

**TOWN OF STONY POINT
Zoning Board of Appeals
Minutes June 5, 2014**

PRESENT:

Mr. Anginoli
Mr. Keegan
Mr. Casscles
Mr. Vasti
Mr. Fox
Mr. Porath

ALSO PRESENT:

Dave MacCartney, Attorney
Dan Sullivan, Attorney
William Sheehan, Building Inspector

Chairman Wright (absent)

Acting Chairman Vasti: Good evening. I will be Chairing for the Board. Mr. Wright is not here this evening. On our agenda, we have two items. Our first item is a Public Hearing at the request of James Coyle.

Request of James Coyle – App. #14-04

A variance from the requirements of the Town of Stony Point Zoning Code Chapter 215, Article V, Section 15 A d.1-7: Less than required side yard – required 10 feet, provided 3.5 feet; and Chapter 215, Article V, Section 15 A d.1-7: Less than required rear yard – required 10 feet, provided 1.0 feet, for a detached garage, located at 5 Lakeview Drive, Tomkins Cove, New York.

Section 10.01 Block 1 Lot 51 Zone RR

At this time I will open it up for the Public Hearing. Is there anyone in the public that has anything that they'd like to ask about this; please come to the podium and state your name and address and we will hear what you have to say?

**James Coyle
5 Lakeview Drive
Tomkins Cove, New York**

Mr. Coyle: I would like to thank the Zoning Board for hearing me.

Acting Chairman Vasti: Mr. Coyle will you raise your right hand – “The testimony you are about to give is truthful?”

Mr. Coyle: Yes.

Acting Chairman Vasti: Please proceed.

Mr. Coyle: I was here earlier back in March for some permits and zoning for my house project. Again the house – the front porch and the deck and the chimney I am building for a fireplace. I appreciate that you were able to help me out with that; thank you.

The garage that I have at the house wasn't working because the front porch, the beam, was going too low; so the garage had to be eliminated. I met with the architect. I tried to save the garage because obviously it is costing me more money. There is a spot on my property that was...it needs to be cleaned up anyway; it was damaged heavily by Hurricane Sandy with falling trees and limbs so the garage was a good spot there because my driveway is actually there.

I spoke to my neighbor beforehand; he lives next door to me and across the street. He's only thing he said to me is "Jim, whatever you do that's fine with me. I appreciate all the help you are putting into your house. It's helping me enhance my value and the community we live in; if you can just put it back as far back as you could to the back of my property." I told him I would try my best. He said he had no problem with that.

I sent out the notices like I'm supposed to. He sent them back to me with no objections. In doing so, up to the side property the 10 feet requirement; my garage is kind of "cantered" to the drawing and I will provide and show you; that I have.

Part of my garage, the carport area, is sticking out so I am looking for that variance on the side still. I met with the architect again. I'd have to redraw the design, dig up the driveway and change my driveway so that would cost me more money. So I don't have to change the driveway and dig deeper into the pocket. I'm looking for that side variance again and also I put a lot of time and effort into the thought that the garage kind of matching the house, which is costing me money so I am looking for that side variance and that rear variance again. I have a drawing I would like to show you that the architect drew so it would match. I would like to share that with you if that is okay with you?

Acting Chairman Vasti: Do you have a copy to give to the secretary?

Mr. Coyle: Yes, I do. I will give it to you.

Acting Chairman Vasti: And we will submit it into record.

Mr. Coyle: Here's the final of what the house would look like and this is the garage, 2-car garage, and this is the side part.

Acting Chairman Vasti: I am going to just ask that when the Board is finished reviewing these that we just put them up on the board in case there is anyone here from the public and then we will give them to the secretary to take them and enter them into the minutes.

Any members of the Board have any questions for Mr. Coyle?

Mr. Porath: I actually do have a question – actually it is more directed towards our Counsel. I believe I have a conflict of interest since Mr. Coyle is my brother-in-law so I will probably have to recuse myself from the vote. But, my question to you is – does that conclude me making comments or asking questions; do I have to sever myself completely or can I participate in the hearing?

Mr. MacCartney: If you are going to recuse yourself, you have to recuse yourself for all purposes. You are free to comment in the Public Hearing as a member of the public, but just any involvement as a member of the Board...if you are going to recuse yourself, if you feel it appropriate; it has to be for all purposes; in my opinion.

Mr. Porath: Okay, thank you.

Acting Chairman Vasti: Any other members of the Board that have questions?

Mr. Keegan: Mr. Coyle...

Mr. MacCartney: Just for the sake of clarity – for the records sake, you are recusing yourself from consideration...

Mr. Porath: I am recusing myself given the relationship; yes.

Mr. MacCartney: Let's have the record reflect that you are recusing in this matter and that you are not going to participate in the discussion or the deliberations or the decision.

Mr. Keegan: As we are looking at the house, on the left hand side of the house, this was the old garage here?

Mr. Coyle: No, the closed off area. The one where the window is on the left so that's the open area.

Mr. Keegan: Okay so that's to be closed in?

Mr. Coyle: Yes, sir.

Mr. Keegan: Oh, okay. That's all I have.

Mr. Casscles: Mr. Coyle – Mr. Fox and I were up there on Sunday and we sort of discussed cutting the corner off of that carport. Have you given anymore thought to that?

Mr. Coyle: I did. I contacted the architect. I explained it to her, Libby Parks. Libby said that it would be more than that. Obviously the post, the architectural design of it she thought it wouldn't match the house. It wouldn't match the existing garage. Three corners wouldn't match one existing corner and she also said I might have to move the driveway if I wanted everything to match; she would have to redraw it to submit it and, of course, she would charge me for more drawings.

Mr. Casscles: Okay.

Acting Chairman Vasti: Any other questions from the Board?

(no response)

Acting Chairman Vasti: Okay at this time I will open it up to the public. Is there anyone in the audience that has any questions?

(no response)

Acting Chairman Vasti: Okay, I will entertain a motion to close the Public Hearing.

Mr. Casscles: Mr. Chairman, since Mr. Fox and I were the only ones that did a site visit, I understand that Mr. Wright couldn't because of his mom...

Acting Chairman Vasti: I did a drive-by.

Mr. Casscles: I was wondering if you could leave it open just in case he wanted to himself visit.

Acting Chairman Vasti: Certainly. I have a motion to leave the Public Hearing open.

*****MOTION**: Mr. Casscles made a motion to keep the Public Hearing open; seconded by Mr. Keegan. Hearing all in favor; the motion was carried.

Upon roll call, the vote was as follows: Mr. Anginoli, yes; Mr. Keegan, yes; Mr. Casscles, yes; Mr. Fox, yes; Mr. Porath, abstain; Chairman Wright, absent; and Acting Chairman Vasti, yes.

Acting Chairman Vasti: We will leave the Public Hearing open for the purpose of allowing other Board members an opportunity to make the site visit and then the next meeting we will see you.

Mr. Coyle: Okay, thank you for your time.

Acting Chairman Vasti: The next item on the agenda is the second Public Hearing. It is the request of BHS Associates, LLC.

Request of BHS Associates, LLC – App. #14-05

A variance from the requirements of the Town of Stony Point Zoning Code Chapter 215, Article IV, Section 12-f – Use not permitted in LI zone, for a research/school, located at 15 Holt Drive, Stony Point, New York.

Section 20.04 Block 11 Lot 6 Zone LI

Acting Chairman Vasti: Is there anyone here for the applicant?

Mr. MacCartney: Mr. Chairman, if I might interrupt very quickly. As the Board is aware from prior communications after this matter was added to the agenda at the last meeting, I discovered that I have a conflict of interest; my firm currently has an attorney/client relationship with certain entities associated with the applicant. So our firm has to recuse ourselves. I have to recuse myself from any consideration of this matter and the Board is aware of this and has substitute Counsel here tonight who will be advising the Board in regard to this matter.

Acting Chairman Vasti: Thank you very much. Mr. Emanuel can you identify yourself please for the secretary?

**Ira Emanuel – attorney for the applicant
New City, New York**

Acting Chairman Vasti: Please proceed.

Mr. Emanuel: Mr. Chairman, members of the Board this is an application as you said for a “use variance” for a property on Holt Drive which is opposite the entrances to the new Shop-Rite supermarket. The building was built about 20 or so years ago for Stony Point Electronics, but the electronics company is effectively not operating; it’s there in a caretaker mode only.

As you will hear this evening, we have received interest after much searching from the Fred S. Keller School which wishes to use this site as a school for children with autism. The children range from pre-school to kindergarten. So we are talking about little ones. They are...I have the Executive Director of the Keller School here. She will be able to discuss the way that the school operates and would operate at the site along with answering whatever questions you may have with respect to that. I also have the principal of BHS Associates, the owner of the site, who will discuss the current economic situation that he finds himself in with respect to the site, which, of course, is a relevant matter with respect to a use variance and I also have a real estate broker who has had the listing for the site since 2008 and he will discuss his unsuccessful efforts to obtain a tenant up til now.

The site as I said, is opposite the Shop Rite supermarket. We have a drawing of the site as it currently exists up on the board. The building is approximately 20,000 square feet. There is a paved parking area that also extends around the back. The area is entirely fenced and obviously fencing can be extended. I know that the Board members made a site visit to the site. I know that you are all familiar with the area.

Mr. Casscles: Excuse me – we couldn't get into the site because it was locked. The gate was chained and locked Sunday morning.

Mr. Emanuel: Really.

Mr. Casscles: So we didn't have access to the actual site.

Acting Chairman Vasti: We are going to address that issue shortly. We are going to request another site visit.

Mr. Emanuel: Absolutely. It may have been a miscommunication for the date and time of the site visit. It was changed a number of times so I apologize for that. Certainly we didn't intend to keep you out.

In any event, I do know that you are familiar with the area. That you know that even though it is zoned "LI" it is anything but an industrial area anymore. As I mentioned before, it is directly opposite the Shop-Rite supermarket which is fairly new. Directly on the other side, to the south, is the West Haverstraw Elementary School. Walnut Hill Apartments are to the southwest and there are many other different types of uses in the area.

In fact, if you take a look at the narrative, that I know you've all received, on the last page of the narrative is a colored map. This map was prepared actually by the Rockland County Department of Planning; at least the base map was. The additions that I made to it were simply labeling the names of the businesses or the types of uses that were there. The colored coding is from the Rockland County Department of Planning and looking at that map it's pretty obvious that you have a variety of uses in the area.

With that I would like to, with the Board's permission, I would like to introduce the Executive Director of the Keller School and she's going to discuss what the school is and how it intends to operate in this location.

Acting Chairman Vasti: Can you please state your name?

Unidentified Female: Good evening. My name is:

**Dr. Robin Nuzzolo – Executive Director
Fred S. Keller Schools**

Acting Chairman Vasti: Please raise your right hand – "The testimony you are about to give is truthful?"

Dr. Nuzzolo: Yes. I am here this evening to talk to you a little bit about the Fred S. Keller School and what our wishes are to open up a school here in North Rockland. The school itself, Fred S. Keller, has been open for 27 years. We had a campus, we still do, over in Yonkers. That's our largest campus in Westchester. I've been with the school 11 years as the Executive Director and 10 years ago Harriet Blecher, who was the head of pre-school services in Rockland County, came to us and said we need you to come and open up a program in Rockland because at that point Rockland County was busing their children to Westchester. I am a resident of Rockland County and I said that would be wonderful. So we came and we started with two (2) classrooms. This was 10 years ago and now we have 10. In September, we will open up an 11th.

I know it's no surprise to anyone that the rate of children being diagnosed with autism is increasing every year and every year we have to turn away children who need services. The community of North Rockland...North Rockland is our largest – I am going to take a step back, sorry; we serve all of Rockland County. So every school district sends us children on the spectrum. North Rockland is our biggest client. Right now we are located...Rockland County has two (2) campuses and they are located over in South Orangetown; both of them. But, it makes sense to us to put everybody under one roof and bring them to where most of our clients are; which is here in North Rockland.

We also would like to serve typical kindergarteners. We have the license to do that. We have typical pre-schoolers in our schools now who serve as models for children with autism. So what we would like to do is also provide a half-day kindergarten for students in North Rockland who are receiving half-day in the public school because the public school has half day kindergarten and there are parents who work are looking for, you know, the other half day. So we would also be providing that service to the residents of North Rockland as well.

We really like this location because it is totally fenced in which is wonderful for us. It is on one level. We do serve the little guys from age 1, we can take them even earlier than that. We don't usually get students younger than that, through age 5 until they go to kindergarten. So being on one level would be really nice for us. It is set-back; totally fenced in. It's got the ample parking for what we need.

I don't know if there is anything else you want to know about us, but that is pretty much Fred Keller and what we would like to do.

Acting Chairman Vasti: You mentioned that you are going to include half-day kindergarten children with children who have autism at this facility?

Dr. Nuzzolo: We already have actually typical children at the facility.

Acting Chairman Vasti: So this is a blended program?

Dr. Nuzzolo: The half-day kindergarten would not be. It would not be. It would be a typical kindergarten classroom.

Acting Chairman Vasti: So as I understand it this program is going to be split between the day; part of the day will be for kindergarteners and part of the day will be for children with autism?

Dr. Nuzzolo: Right now our children come to school from 9 – 2:00. When we open up a kindergarten classroom, it would be a morning session and an afternoon session.

Acting Chairman Vasti: So your program would run concurrently. You would have children with autism in the building and children who do not have autism who are kindergarteners?

Dr. Nuzzolo: Yes, sir.

Mr. Porath: I'm assuming that this is all like certified or whatever the proper – that you are not inventing some process here.

Dr. Nuzzolo: No, absolutely not. We've been in existence for 27 years. We have a license through the State of New York to operate a pre-school. We go through approval every three (3) years. We just went for our approval. We have a very good reputation. If any of you want to speak to the pre-school on special education in North Rockland or any other district, we have a very good reputation. Our children lots of times they get declassified, they go back into regular education. It saves taxpayers a lot of money and like I said we have to turn away children every year and this would be a great location for us.

Acting Chairman Vasti: You mentioned you are license by the State of New York – who’s your accrediting agency?

Dr. Nuzzolo: The Education Department; the New York State Education Department.

Acting Chairman Vasti: They are the licensing department; are you accredited by any outside agency?

Dr. Nuzzolo: The Office of Children and Family Services. They don’t accredit us, but that’s the other license that we have. There’s not an accreditation process for pre-school like there would be a middle states accreditation for ages 5 and up. There’s not an accreditation process for under age 5.

Acting Chairman Vasti: So all the children with autism are under age 5.

Dr. Nuzzolo: Yes, sir.

Acting Chairman Vasti: And there is no one in this school population that’s over age 5?

Dr. Nuzzolo: They would be over age 5 until they turn kindergarten age. So some children start kindergarten at 5½; it depends when their birthday would fall, but nobody would be 6 in other words.

Acting Chairman Vasti: Do you receive any funding from the State of New York?

Dr. Nuzzolo: We receive grant money from the State of New York. It would be less than 5% of our budget.

Acting Chairman Vasti: Is it the 501 Grant Program? Do you know the...

Dr. Nuzzolo: No, sir it’s the 611619.

Acting Chairman Vasti: Okay. That’s typical special ed.

Dr. Nuzzolo: Yes.

Acting Chairman Vasti: Okay. Thank you.

Mr. Anginoli: Approximately how many students, in the course of a day, will you service?

Dr. Nuzzolo: Sorry – from 65 to 75 we plan on starting.

Mr. Porath: How many adults in various capacities would be there?

Dr. Nuzzolo: We are mandated for the most part for there to be at least a 2 to 1 ratio. So for every 1 student – I’m sorry for every 2 students we would have 1 staff, but that’s not counting any type of administrative staff. So if we had 65 students there would probably be 45 staff there because we also have therapist; they get speech therapy, occupational therapy, physical therapy. We have principals, assistant principals; things like that.

Mr. Casscles: You have a nursing staff there?

Dr. Nuzzolo: We do not.

Mr. Casscles: So you won’t have anybody there?

Dr. Nuzzolo: No, we do not.

Mr. Porath: Is that because you are not required to? It sounds like it's not a shortcoming of the program, it's just...

Dr. Nuzzolo: No. There is no line in pre-school to have medical staff. It's not typical for pre-school to do so, but we don't. We don't serve children with physical disabilities. For the most part, we don't have children who are not ambulatory, children on feeding tubes; things like that. These are all well children. They are just cognitively delayed.

Mr. Casscles: If you have a medical emergency during, how would you handle it?

Dr. Nuzzolo: We call 9-1-1.

Mr. Casscles: You would call 9-1-1 and rely on them getting there?

Dr. Nuzzolo: Yes, sir. In 27 years that's not been a problem.

Mr. Casscles: It only takes "1".

Dr. Nuzzolo: I know. You are right.

Mr. Porath: I assume this practice is all under...someone's watching this to make sure that this is a good procedure?

Dr. Nuzzolo: Like I said, it's not typical for pre-schools to have nurses. They are just not reimbursed for them. There would be no way...I guess unless they fund them.

Mr. Casscles: On this playground outside that you wanted to install, they fell down and skinned their knees what do you do with them?

Dr. Nuzzolo: We take them inside, clean it up and put on a band-aid. Which is what they would do at a typical pre-school.

Mr. Fox: You made mention that you operate out of Orangetown right now, is that correct?

Dr. Nuzzolo: South Orangetown. We have one (1) campus in Palisades and we have three (3) classrooms in William O. Schaefer Elementary which is in the South Orangetown School District.

Mr. Fox: You also made reference to being under one (1) roof...

Dr. Nuzzolo: Yes.

Mr. Fox: Can you expand on that please?

Dr. Nuzzolo: Well right now we have two (2) smaller campuses; one (1) is – we started out at the Palisades Pre-School which is a free standing school building in the South Orangetown School District. It's a very small building. Its 12,000 square feet. There's a large gym; so I would say classroom space maybe about 8,000 square feet so we started out there and we actually occupied half the building and another school occupied half and then we grew and we grew and it just got to be too small. Then we expanded into a public school, which was nice for our children on higher levels. They could eat lunch with other students. But, now South Orangetown needs that building now we have to move to another building and ideally we would really just like to be under one (1) roof and have all our children together.

Acting Chairman Vasti: Are you going to serve lunches at the facility?

Dr. Nuzzolo: No, sir they bring lunch.

Acting Chairman Vasti: Is public transportation going to be involved to transport the students?

Dr. Nuzzolo: Yes, sir.

Acting Chairman Vasti: The transportation that's going to be involved going to be paid for by the North Rockland School District?

Dr. Nuzzolo: Only if the students are North Rockland students.

Acting Chairman Vasti: So then each particular area where the students reside that public school community would provide the transportation; is that correct?

Dr. Nuzzolo: I'm sorry; I am going to take that back. That's not what will happen. We are not funded because we are under age 5. We are not funded by any particular school district. We are funded by the Board of Health. The County Department of Health; not the Board of Health the Department of Health. So they arrange busing. The North Rockland School District does not have to pay for it any of the services coming to us.

Acting Chairman Vasti: Who pays for the busing?

Dr. Nuzzolo: The Department of Health.

Acting Chairman Vasti: The Rockland County Department of Health?

Dr. Nuzzolo: Rockland County Department of Health, yes.

Mr. Porath: This sound distinctly different, then say how B.O.C.E.S., for example, is funded that they are...it's a whole different scenario.

Dr. Nuzzolo: Once you hit age 5 it's a totally different set of laws. That's when the school districts themselves would actually pay for these students to come to school. Prior to age 5 you are considered pre-school and it's all Department of Health. It's not the school districts.

Mr. Fox: What about the half-day kindergarten. Those children would be 5.

Dr. Nuzzolo: That would be a private pay situation.

Mr. Fox: What about busing for that?

Dr. Nuzzolo: They would be bused and have to be picked up by the parents.

Mr. Fox: That would be the school district as well?

Dr. Nuzzolo: Yes. The school district would have to bus them home so instead of busing them home they would just bus them to us.

Acting Chairman Vasti: The autistic program could you please go over the special services that you're going to provide for the children?

Dr. Nuzzolo: Sure. What we are mandated on their individualized education plan so they would receive speech therapy, occupational therapy and physical therapy. We don't accept children into the program that are deaf or blind or require any other type of service. That's just not what we specialize in.

Acting Chairman Vasti: So just "OT", "PT" and physical therapy; pretty much?

Dr. Nuzzolo: "OT", "PT", speech, yes.

Mr. Keegan: I'm just curious about the bus issue. My understanding is that you have actually three (3) sessions. You have a morning kindergarten session, an afternoon kindergarten session and then a 9-2 session for the autistic children. Is that correct?

Dr. Nuzzolo: Right now, no. Right now we have 9-2; those are all the special education students. The kindergarten, half-day, it would depend on what time North Rockland is running their half-day and then we would have...you are right, it would be three (3) in total.

Mr. Keegan: Three (3) sessions?

Dr. Nuzzolo: Yes.

Mr. Keegan: The facility, the way it's laid out, can it accommodate the buses coming in off of Holt Drive in order to drop the children off next to the building or will they have to be disembarked on Holt Drive?

Dr. Nuzzolo: Oh no. They would come in; there is a circular driveway, so they would be dropped off.

Mr. Keegan: Any idea the number of buses that would be coming and going on a daily basis?

Dr. Nuzzolo: Sure. Right now we have, and they are the smaller buses; the mini buses, we have about 15 right now for all of our special ed students.

Mr. Keegan: 15 for the special ed students. What about for the kindergarten students?

Dr. Nuzzolo: They would probably all be coming on one (1) or two (2) more buses. It would be a small program.

Mr. Keegan: 17 buses give or take.

Dr. Nuzzolo: Yes.

Mr. Keegan: To drop off and then the same buses to pick up and take home? Thank you so much.

Dr. Nuzzolo: You're welcome.

Mr. Porath: I will speak for myself in this regard...I suspect if there are questions or issues are going to arise about this request for a variance you are going to center more on the presence or the appropriateness of this facility and what's really a mixed used type of area. I am going to give you a very open-ended question – can you comment to that your thoughts about that location, its appropriateness, the safety factors...just really kind of touch upon the whole subject if you don't mind.

Dr. Nuzzolo: Our campus in Westchester is, if you are familiar, is off of Exit 9 on the Saw Mill, which is an executive park. We've been there for 27 years. If you pulled into...it's run by Mack-Cali. It looks like an executive park. We've had no problems in 27 years there and there are no other schools in the entire executive park. We are pretty quiet neighbors.

Mr. Fox: What are the businesses in that executive park? Is it office space, or is it...

Dr. Nuzzolo: It is office space. There's a gym...they are all offices. I'm not really sure what they are in general, but there aren't any other schools. It's pretty much just looks like an executive park that you would drive into.

Acting Chairman Vasti: One of the issues I would like to bring up, because it is a "light-industrial" zoned area; there is still other parcels of property in that development that are either unoccupied or undeveloped or not in use at the present time. Given that it is a "light industrial" area we don't know what could happen in the future; if someone wants to come in and develop that area and they have a facility that may increase the traffic flow on Holt Drive or perhaps the noise level or perhaps they maybe in the industry of manufacturing and there could be some by-products, how would that impact on your school in that area if your school was to get approved?

Dr. Nuzzolo: As far as the traffic, because it is a fenced in...you would kind of drive down Holt Drive and make a right and it is a fenced in pretty self-sufficient little area for us. I don't think traffic so much would be an issue for us. As far as other buildings and what they would be doing, I really don't have an answer for that. I don't know. Like I said, I do know we are in an industrial park now and things like that do exist. There is a spice factory that's behind us pretty much and they manufacture spices.

Acting Chairman Vasti: That's a concern for us as a Zoning Board; certainly for myself, I don't mean to speak for the whole Board. But, certainly for me given the fact that if there's property there that could be developed, it becomes a ratable, and then we could run into opposition of someone voicing opposition to that industry moving in there when they would have every right to do so given the zoning in that area.

The other thing I would like to address right now, and I'd like to address this to Mr. Emanuel, I believe at one time the State of New York did a road test in that area; I don't know if there is any parking restrictions on Holt Drive during certain hours of the day, if there's "no standing" or if that has been removed, but I would like to clarify that to make sure that the Department of Motor Vehicles isn't still using that road. I know at one time they did.

Mr. Emanuel: I have no idea.

Unidentified Voice: They did move. They are on Central Highway.

Acting Chairman Vasti: As long as...I want to get that out of the way.

Mr. Keegan: What was the answer to that question?

Mr. Emanuel: The answer from somebody out in the audience...

Acting Chairman Vasti: Yeah, but we need to investigate that.

Mr. Sheehan: They are no longer down there. They moved to 210 for road test.

Mr. Emanuel: That is from your Building Inspector.

Acting Chairman Vasti: Is anybody else on the Board have a question for Dr. Nuzzolo?

Mr. Keegan: I can't see the circular driveway; is there a circular driveway here?

(Mr. Emanuel and Mr. Zigler pointing at map.)

Mr. Keegan: That's enough to turn around it around? Okay, fine. Thank you.

Acting Chairman Vasti: Anyone else on the Board have any questions for the Doctor?

(no response)

Acting Chairman Vasti: For Mr. Emanuel?

Mr. Casscles: Yes, I do. You say you are going to have a playground?

Mr. Emanuel: Yes.

Mr. Casscles: Where?

Mr. Emanuel: (pointing at map) The playground will most likely be in this area, back here. We will install additional fencing.

Mr. Casscles: Dave, correct me if I'm wrong. Last fall or this spring, did Mr. Helmer want to put his construction yard behind this building with the Planning Board?

Mr. Zigler: Yes.

Mr. Casscles: Excuse me.

Mr. Zigler: It was an approved site plan; yes.

Mr. Casscles: So he is going to put a construction yard behind the...

Mr. Emanuel: Obviously not both.

Mr. Casscles: Excuse me.

Mr. Emanuel: Obviously not both at the same time.

Acting Chairman Vasti: If we are going to ask anyone else questions, then we need to just get them on record. Mr. Zigler can you state for the record your name.

Dave Zigler – Atzl, Nasher & Zigler

Acting Chairman Vasti: "Do you swear the testimony you are about to give is truthful?"

Mr. Zigler: Yes.

Mr. Casscles: So he is going to withdraw that approval from the Planning Board?

Mr. Zigler: Yes.

Mr. Emanuel: If this is approved.

Mr. Zigler: And for your knowledge, (pointing at map) from this pavement south to the fence is about 15,000 square foot. So there is a 1/3 of an acre there. So there is plenty of room for an enclosed playground.

Acting Chairman Vasti: So as I understand it Mr. Zigler, is the desire of the property owner to use that for storage of construction equipment is that going to go off the table now if this goes to be approved as a school?

Mr. Emanuel: Yes.

Acting Chairman Vasti: So he would withdraw that.

Mr. Zigler: Yes.

Acting Chairman Vasti: Any other questions from the Board for either Mr. Emanuel or Mr. Zigler?

Mr. Sullivan: Excuse me, Daniel Sullivan, attorney for the Board. I just have one legal question as far as your application you filed.

Mr. Emanuel: Sure.

Mr. Sullivan: You're asking for a determination regarding the Building Inspector making a decision that was not in your favor?

Mr. Emanuel: Yes.

Mr. Sullivan: And the alternative you had required a "use variance".

Mr. Emanuel: Correct.

Mr. Sullivan: In your documents you indicated that as far as the appeal of the Building Inspector's determination you just addressed that the exclusion of a school in a "LI District" is unconstitutional.

Mr. Emanuel: That is what the case says.

Mr. Sullivan: Well the case in Albany was that it was, and it is also cited in your quote, it was a wholesale exclusion of schools. Here in this, in the Code, schools are not excluded. They could have a vocational or technical school with a conditional use by the Planning Board; if they approved it. So, this case, and there are other cases there is one from Matter of Shinnecock Hills Golf that they addressed the fact that it wasn't a complete exclusion of it. It would be unconstitutional if it completely excluded the school in that area. Here it doesn't; it's limited and the other case shows that there is a...the wholesale exclusion completely that's unconstitutional,

Mr. Emanuel: This is why I put it an alternative pleading.

Mr. Sullivan: Of course, but I just wanted to address your first determination that the Building Inspector was erroneous in this.

Mr. Emanuel: That's up to the Board to...

Mr. Sullivan: I'm just stating that just for the remaining questions.

Mr. Emanuel: Understood. If the Board has no further questions I would like to go on with our next witness...

Mr. Porath: I apologize. I have another question for you (Dr. Nuzzolo) if you don't mind coming back up for a second. Again, I can only speak for myself – if I had had a concern about this variance it would be insuring the wellbeing, and I'm sure everyone would feel that way; of would generally be a fairly fragile population. There may be other factors involved in the variance, but at least in regards to that the concerns of, and I think, Mr. Vasti touched upon the potential of the uses, perhaps the security of buses coming out...can you give me at least a sense of the measures that are taken to insure, that again this fragile population, is really being taken care of in what would be a very busy mixed use facility.

Dr. Nuzzolo: Sure. Right now both of our Rockland sites, as well as our Westchester site, none of them are actually completely fenced in. So this would actually be a really nice feature for us. Basically when buses pull up we have a one-to-one ratio. So for every one (1) child on the bus there's a staff getting them off and bringing them in and there's not going to be a very long, I guess path, of getting off the bus and getting into the school. We have a lot of staff available to get the children in the building.

Acting Chairman Vasti: In the years that your program has been in operation, how many elopements have you had?

Dr. Nuzzolo: Out of the building?

Acting Chairman Vasti: Elopements period. Out of the building, out of the classroom.

Dr. Nuzzolo: Out of building, I can give you a definite number. Since I've been there zero (0).

Acting Chairman Vasti: Zero (0).

Dr. Nuzzolo: We have not had a child...

Acting Chairman Vasti: How many elopements have you had that you reported to the State Education Department?

Dr. Nuzzolo: Zero (0).

Acting Chairman Vasti: I want to just have a follow-up question – the fencing is to be something that is very positive for you. What attracted you to this site?

Dr. Nuzzolo: The community. As I said we...our largest client is North Rockland and the building being on one (1) level is really nice for us. As well as it again the being fenced in, having enough room for the buses to turn around. There's not a lot of property in Rockland County for us to, this size, for us to occupy and it's kind of a free-standing setting where if we are in an executive park like we are, it's just a lot of space for us and that's what we'd like actually.

Acting Chairman Vasti: Have you looked at other sites and if so how many. How long have you, in terms of time and number of sites, have you looked at?

Mr. Nuzzolo: Well, with Mark, our realtor, I think we looked at four (4) and we actually three (3) years ago were on a search then. We actually looked at another property in North Rockland. We probably looked at seven (7) or eight (8). There's just not a lot on the market because we have a Westchester campus as well and there is a ton of space in Westchester. There's just not a lot here in Rockland and it's really difficult renting from school districts because what happens to us, as it happened this year, is they can only rent you space for very short periods of time because they don't really know their population. So we have been in William O. Schaefer Elementary for two (2) years and then we sort of got bumped out of there and now we are going to another elementary school and it's not great for the students or anyone to just keep hopping from school to school.

Acting Chairman Vasti: And towards that, toward your journey to find an ideal spot, there isn't an awful lot of space in Stony Point that's "LI Zoned" so you know it seems to be a very important issue for us, as a Town...

Dr. Nuzzolo: I'm sure.

Acting Chairman Vasti: To try to keep that space that we do have and find appropriate tenants for it because there isn't a lot around in Stony Point. We have Harriman State Park on one side and the river on the other and it's a small little town.

Mr. Porath: How long a lease were you planning on signing for the property?

Dr. Nuzzolo: Ten (10) years.

Mr. Casscles: You keep referring to the property being fenced; other than when the buses are dropping children off, is that front gate going to be closed?

Dr. Nuzzolo: Absolutely.

Mr. Casscles: Because it is directly across from the entrance to Shop-Rite and you've said they've never gotten out of the building?

Dr. Nuzzolo: No.

Mr. Casscles: A runner is a runner. If they run out into that road that's there...

Dr. Nuzzolo: Yeah. As we're saying, we've never had an incident...in the past 11 years, and as far as I know before that, we've never had a child make it out of the school building and we've never...we also have a security systems in our buildings; which means that the doors, I don't know how to explain it...two (2) years ago we had all new security systems put in so there's a buzz-in system. You can't open the door from...you could get out; I suppose if you could press the bar, but we have not had anybody do that and like I said our other buildings are not fenced; they are just...

Mr. Casscles: Kids are going to throw (inaudible)

Dr. Nuzzolo: And our Rockland campus, the larger one on Oak Tree Road, that's a double yellow line road as well. It's not as busy, obviously, as say 9W, but it's a double yellow line road.

Mr. Casscles: So other than when the buses are dropping them off and the staff is arriving it's going to be totally closed off?

Dr. Nuzzolo: Yes.

Acting Chairman Vasti: Do you plan on having security on site to monitor the entrances and exits?

Dr. Nuzzolo: We don't have a security guard, per say, but we always have somebody at the reception desk we have televisions...where we are now you can see out the door, but there's also a television screen. That's more for our safety for all the school problems.

Acting Chairman Vasti: And in some settings, some educational settings, some institutional settings they use a term "Sally Port Doors" and what that is, for those here that may not know what that is, that is a vestibule that is enclosed on both ends. So you could make it through one (1) set of doors, but you will be stopped by the final door that is egress to the outside. Are you going to employ such a system?

Dr. Nuzzolo: We have that in Westchester. I believe that this building actually has that. They have that already. You walk into the first door, there's like you said there's a small vestibule hallway and then there's another door so we wouldn't be taking it out; definitely not.

Mr. Fox: The other question I have is the playground. I know you are looking to put it behind the parking lot...

Dr. Nuzzolo: Yes, sir.

Mr. Fox: Where would the access be to that playground? Are the kids going to have to cross through that parking lot with all the cars are parked there or is it going to be onto the grass or something?

Dr. Nuzzolo: Okay, I can't speak for that. I would love to have a door directly out to the playground. I don't know. I don't know if somebody else can speak for that.

Mr. Emanuel: They would have to go through the parking lot, but again this is not an active parking lot. This is a parking lot where the buses or the staff vehicles would come in at a particular time would leave at a particular time and the rest of the time as you heard those gates would be closed. So they would be able to control the access to it. They know exactly who is moving and when in that parking lot.

Just to address the safety issue of the children – I know that this is a concern of the Board, rightly so. I also know that when you were considering the granting of a use variance to the church that is right down the street on Holt Drive, by the way you did grant that variance as you may recall, this was also a topic of great discussion. I know that because I read the minutes of that decision and at that time you were reasonably assured that the parents of the children who were going to be attending that church would be watching their children. With no disrespect to the parents of those children, who I am sure are very, very careful because we are all very careful with our children, they are not trained in dealing with children the way that the faculty here is trained to deal with the children. They know what's going on. They have protocols. I am sure that the faculty and staff here would be at least as careful, if not more careful, with the children in this location then at the church down the way. In addition, the church down the way is not isolated from other uses. It is not fenced off. I've been down there. It shares a parking lot with the surrounding use and it seems to work.

And, again I have no problem with that church; I just wanted to remind you that you've faced a situation similar to this with respect to the presence of children in this location before and found that there was a way, at least in that particular circumstance, to make sure that the children were safer and I will submit to you that they are in fact safer in this location because of the security measures that can be put in place.

Mr. Fox: There is limited time that they are in the church, though.

Mr. Emanuel: That's true, but it also a much freer situation.

Mr. Casscles: Not as much kids.

Mr. Emanuel: Kids running out – kids can run in and out of church. If you ever been to a church service or a religious service, you know especially that the kids are running in and out. I'm not saying that there is any problem down there, but what I am saying is that here you have completely enclosed situation.

Mr. Zigler: What we were thinking about, (pointing to map) as you were asking that question, there are two (2) doors over here, on the southeast corner, and where ever this playground happens to be, maybe in the southeast corner back here, there is room between the edge of the pavement on the east side of the fence to double through it. So they can come out of the door, go into a gate and never cross the parking lot and walk on the lawn to get to the playground. So we bought up a solution. We are offering that as pure safety. There is a door right here so they can go out right here. Now the buses are stopping up here so there is no problem with that. Once they get in this double sorted gate there's nothing for them to get out of.

Acting Chairman Vasti: Mr. Zigler, while you are here, and I'm also going to ask this similar question to the Building Inspector later, while you are on this subject of the building – in its present form what modifications are going to need to be made, if any, for this school to operate; if it does get approved?

Mr. Zigler: I don't have those answers. I haven't been in it. It's just going to have to meet its code.

Acting Chairman Vasti: You haven't reviewed the inside of the building?

Mr. Zigler: No.

Acting Chairman Vasti: Do you have any plans for the inside of the building at this time?

Mr. Zigler: No.

Acting Chairman Vasti: So what's...?

Mr. Zigler: You wouldn't do that until after the variance is granted.

Acting Chairman Vasti: So you would approach that issue after the variance, if the variance is granted?

Mr. Zigler: Exactly. As we do any other application to the Board.

Acting Chairman Vasti: Well let me ask you this question then – the building in its present form does it have any feasibility for a school?

Mr. Zigler: I would believe that the person you we're talking to would have the knowledge of what they need...

Mr. Emanuel: Dr. Nuzzolo can respond to that.

Dr. Nuzzolo: Sure. One of the other...it brings up a great point; it's one of the other things we really liked about this space. The front of the building has...its offices. It's all offices in the front. It's got a lunchroom in the middle and then there is kind of two (2) sides to the building that kind of mirror each other. I think they are about 10,000 square foot each and in back of these offices, which line the front of the building, it's an open warehouse space. So for us, that's great because we can build out classrooms and they can be to the dimensions. It's pretty much...

Acting Chairman Vasti: So you are...you are conceiving doing renovations inside, obviously?

Dr. Nuzzolo: Yes, sir.

Acting Chairman Vasti: Have you bought in an architect inside to look at it; to give you any recommendations or thoughts?

Dr. Nuzzolo: No, sir.

Acting Chairman Vasti: So no architect has looked inside and there's really no plans at this time; no written plans, no blueprints or anything on the table?

Dr. Nuzzolo: No, sir.

Acting Chairman Vasti: Okay. Thank you.

Dr. Nuzzolo: You're welcome.

Mr. Casscles: Are you aware of any asbestos in it now?

Mr. Emanuel: Mr. Helmer would be able to address that.

Acting Chairman Vasti: Your name please.

William Helmer

Acting Chairman Vasti: "Mr. Helmer, do you swear the testimony you are about to give is truthful?"

Mr. Helmer: Yes.

Acting Chairman Vasti: Please proceed.

Mr. Helmer: Yes, there has to be work done inside to provide the classrooms that she wants. The office space is really excellent for her as we looked through it. The whole front has individual offices and they do a lot of “one-on-one” in offices as well as in classrooms. One of the interesting things that we discovered when we were talking about this, is Owens Corning has developed an autism wall for children and all of the classrooms that we build...they need small classrooms. Now they are not the type of classrooms that you envision 30 kids and these are small, 10-12 kids in a room, and they develop walls especially for young children with autism. They put them in the basements in homes if the family can afford to modify them. These walls are so attractive to these young kids they don’t want to come upstairs to eat or go to bed or anything. They want to be in those rooms and this is one of the things that we talked about. We would hire an architect who’s had experience with schools; experience with autism to design what has to go. But, there is a considerable amount of interior construction that we need to do to provide something and they want to lease not for two (2) or three (3) years they want to be able to spend the money to have the return and have the kids properly taken care of and not moving; they are not used to this, they are not use to that and so we sort of hit it off from the beginning because what she told me, and I know an architect that really is interested in this, plus they contacted Owens Corning. They would love to be our consultants to come out here and they’ve done it in basements in individual homes or in condo developments, but never in a school situation like this. No doubt about it, we have to do a considerable amount of interior renovation; that’s why they want to lease it for a longer time. As you know if you know anything about schools, we spend a lot of money, but if you have to move out of it in three (3) years; it’s not too good.

Acting Chairman Vasti: I know a considerable amount of knowledge about schools. I am a Facilities Director in Paquonick, New Jersey...

Mr. Helmer: You’re an expert. I would love to talk to you about it.

Acting Chairman Vasti: And I take care of five (5) schools; almost a half million square feet and I am certified by the State of New York as a Facilities Director in New Jersey and in New York.

When was your building put up? When was it erected?

Mr. Helmer: The first 10,000 feet is about 20 years ago; and we put an addition on it about six (6), seven (7) years after that.

Acting Chairman Vasti: Do you have a current “Certificate of Occupancy” for the building?

Mr. Helmer: Absolutely.

Acting Chairman Vasti: Has anybody from the Department of Education visited the site?

Mr. Helmer: No, sir. We can’t do it until we get the variance. I don’t want to go out and get a lot of people excited or mad or whatever. If you approve the variance, I assure you we will have everybody that’s an expert...

Acting Chairman Vasti: What would happen if we approved it and then someone from the Department of Education came out from the licensing agency and said this site is unacceptable?

Mr. Helmer: Well obviously we can't go forward, can we? We have to get a building permit after you approve the use, but we can't jump the horse and go for the building permit before we get the use; it doesn't make any sense because there's considerable work that needs to be done. Our firm has built seven (7) schools in Rockland County; so we've built the community college, so we are pretty familiar with school construction, but we need to help this school to make it home where they can be for a number of years.

Acting Chairman Vasti: Thank you. Anyone else on the Board have any questions?

(no response)

Mr. Emanuel: Mr. Chairman, while Mr. Helmer is up here, one of the questions that we have to put forward and we did touch upon it in the narrative is the financial situation that's faced by the applicant. Bill, if you could tell the Board about your annual costs and your annual income and any other information that is relevant from your finances on this particular property.

Mr. Helmer: Obviously this building was built to suit for Stony Point Electronics. The owner came to me many years ago and was looking for space and we built this building to suit Stony Point Electronics. It's an unusual building because it is an electronics building so it does have a lot of individual offices for research and stamping boards and doing things. It has a center court with toilets in both sides and it has two (2) sort of good size rooms that could be a lunchroom or a place where kids could go with a bag. We don't have to do any of that. That's all there; so basically everything was fine until about ten (10) years ago. Right after we built the addition, about three (3) years, China, India and other places as you know put Stony Point Electronics really in bad shape. The owner and his family were friends of mine and I said okay we will put it up for rent, but you stay here and maintain the property, mow the lawn and use it until I can lease it. That was in 2008, six (6) years. We've shown it, as the realtor testified, to five (5) or six (6) people; it's not a good situation. People that do any type of manufacturing with noise don't want anything to do with it. We have a piano guy next door on one side, we have a shopping center across the street, we have a senior citizen project immediately behind it and we have a school immediately behind it. So anybody in even light manufacturing doesn't even want to look at it twice. If it were a warehouse, they want 30 foot ceilings; which makes sense as you all understand. But, the taxes are extremely high on this property. I paid, including insurance and taxes, over \$50,000.00 a year. My (inaudible) income since I listed it is under \$25,000.00 a year. The bank, Key Bank, who some of you know bought out Union State Bank locally, told me they wouldn't renew the loan because I didn't have a tenant paying the bills. Even though I was always current and was responsible for paying both the taxes and the lot so I have no mortgage on the property and the bank wouldn't renew the mortgage. So we've been waiting for this opportunity to not go into Stony Point and file (inaudible), we can't rent the building. It's not worth what you say its worth because the taxes are \$20/30,000.00 a year. We haven't done that. I'm a Stony Point guy. I'd like to see Stony Point succeed and this seems for the first time in six (6) years I got a wonderful match of our building and the needs of the Keller School. So that's how I'm here. We didn't solicit them, we didn't do anything other than we have this listed and as a matter of fact, our realtor showed a lot people and another realtor teamed with him to bring this group to Stony Point and that's how we are here and it seemed like a perfect match. Our construction is a little slow now so we have the time to do the work for them and they are anxious to have it and, therefore, that's why we are here.

Yes, sir.

Mr. Keegan: Ira, can we have that documentation just for the record. I am quite sure all this stuff is, but...

Mr. Helmer: In the documents, financial.

Mr. Keegan: The financials that we could just put it in writing.

Mr. Emanuel: It's in the narrative.

Mr. Keegan: Oh, okay.

Mr. Helmer: I have tax bills.

Mr. Keegan: I want to make sure we have everything.

Acting Chairman Vasti: Do we have any other questions for Mr. Helmer?

Mr. Porath: I actually...want to make sure I understand something for my own purposes. Given the current use of the building and it's been largely – it's not really being utilized and it could very well be vacant, again the normal taxing process you could infact go to the Town and ask for reduction in taxes and you haven't done that to date as I understand. Is it far to say, conversely, if the property was utilized, being this unit over the next ten (10) years, would it be fair to say that that would preclude you filing the taxes.

Mr. Helmer: Yes. The reason that we went for the construction yard in the rear is a group was trying to buy our yard in Stony Point, where I think you all know it's next to the ambulance corps building, and people were complaining, although we've been there for 60 years, our neighbors were complaining about the noise in our construction yard. So I said, okay I will move the operation out of the County but I could store some equipment in the rear of this yard. I was collecting no income. So I used that and may be find a use for the other property. The Planning Board approved the issue of putting some equipment there, but obviously all I'm trying to do is pay the bills and if we could do something with the other property I would move the equipment down there. Although most of our equipment is out on jobs now anyway; it's not in our yard. But, it's just a situation our yard we are also paying huge amounts of money for taxes and so we were trying to combine something to help with the situation.

Acting Chairman Vasti: Any other questions?

(no response)

Acting Chairman Vasti: Thank you Mr. Helmer.

Mr. Helmer: Thank you.

Mr. Emanuel: The last person that I would like to have address you is Mr. Jerry Lott. Jerry is the listing broker. In the narrative you see a copy of his listing agreement which states 2008 and also a letter from him indicating what his efforts have been, but he is here to testify with respect to those efforts, give you some more detail and answer any of your questions on it. Jerry...

Acting Chairman Vasti: Please state your name for the record.

Jerry Lott

Acting Chairman Vasti: Mr. Lott, please raise your right hand – “The testimony you are about to give, is truthful?”

Mr. Lott: Yes.

Acting Chairman Vasti: Please go ahead.

Mr. Lott: I listed this building back in 2008 for industrial purposes. Over the last six (6) years and hopefully it doesn't reflect poorly on my commercial ability and I think I had a little bit more hair when we started, but...

Acting Chairman Vasti: It makes both of us.

Mr. Lott: Yes, I think you and I use the same barber. In any case, there have been, it has been listed nationally on a company called Loopnet; on a national commercial site called Costar; and through the multiple listings system in Rockland County. There have been written inquiries from all over the Country. One of the first questions, aside from what the taxes are, which really never came to forefront, were what are the ceiling heights? Commercial property issues today are looking for volume. If you look around Rockland County, you can determine which buildings are newer and which are older by their ceiling heights.

I represent another industrial park in Clarkstown, in Valley Cottage. In order to compete with the surrounding tri-state area they built two (2) buildings; one (1) with 26 foot high ceilings and one (1) with about 32 or 33 foot clear ceilings. As a result of that, they were able to fill both of those buildings rather quickly.

So one of the first concerns that were expressed to me was what kind of area is it. And I said it is really a manufacturing area. The ceiling heights are approximately 16 feet, 15½ to 16 feet. It has one (1) drive-in closed dock. It has one (1) roll-up door that goes...you can drive a van in to if necessary. It's gated and this was well before the Stop & Shop, Shop Rite that whole complex was approved and put in.

Out of the last six (6) years, probably 10 or 12 people have visited the property; taken the time to come from Orange County and Westchester County; I've sent photos to people outside the east coast.

The second concern was how close am I to the nearest major route, which in this case would be 87; the Thruway, because I do a lot of trucking and it's a good location because it puts me up near Orange and Jersey, but I also need to service Westchester and sometimes New York City. I said, you'd have to come down Route 9W. When I moved up to the County about 39 years ago, you could go from 9W in Stony Point, to Nyack in about 12 minutes; maybe a little longer. Now you can't go four (4) traffic lights on 9W in 12 minutes. There is a concern with gas house emissions, fuel costs, tires, time and a half for drivers, etc.

So it kind of...because of where it is, it precludes the "LI" intent that it had maybe 20 years ago when Mr. Helmer built the building. It was built specifically for a manufacturer. So he didn't need ceiling height and it doesn't bring itself to that type of use; commercially.

In sitting and listening I understand the concerns of the Board that you are losing a "LI" property, but I must say that it probably will never be a "LI" property unless there are major renovations done to the property as a warehouse distribution center.

That's my opinion based on close to 28 years of commercial real estate in Rockland County. I'm an educator for the State of New York. I teach basic commercial light real estate for the State of New York and so I think my opinion has some validity to it and unless I get a response or lack thereof, to the use for the building, has kind of proven itself out.

I was happy to work with the school and help out this arrangement because it seems to be, as people have said before, and I knew what kind of fit for where it is, it's really not out in the middle of 9W and its not in a factory area, per say. It was probably intended to be that when the zone was first created. So I think there's a very good reason to grant the variance, but that's just my opinion.

Acting Chairman Vasti: Any questions from the Board for Mr. Lott?

(no response)

Acting Chairman Vasti: Thank you sir.

Mr. Emanuel: Mr. Chairman that concludes our presentation. If the Board has additional questions of any of our witnesses even now or after the public speaks, we will be happy to answer them.

Acting Chairman Vasti: Thank you. Does the Board have any questions for the Building Inspector, Mr. Sheehan?

(no response)

Acting Chairman Vasti: Seeing that there are no further questions...oh I'm sorry – Mr. Sheehan. Please state your name for the record.

**William Sheehan – Building Inspector
Town of Stony Point**

Acting Chairman Vasti: “The testimony you are about to give, is truthful?”

Mr. Sheehan: Yes.

Acting Chairman Vasti: Please go ahead Mr. Sheehan.

Mr. Sheehan: I didn't realize until tonight that they were also talking a “latch-key operation”; I guess you want to call it after school; which I would consider a daycare which...let me back-up a little.

This application came into me; normally something like this would go before the Planning Board. The way it was submitted to the Town was it was submitted as a building permit application I believe to move the wall, or renovate a wall and use as a special ed school. So I denied it on the basis that it is a “use not permitted”. That's how they got here. Normally, they would go before the Planning Board on something that would be a “conditional use” or a “use by right”. They would require site plan approval. So I believe our daycare center is a “conditional use” which would require site plan approval from the Planning Board. The reason I bring this up is most of the questions that you are asking about the operation are more Planning Board questions – access to playgrounds, safety, traffic flows; that type of operation. Putting the “latch-key operation” aside, if you approve the use variance basically what you're doing is you are making this a “use by right”; a “use permitted by right”. Which under our new guidelines that the Town adopted not too long ago, any “use by right” in an existing building or proposing to go into an existing building only requires a building permit as long as they meet certain criteria – enough parking, and so forth. I don't know if this meets that criterion because tonight is the first time I am hearing about how many kids are going to be there and so forth. So I haven't seen anything to indicate that there is enough parking. I am sure enough they have enough space for parking, but if they do add to their parking then it would kick-in to site plan also.

So we are kind of in a tough spot here...or you are in a tough spot here where something I believe normally would need site plan approval for obvious reasons, but by going...circumventing that process by going for a use variance they probably might not get to Planning Board.

Acting Chairman Vasti: Mr. Sheehan, if I may just ask one question at this point...

Mr. Sheehan: Sure.

Acting Chairman Vasti: Would it be inappropriate then at this juncture that we refer this to the Planning Board. I don't know if they would need to do an Environmental Impact Statement on it...

Mr. Sheehan: It probably would end being a Type II Action.

Acting Chairman Vasti: We would declare ourselves “lead agency” and then they could come back with a decision.

Mr. Sheehan: Well the issue you have with that is two-fold; because it is a use not allowed so the Planning Board is going to be doing the planning or a site plan review on something that is not allowed. Typically on a project that needs a variance...our Code actually states that if a variance is required both Planning Board and the variances required you must start at the Planning Board. This is a case where if they get their variance then they don't need Planning Board so it kind of falls the cracks a little bit. And the only reason it falls through the cracks is because the Town recently has adopted; if this was a year ago, no question about it it would have to go to the Planning Board.

Mr. Emanuel: Mr. Chairman, I may be able to short-circuit this.

Mr. Sheehan: I'm not finished though.

Mr. Emanuel: Okay.

Mr. Sheehan: The daycare center definitely, as far as I can remember, I wasn't prepared for that because I didn't know about the daycare until tonight, is a conditional use. So that is going to need a site plan regardless. You don't need a use variance...yes, actually they do need a use variance for that too because actually when the Town Board created the new zoning down there they kept daycare...that was original proposal, daycare center and the Town Board took it out because they didn't want to mix kids down there.

So it's kind of a unique situation. But, you have to also keep in mind the four (4) bullets. I think they pretty much touched on the financial end, but you have the other three (3) bullets that you have to consider which is:

1. Reasonable return, which they started as far as leasing. I don't know about sale options.
2. Character of the neighborhood – will it fit it into the neighborhood.
3. Self-created
4. A hardship

So those things you have to also consider. But, I think you have to keep in mind if they do meet all those criteria, or the Board feels they meet those criteria, those four (4) bullets and you are willing to approve the use variance I think there should be some type of condition that site plan should be reviewed. In my understanding, we are talking over 100 kids down there during the day. I think we need to know; safety wise, you have to also consider as you pointed out, I believe you pointed out Mr. Vasti, about the vacant parcels down there that was then proposed down there; gasification and so forth and that's where I think the uniqueness of it fitting in the neighborhood.

That's my view. So I would like, I know you probably have to keep the Public Hearing open anyway, because I don't believe we've gotten anything back from the County and the 30 days isn't up yet. I would like to know a little bit more about...well actually I learned a little bit more about it tonight, I'd like to put that to the Code and see exactly what the Planning Board and so forth would be required, but you have to keep in mind again once you grant a use variance it's a “use by right”. So they might not need Planning Board approval under our new Code. But, that is something I can go over with Ira.

Acting Chairman Vasti: Any member of the Board have any questions for Mr. Sheehan?

(no response)

Acting Chairman Vasti: Thank you Mr. Sheehan. Mr. Emanuel did you have a question you wanted to ask the Building Inspector?

Mr. Emanuel: It's not a question it is a response to the Building Inspector. With respect to the Planning Board, we will agree to a condition of the variance that we go for site plan approval.

Acting Chairman Vasti: I don't think there's any way we could avoid that. I think...

Mr. Emanuel: Mr. Sheehan said that there was a question as to whether it was legally required...the point I'm making is whether it is legally required or not we will agree to a condition of the use variance that we go to the Planning Board and obtain site plan approval for this use.

Acting Chairman Vasti: At this time I would like to open up the Public Hearing to the audience. Is there anyone in the audience that would like to come up and talk about this application or has any questions? Please come up and state your name. Please come up.

Elzina Valdez

Acting Chairman Vasti: Please raise your right hand, "The testimony you are about to give is truthful?"

Ms. Valdez: Yes, it is.

Acting Chairman Vasti: Please go ahead.

Ms. Valdez: So I've had two (2) children. I live here in Stony Point. I've had two (2) children who've gone through the pre-school at Fred S. Keller as typical children. You had a lot of questions about safety of the children. I know that when I was on my tour visit of the school and asking teachers the questions, every teacher in the Fred S. Keller School, because it was one of my questions, because there was no nurse on staff; either certified in first aid and C.P.R. so that took away a lot of my anxiety about not having a nurse on staff.

In regards to staffing in the classrooms, both of my children in the years that I have...Logan is now 10 and she goes to Farley Elementary and Pedro is in 1st grade and he goes to Stony Point. They are doing extremely well in school. They left the program reading and writing; above grade level. They are safe knowledgeable teachers that keep all the students safe in the classroom. In the years that we've had both of my children there, not once did I ever get a note home from a teacher saying that my child, any of my children, have been hurt.

So I just think it would be a great addition to the community. Again, I wish that my children had the opportunity to go there for kindergarten. I had to send my children out of North Rockland for full-day kindergarten. I wish I could of kept them here. So it's just an option; just something...I am in total support of this school and if there is anything else I could do I would.

Thank you.

Acting Chairman Vasti: Members of the Board any questions?

(no response)

Acting Chairman Vasti: Thank you. Anyone else in the audience have any questions or would like to make any comments. Yes sir, please come up.

Andrew Connors

Acting Chairman Vasti: Please raise your right hand, "The testimony you are about to give is truthful?"

Mr. Connors: Yes.

Acting Chairman Vasti: Thank you.

Mr. Connors: Good evening. I just probably just want to clarify a few points. For the record I am the County Engineer for Rockland County and I just wanted to just state regarding the parking issue and the issue on the driver's ed. The driver's ed is located on Route 210 next to the firehouse. It was moved off of Holt Drive, I believe, about three (3) years ago and if my memory serves me right I believe there are parking restrictions on Holt Drive and that was in conjunction, I believe, with the traffic as a result, I think coming in with Shop Rite to help accommodate some of the additional traffic flow in and out of Shop Rite. So the State moved the licensing lane onto to 210; which is a County Road. So that's the end of my official comments as far as the County Engineer.

Personally, I am a resident of Stony Point and I just want to point out that some of the issues, with traffic, having lived here and also going in and out of the Stony Point Shop Rite to say that there won't be issues; there is going to be issues. There is going to be issues no matter what gets put there. I also think that the combination of the school buses I feel they will be met. One of the questions I think that always comes up is usually the timing of when the buses come and go and not necessarily...I seem to recall that the timing was 9:00 or...

Dr. Nuzzolo: 9-2.

Mr. Connors: 9-2, so that's obviously something that gets looked at. We are not telling tales out of school. The rush hour on 9W is not just an hour; it is a couple of hours. But, usually it subsides by 9:00. I know that from a personal perspective; I also know it from my professional, what I do because we deal with the County roads and that's what we see. So the timing of the buses...I feel the intersection can accommodate it. I feel the bus turning movements – I looked at the plan; a 25 foot entrance to have the smaller buses make the turns in and out is reasonable. Your Town roads are in the 24-25 foot range; so in relationship I think that's practical. The issue of the turn-around – I don't believe can get answered. They don't really show much so I don't have much of a comment, but having the adequate parking is always a concern and making sure that that is appropriate, but I also think...you know looking at this from another prospective is not really understand or maybe knowing entirely the total development down there. I know it's a "light office/industrial" – the question always bends itself if...there's other lots available; why aren't they being built or knocked down. There are other things I think the Zoning Board of Appeals should look at. I mean its zoned "light industrial" but if they are vacant properties the better question is "is it the right use". The location is difficult for manufacturing because of 9W; now on the reverse side is transportation. 9W in Stony Point is - we are not near a major highway. We just can't...the flow just won't accommodate trucks; otherwise I would be in a different position. So, I just hope the Board considers that in their decision making process as well and that considering that as well. The other issue is if something hasn't been used for its intended use; the economy, yes possibly, but you have a liable entity here looking to continue paying taxes, which I always like to see done in the Town that I live in, that people continuing paying taxes; not reducing it so we end up paying more personally. So I hope the Board makes that as part of their consideration; not seen as a legal issue as whether they need to go to the Planning Board or not...I hope they do go to the Planning Board because it does make sense to have a site plan as well; so you can give things on safety issues, but as far as my opinion on the traffic; even with the amount of buses that they are referring to for that number, 10 or above...I forget, was it 15...I am sorry I don't mean to ask questions...

Mr. Nuzzolo: 15.

Mr. Connors: Approximately 15 buses stagger in over the day; loading like that...you are probably talking an impact of maybe 25-30 minutes of actual drive time in the area. They may stop and go to Shop Rite or buy something...it stimulates the economy in other ways, too. Just something the Board should consider as well. Thank you.

Acting Chairman Vasti: Does anybody on the Board have any questions for Mr. Connors?

Mr. Porath: Actually I'm going kind of direct an open question, but I think you are going to be able to answer it – I'm presuming this is a Monday-Friday; primarily operation, so given the normal traffic patterns of shall...when, and you may not know this, when is the busiest traffic periods of that area; given Shop Rite. I'm going to guess Saturday, Sunday, after work...so is during the day, when I'm not typically up in this area, I am at my job, what's the traffic generally Monday-Friday during the work day?

Mr. Connors: If I recall...when we studied this from a County's prospective it was more...we looked at how the impact was on Filors for Shop Rite, but the general pattern was the weekdays were more heavily travelled. The rush hour shifted basically. What you had was Monday-Friday was pretty patterned. It picked up early; 6:45/7:00; it ran until about 9. I would say everybody went to work or went to school and then you saw it marginally dropped off.

On the weekends, it was adjusted...people sleep in a little differently and just different patterns, so...but, the exact piece which one was better or worse I think I would have to refer back to the Shop Rite traffic study which...I think detailed that particular question. I can't obviously answer for that.

Mr. Porath: But, it is your opinion that the amount of trucks and buses, if I heard you correctly, the number of buses on a daily basis aren't going to be that impactful?

Mr. Connors: It depends on the timing. They are coming in at 9:00 so if they...I call it loading the area...what I've seen throughout the County is...that is something that I look at as the County Engineer looking at the timing of when the buses start; if they start 8, 9, noon, 3, whatever time or whatever the school hours are. At 9:00, is it safe to say that the buses are moved between 8 and 9 reasonably if they are coming throughout the County and then obviously I would hope the Board would look at the routing. If they are coming up the parkway, coming down Filors Lane, probably a very little or no impact as far as the traffic flows go. Even the people going the other way on Filors they are going to school or going to the parkway. You have contrary traffic...not to say there is not traffic on Filors, there is, but generally it is going in the westerly direction in the morning and it's going in the easterly direction at night and that is kind of contrary to the buses so those are things that I hope the Board, or the Planning Board, does look at as well.

Mr. Porath: Thank you.

Acting Chairman Vasti: Anyone else have any questions? Mr. Connors, thank you. Does anyone else in the audience...?

Jennifer Longano

Acting Chairman Vasti: Jennifer, "Do you swear the testimony you are about to give is truthful?"

Ms. Longano: Yes. I am a parent and have two (2) children who actually attend the Fred S. Keller School. I also live in North Rockland. I have two (2) sons who do attend the Fred S. Keller School. My older son is actually graduating and because North Rockland is a half day kindergarten that is a problem for me. So this option would be...I wish it could be next year, which it's not, but I wish it could be because that would be a great option. For my younger son I hope that this can come to fruition so that he can go there for the half day because there's not that many options for a full day kindergarten that are affordable. So I looked all around the County and I was able to find something, but this I think would be a really good option for parents in North Rockland and I know other kids in the class, the parents have also spoken about the half day kindergarten and finding other options for that, too. So I think that this a really good option for parents and both my kids go to the Fred S. Keller School and I am a big supporter of the school. They've done wonders for both my kids and I think it would be a really good contribution to the North Rockland community so I then don't have to travel to the South Orangetown.

Acting Chairman Vasti: Members of the Board, any questions for Mrs. Longano?

(no response)

Acting Chairman Vasti: Thank you Mrs. Longano. Anyone else in the audience?

(no response)

Acting Chairman Vasti: At this time...

Mr. Casscles: I have a few more questions for Ira.

Acting Chairman Vasti: Mr. Casscles has some questions for Mr. Emanuel.

Mr. Casscles: Ira, question #1 – According to your narrative it says the school operates from 7:30-5. You said 9-2.

Dr. Nuzzolo: Those are the students.

Acting Chairman Vasti: Those are the students. She did say that.

Mr. Casscles: 7:30-5 is the actual time that you are going to be there?

Dr. Nuzzolo: The staff usually leaves by about 4...about 8-4. I would say most of the people are 8-4. You might have one (1) or two (2) stragglers that are really go-getters.

Mr. Casscles: Question #2 – same paragraph in the narrative. It says there would be 31 to 35 employees. Is that correct?

Dr. Nuzzolo: No. If we go in and if we build out half the space there probably be I'd say 50 employees.

Mr. Casscles: How many?

Dr. Nuzzolo: Say 50...45-50.

Mr. Emanuel: Which she did testify to. I was going to get to that. 31-35 is the current.

Dr. Nuzzolo: It's what we have at one of our campuses now.

Mr. Porath: Is it far to say...is that tied to the ratio of students that you...

Dr. Nuzzolo: Yes. It's what I was going to say.

Mr. Emanuel: The number that is in the narrative refers to the current status.

Mr. Casscles: #3...

Acting Chairman Vasti: If I could just interject something, and, of course, that's driven by the "I.E.P.s", correct?

Dr. Nuzzolo: Yes, sir.

Acting Chairman Vasti: So sometimes there is no choice on the part of the school that it is man-dated in the "Individual Education Program" that they have a 2-to-1 or 1-to-1. So that number can change.

Mr. Casscles: Minimum – what would be how many?

Dr. Nuzzolo: Minimum is 2-to-1, by our population...actually minimum, some of them have 1-to-1 so...minimum 1-to-1, maximum about 3-to-1.

Mr. Casscles: Okay...30. Have you done any traffic studies down there, Ira? I mean I know you are looking for a use variance, but knowing that road if you are coming down that hill with a school bus, you are going to have to cross the double line in order to make the turn into that driveway, because that's a direct...so they are going to have to cross into the other lane of traffic...

Mr. Emanuel: I think the testimony was we are doing it with mini school buses. That we are not dealing with large buses.

Mr. Casscles: Even small delivery trucks, right now, coming out of Shop Rite...small delivery trucks, bread trucks and stuff like that.

Mr. Emanuel: All I can say to you is first of all Holt Drive is one of the wider roads in the County. Route 9W is a State road, which makes it more of a wider roads in the County. You have, not this Board, but this Town has approved the shopping center down in that area understanding all the delivery trucks that are going down there. Insl-X was down there with much larger vehicles then we are talking about here. You are talking about this bio-generation facility with much larger vehicles that will come in here. So if those vehicles can make it and if the roads are suitable for those vehicles, I can't see how you can say that it's not suitable for these small buses of how many children...

Dr. Nuzzolo: 8-10.

Mr. Emanuel: 8 to 10 children. Okay, so we are talking about small vans. We are talking mini-vans.

Mr. Casscles: So not full size buses?

Mr. Emanuel: No.

Mr. Casscles: Okay.

Dr. Nuzzolo: I am sorry. They are not mini vans.

(too many people talking – inaudible)

Mr. Emanuel: They are not mini buses. But, we are talking very small vehicles compared to vehicles that are for already approved uses down that road.

Mr. Casscles: The last question I have – it bothered me when I seen 31 to 35 staff; now you are saying 45 to 50. On the side of that building, according to your plan, including the handicap spots you only have 17 parking spots.

Mr. Zigler: There is actually 29 if you look on the left side of that site plan. If you have really good eyes, because it is small, but we will be doing that before the Planning Board and if you look up at the top of the side you will see reserved parking meets the Code which is well over 70 so the site will hold easily 70 spaces. It will leave room for a loop van to get into the rear of the building and will allow a channel of fence to give the kids safety to the rear playground and if we receive this variance, like Ira said, we will go to the Planning Board and approve that.

Mr. Emanuel: And remember the requirement for the playground space is 1,000 square feet so we have plenty of room to play with over there.

Mr. Zigler: And even though Ira is really an “ace attorney” he didn’t know that the road to Holt is 36 foot wide, so that is three (3) lanes.

Mr. Emanuel: I told you it was wide.

Mr. Zigler: And it has three (3) lanes coming out of Shop Rite going up the hill, as you know, so you can make a left or right; as you are coming down from 9W there is three (3) lanes; there is a middle lane so you can make a left into Shop Rite and after you pass the Shop Rite it is split in half and that is 18 on the left and 18 on the right. So if there is a van or something come out of Shop Rite and it crosses the yellow line just to make the turn he should go down to Route 210 and make that turn there (laughing). In addition, when we did the site plan for Shop Rite and we also did a plan for, a factory plant for a super huge playground (inaudible) that’s spanned about two (2) to three (3) years Shop Rite did get a D.O.T. Permit to widen the entrances to Holt with the traffic light. At that time those two (2) plants (inaudible) on to Holt Drive. The design that is there now is for total build-out and as you well know that would be Hudson Bay built their whole campus facility; Town Line Park was never built and the industrial area of the original Kay Fries is only half full. Since that traffic study was done Insl-X has gone empty. So, not only is there less traffic it’s not even near what existed when we did the traffic study. There is a tremendous difference in traffic on Holt verses the build-out of the infrastructure.

Acting Chairman Vasti: Any other questions?

(no response)

Acting Chairman Vasti: Before we take a motion to keep the Public Hearing open, I want to re-visit our issue with the site visit. Now the Board – would we have access possibly this Sunday. Would the Board be available on Sunday? Let’s pick a date, gentlemen. How many people would be available...

Mr. Anginoli: I can’t do it any Saturday or Sunday; unless you do it in the evening.

Mr. Porath: I can do it. I am very familiar with this site, but I can do it.

Mr. Fox: I am available; right at 8 in the morning that would be fine.

Acting Chairman Vasti: I am available, too. So we will have a site visit. Is the applicant available...

Mr. Emanuel: We will have someone there.

Acting Chairman Vasti: We generally get there around 8:30.

Mr. Helmer: We received a notice that the date was changed from...

Acting Chairman Vasti: We understand.

Mr. Helmer: My daughter went down there...

Mr. Emanuel: It's okay. Bill, its okay.

Mr. Helmer: Well they think we didn't open.

(too many people talking – inaudible)

Mr. Helmer: We did open the gates because we wanted you to go in and do anything you want.

Acting Chairman Vasti: Kathy, what is Sunday's date?

Ms. Kivlehan: June 8th.

Acting Chairman Vasti: It will be Sunday, June 8th, at 8:30 and we will meet where we usually meet and then we will leave at 8:30 and head down to the property.

Mr. Emanuel: Is there a number they can call, Carrie?

Unidentified Female Voice: 721-8200.

Mr. Emanuel: Okay; 721-8200.

Acting Chairman Vasti: What is that number?

Mr. Emanuel: That is for Carrie Helmer if there is a problem.

Mr. Fox: Is it possible to make it at 8. I have plans that day.

Acting Chairman Vasti: We will make it 8:00 then. The time has been changed to 8:00 AM. Since there is no further question from the Board, at this time I will entertain a motion to keep the Public Hearing open.

*****MOTION: Acting Chairman Vasti made a motion to keep the Public Hearing open; seconded by Mr. Fox. Hearing all in favor; the motion was carried.**

Acting Chairman Vasti: Kathy, the date of the next meeting?

Ms. Kivlehan: June 19th.

Acting Chairman Vasti: June 19th – Mr. Emanuel.

Mr. Emanuel: Thank you very much.

Acting Chairman Vasti: Other business, we have the minutes of May 15, 2014.

*****MOTION**: Acting Chairman Vasti made a motion to accept the minutes of May 15, 2014; seconded by Mr. Porath. Hearing all in favor; the motion was carried.

*****MOTION**: Acting Chairman Vasti made a motion to adjourn the meeting of June 5, 2014; seconded by Mr. Fox. Hearing all in favor; the motion was carried.

Respectfully submitted,

Kathleen Kivlehan
Secretary
Zoning Board of Appeals