed area of the site. The SE corner of the property we proposing no changes. If you look on the sheet you will see that all 534 circles have numbers which reflects the diameter of the tree. (4.5 ord.req). There are hash marks/X marks across trees that are proposed to be removed (111) as part of the 3 phased project. The separation is that there are 55 trees associated with the remediation (no development in that area), there are 24 trees to be removed with the construction of phase 1, there are 32 trees to be removed with phase 2 which total 111 trees.

Mr. Redington – the Township tree ordinance requires a 16 tree per acre. Our existing lot in the area delineated for trees was approx. 11 acres. As I mention the lot has 534 trees which works out to be approx. 48 trees per acre – 3 times the minimum. After we remove 111 trees we will have a total of 423 trees across 11 acres and that will still leave us with an average of 38 trees per acre which exceeds the Township requirement.

Mrs. Hough – any plans to put in replacement trees.

Mr. Redington – we have not proposed replacement trees because none are required by ordinance. As part of our proposed application we have included a number (22) of landscaping trees/shrubs to accent the new building/parking lots and to provide buffering/screening. We have a whole other sheet – our landscaping plan – showing the additional plantings.

Mr. Schaeffer - In terms of tree replacement – in the remediation area there will be wild brush and grasses. The question was brought up about replacing trees there... could you just touch on that a little bit.

Mr. Redington – I just want to clarification a definition here first. The Township defines trees at 12 inches and above – we are installing 22 new trees. Those trees will not be 12 inches when they are planted but 2.5-3 inches in caliper.

Mr. Schaeffer – asked Mr. Redington to discuss the mechanicals on the side of the building.

Mr. Redington – sheet 2A Phase 1 we are proposing two Ac units/condensers which are on the north side of the gym building. Then on Phase 2 those previously installed in Phase 1 will remain where they are and additional AC units will be on the eastern portion of that building.

I believe we have some landscaping buffers proposed around them. These are residential type units. They will meet all regulations. The reasons for not being on the roof are because the roofs are visible from the neighboring borough and from the street. I also try to put as few holes in a roof as possible to prevent leakage.

Mr. Schaeffer – we should address lighting.

Mr. Redington – Re: Sheet # 7 – all lights will be down lights on 18 ft. poles. They shoot straight down and are not angled out. Lights along the edges nearest the property line will be shielded they will not cause a glare to Peach Tree. Everything will be on timers/sensors. There are 3 lights where I am talking about across the parking lot. Parking lot lighting should not be an issue for anyone.

Mr. Schaeffer – we did submit a solid waste letter/plan in our last submittal on March 5<sup>th</sup>. It does comply with your specifications.

Mr. Redington – the remediation is a phase unto itself. The school wants to get rid of the contaminated soil. Part of Phase 1 and Phase 2 we have a large export (12000 cu yd of material) because we are cutting into the hill. Initially our ideas were to keep it on the site – most townships/properties/counties want to maintain the assets of their soil on site. To do that we would have to ask to cut down more trees. Even though we are well within the Ordinance standards for trees the school felt it was something they would not like to do. When we realized that the time of the mediation we thought we might be able to take some of the material and relocate it there and then put the tall grass and wildflowers on top. That would improve the condition etc. We did propose that. If we can do it would be great but it really coincides with how these projects phase. Unless the projects can be phased perfectly the mediation area will not be left bare waiting for material to be placed on it. Nor will the material be stock piled on site waiting for remediation to be done. The town will be able to dictate the phasing of remediation vs. the phasing of the construction. If the two don't coincide then all the materials will be taken off site. If they do coincide then we are asking permission to relocate about 5000 cu yd in that area

Mr. Redington –Part of the remediation will be the removal of some material off site. It is proposed that they replace that material. I am not sure it's required but that is what the plan was. The material that they replace has to be tested. Again if the projects are phased simultaneously we would like to take advantage of the opportunity to test some of our cut material that we will remove and possibly that cut material to replace the contaminated material that will be take off site. That would save.

Mr. Dalziel – so aside from the approval of this Board what is the action taken on remedial work plan.

Mr. Redington – its developed and agreed upon by the owner of the property and has to be approved by the DEP. (Has been approved)

Mr. Dalziel – assuming this Board approved the plan what prevents you from coordinating this so it works for you.

Mr. Redington – based on whether or not you grant approval for all of this at once. We have to cut down the trees before we move the dirt, before building etc.

Mr. Dalziel – I am unclear as to what element of this procedure is not within your control. Why is there such a question about when/how you do the remedial work vs. when/how you do the building?

Mr. Redington – if you give a full approval for everything then the only handicap we have to work around is what time of year can we cut down trees. Right now you are not allowed to cut down trees from April thru October. We are seeking relief from that in the phase 1 building so that we can perform demolition of structures and perform heavy earth moving while there are no children at the school. We would like to do that over the summer. We won't be able to start this remediation until after this Boards approval. Obviously that is not going to happen before April 1<sup>st</sup> so therefore we cannot touch this area until next fall. If we are granted approval in time to be able to take advantage of the summer session all this material will be taken off site. At that point, when this work is being done maybe in the fall then there won't be any material to work with here. We would have to bring in more material unless we get permission from the board to stock pile the 11020 cu yd. someplace in a corner. There are a few things we have to keep track of. Maybe if we hold off on this until phase 2 to take advantage of that savings.... That's something I can't answer.

Mr. Dalziel – asked if there were any other question from the Board?

Mr. Ruschke - I do want to bring an issue regarding the mediation phase. I just want to advise the board that my expertise with municipal engineering I can certainly quote storm water regulations but when it comes to environmental I am familiar with the NJ Mediation but I can't quote the regulations. I would just perhaps suggest to the Board and the applicants that when they give testimony regarding the mediation phase perhaps we should have an expert from my firm present so that they could ask/answer any specific questions the Board may have.

Mr. Schaeffer – it makes sense and if it helps facilitate the application then I would advise my clients to that it is to their best interest. I think it's fair.

Mr. Dalziel – you mentioned going into the reports. I would like to have anyone in the audience ask questions.

Mr. Schaeffer said they would hold the reports until the next meeting.

Mr. Dalziel – asked for questions only from the Audience.

Mrs. Hoag – Chatham Twp. Environmental Commission – Tree Removal – the trees marked on the plan, are they only the trees that are 12 inches greater or are they every size.?

Mr. Redington – the answer is no. The trees shown on the plans also include trees of lesser size. Some say 5, 6 – they vary.

Mrs. Hoag – my concern is that I would want to make sure that you really are counting 1.5 calipers because that is part of the forest and they will grow to be big trees. If you are just

counting the big ones then you really don't have an accurate count of the total number of tree growth that you would be eliminating.

Mr. Redington – I am glad you mentioned that because you might have brought the inconsistency there that was stated earlier. There are way more than 500 circled on this sheet of paper. I gave testimony before which I have double checked and I am correcting that statement. When we talked about the number of trees we were only talking about 12 inches or over.

Mrs. Hoag – I am just concerned about removing trees – you are talking about remove 100 trees or more.

Mr. Dalziel – you should be able to count the actual number of circles on the sheet. Could you do that for the next hear. Define above/below 12 inches.

Mr. Shaw You need to confirm the dimensions as to how far down they go. The comment we are hearing is that the smallest you have on the plan is 5 in. caliper.

Ms. Stillinger – if you remove all the trees and plant grass/wildflowers are you planning to make revisions for the deer.

Mr. Redington – No

Ms. Stillinger – are you aware that the deer will come eat the tall grass/wildflowers and we would be left with no vegetation.

Mr. Redington – I am not an expert

Ms. Stillinger – have you considered that you plan – can it be renegotiated with the DEP to come up with something like a no disturbance plan?

Mr. Redington – I am not the one to ask

Bryan Fuller – question about the water basin at the southern part of the property – is it piped under Shunpike?

Mr. Redington – it is piped under Shunpike

Mr. Fuller – is it possible to pipe the water elsewhere? It goes right into my property.

Mr. Redington – right now the basin is up here and it is brought down to a storm drain, then to a catch basin,

Mr. Schaefer – we have one issue that I discussed with Mr. Shaw and Mr. Woodward. It has to do with timing again. One of the items in Mr. Ruschke's report which indicates that no trees can be removed until we get a site plan approval. There is an exhibit A54 – 9 tree exhibit. Here is the dilemma. You will hear testimony from our environmentalist about the Indiana Bat. We can't do any cutting without Fish and Wild Life and for trees over 12 inches

without getting permission from Chatham Township. Your tree ordinance, which is not part of the zoning ordinance, so it's really not jurisdictional for this Board, which is why I spoke with Mr. Shaw first and then Mr. Woodward defines a tree as anything over 12 inches. It is important for us if we get approval to do demolition when the children are not present. That is when it is safe, presents less of a challenge, etc. Re: US Fish and Wild Life – there are 3 trees over 12 has given us permission in the bat season after we get approval from this Board, those trees subject to the ordinance, we can't touch until we get approval from you. It's the other 9 trees that are not subject to your ordinance which technically/legally we don't need a permit for that we need to move by April 1<sup>st</sup>. Our issue is again, we are not building anything until we get any kind of approval from you but it's the bat season that is of concern. It's the applicant's position that it is not regulated by a tree ordinance, its does not fall into the definition of a tree and essentially we have the right to do that. We don't want to do anything without at least presenting it and letting you know that if the town attorney agrees with my assessment of the ordinance that we might go ahead and cut down 9 trees. I don't want the public or this board not to understand exactly why we are doing it. That is the issue. We are doing it because we have a bat problem. We will not be taking any roots out or disturbing any land – we would only be cutting to grade. Hypothetically if we were to do that before April 1<sup>st</sup> and then got an approval in June/July we could do a demolition because Fish & Wild Life has given us a waiver for the 3 trees over 12 inches. I Know Mr. Woodward said he would discuss this with Mr. Ruschke. Tree ordinances are not part of the zoning ordinance. We wanted to do the right thing and put it out on the table. I also wanted to request if you could find a way to do a special meeting so we can get through our witness which would answer most of the public's questions.

Mr. Dalziel – as our schedule stands right now we only have one other application before the board.

It was suggested that we wait until after the next regular meeting and see how it goes.

Mr. Schaeffer – agreed.

Mr. Simon said he would like to be heard on the comments made by Mr. Schaeffer and the bats. He asked if he could be heard on that this evening.

Mr. Dalziel – asked if it was brief and Mr. Simon said he would make it brief. Since we are on the subject right now and so everybody knows generally speaking we end at 11 pm unless the matter is urgent.

Mr. Simon – with regard to the bat issue. If you look at the definition of development in your ordinance you will find it extensive. It includes not only buildings/structures but also includes use/change of use and adjustment of land/soils and alike. Certainly tree removal is site plans issue this and the applicant has made a request for preliminary/final site plan approval. By virtue of this application this is now a site plan issue. It's also a conditional use issue for 2 reasons. One is that a requirement whereby the applicant should provide appropriate screening as determined by the Planning Board. The second point is that to determine conditional use approval the applicant must show that there is no significant adverse affects on the environment, public health, safety, welfare and that the use will not result in substantial detriment to the residential properties in the neighborhood.

This applicant, before they even purchased the property, new of the Indiana bat. (gave a brief history as to when the bat had first been acknowledged). I would also remind the Board that this applicant's original application began a year ago in 2009 and so certainly I don't think it's appropriate considering that they could have started a year ago and then again on September 17<sup>th</sup> when the application was brought before this Board that they could have gone through all the testimony etc. I don't believe with all due respect that any applicant should dictate the time for development approvals. My clients, in particular, without them even knowing and I believe Mr. Redington had plans that showed where the trees were that were at issue.

Mr. Simon – those trees certainly are facing my clients' property. The fact that there has been no topographical information regarding sites and I believe there was a waiver request regarding topo within 200 ft. of his property - there is no topography shown as to my clients' property and other properties along Peach Tree. I think it is hard to determine at this point the affect of the screening by those trees. As I mentioned before prior use approval is appropriate screening. There are no assurances that the space will be finished by the end of the school year. It is one thing when you are talking about disturbing a little bit of soil – a little bit of regarding in a non steep slope area where it is determined that the Board shifts on you and goes against your application you can go back and put some soil in. You are removing trees. These trees aren't coming down. Will there be new trees in the same caliper, height should the application be denied. So certainly, for all those reasons I would not condone of any type of tree removal at this point.

Mr. Schaeffer – first of all we are not asking you to give an opinion of tree removal. We are disclosing what our intents are. Second, if you take Mr. Simons argument that means every time you want to remove a tree that was not regulated you would have to come for a site plan. That is not what the tree ordinance says. You have a tree ordinance that describes it. In fact were we to get an approval we could take down any trees under 9 inches after the fact. The question is – does the fact that we are before the Board under a site plan review change the tree ordinance to take into account all the trees. That is why I am looking to Mr. Woodward. Again, Mr. Simon's argument is that you have to come before this Board for site plan when you want to take down a tree. It is not regulated by the ordinance. Also, we have far exceeded the amount of trees per acre on this site that is required by the tree ordinance. Again, I appreciate Mr. Simon's comments but we are not asking permission, we don't want to do without asking the town first and that is why we went to the Township Attorney.

Mr. Dalziel – can I ask Mr. Redington a question – you had testified earlier that the south east portion of the site you did not survey trees in that area because you weren't planning on doing any work there. Is the representation in the northeastern part of the site active as to the trees or are there trees missing from that area as well? I am asking in relation to the relative lack of trees up in that corner.

Mr. Redington - we show them as wooded. I would have to confirm with our surveyor.

Mr. Dalziel – I bring it up only because Mr. Simon talks about the screening issue and you are taking out trees that are between your proposed construction and his clients residence. I am wondering if there are other trees in that area serve as additional buffer.

Mr. Redington – we didn't survey that area. Do you want us to check it or survey it?

Mr. Dalziel – you would have to make the choice.

Mr. Simon – what are the calipers?

Mr. Redington – 10 and 8.

Mr. Simon – then I don't think it's possible from a tree perspective, to the extent that the trees were taken down, and it was determined by this board that for buffer purposes that those trees, similar trees be in place. Could the applicant actually put trees in lesser caliper rather than the 2.5 inch in place if that determination were to be made by the Board with respect to a buffer?

Mr. Dalziel – that is why I think it's important to know what trees are not shown in that area. You have a resident with an attorney present.... Typically we have an open hearing and a site visit and we can continue. In this particular instance there is a question not only to you but to the Board if perhaps a little more testimony might be beneficial in advance of the site visit.

Mrs. Hough – I personally would like to hear from the Environmental Consultant before.

Mr. Dalziel –Schedule site visit – May 8<sup>th</sup>.

Mr. Dalziel asked if Mr. Simon had anything else.

Mr. Simon – I think an interpretation should be made by this Board as it certainly has jurisdictional power to make an interpretation of you zoning ordinance. Your zoning ordinance includes conditional use standards. We don't have adequate information that this board is empowered not withstanding any type of a police power argument, to make an independent determination/interpretation that – the only reason you are removing the trees is incident to your development. It is not like they are saying that these are dead/diseased/dying trees or the drift line is being affected and therefore it's a danger to other things. The only reason why they are removing the trees is so they can get ready for construction this summer. I think and interpretation has to be made by this Board.

Mr. Schaeffer - Again we are not anticipating approval - it's our property. If we had the right to cut down trees without a permit because it is not regulated by the ordinance, assuming it is not defined as a tree – we are the owner of the property. We are cutting them down. If we are cutting them down and if we are lucky enough to get an approval we would go forward with demolition. Also, again, with due respect the US Fish and Wildlife was in charge of monitoring this and has given us indication that they wade through larger trees. They don't differentiate between 12 and under trees. Again, it is not in anticipation of development, if we are lucky enough to get an approval, then we will move forward but there is no construction going to take place without approval. There will be no removal of any trees that is regulated by the Tree Ordinance.

Mr. Shaw – we certainly are not in a position to make a determination one way or another this evening.

Mr. Dalziel – I think without the benefit of the additional survey of the trees in the area of the potential buffering might be removed from I don't see a way that we could make a determination on whether the trees substantially affect the buffering.

Mr. Dalziel - this hearing will be continued on the 22<sup>nd</sup> of April.

Mr. Nelson made a motion to adjourn, which was seconded and carried by voice vote.  
Meeting was adjourned at 11:30 p.m.

Respectfully submitted

Mary Ann Fasano.