

**TOWN OF BETHLEHEM
BOARD OF APPEALS
September 19, 2007**

A regular meeting of the Board of Appeals, of the Town of Bethlehem, Albany County, New York was held on the above date at the Town Offices, 445 Delaware Avenue, Delmar, New York. Michael Hodom, Chairman, presiding.

PRESENT: Michael Hodom, Board of Appeals Chairman
Gil Brookins, Board of Appeals Member
Lenny Micelli, Board of Appeals Member
Mark Hennessey, Board of Appeals Member
Kenneth Umina, Board of Appeals Member

Karen Guastella, Assistant Building Inspector

AGENDA: Catterina & Anthony Gallo

Chairman Hodom called the meeting to order at 7:00pm and opened the public hearing.

PUBLIC HEARINGS

Catterina & Anthony Gallo

CHAIRMAN HODOM: Good evening Ladies and Gentlemen, this is a regular meeting of the Board of Appeals of the Town of Bethlehem. Welcome this evening. Our first order of business this evening is a public hearing for a Use Variance for Catterina Gallo under Article XIII, Section 128-99, Schedule of Uses and Area Variances under Article 128-90, regarding twenty-five (25) foot set back in constructing more than four thousand (4000) square feet building in a non-residential facility, requested by Catterina Gallo for property at Old Route 9W. The Applicant wishes to construct self-storage facilities and I believe the square footage is twenty-six thousand four hundred (26,400) square feet of self-storage facilities. Ms. Guastella would you give us a reason for the hearing, please?

MS. GUASTELLA: Yes Mr. Chairman. The applicant is proposing to construct a self-storage facility in a Rural Zoning District where this is not a permitted use. Also the setbacks to the front and rear property lines for all of the proposed structures will be twenty-five (25) feet, which is fifteen (15) feet shy of the forty (40) feet required for both the front and the rear setbacks. The proposed map at this time shows that the proposed structure will occupy thirty point seven percent (30.7%) of the total lot, which is point seven percent (.7%) over the thirty percent (30%) allowed. In conversations between Assistant Building Inspector, Mark Platel and Attorney Peter Lynch, the representative for the applicant, the applicant will reduce the total square footage of the structures by a minimum of five hundred eighty-eight (588) square feet to fall under the allowable lot occupancy.

As stated above the property is located in a Rural Zoning District and at this time is vacant land.

CHAIRMAN HODOM: Thank you Ms. Guastella, Mr. Lynch, do you agree with that conversation with Mr. Platel?

MR. LYNCH: Yes, Mr. Platel called me today and he brought that to my attention and I indicated to him that we would have no objection if this Board determines to grant the variance to do it on the condition that we comply with the thirty percent (30%) density requirement with the five hundred eighty-seven (587) square foot reduction in the building size.

CHAIRMAN HODOM: Thank you very much.

A motion to indent the public hearing notice was offered by Mr. Umina, seconded by Mr. Micelli and approved by all Board members present.

Notice is hereby given that the Board of Appeals of the Town of Bethlehem, Albany County, New York will hold a public hearing on Wednesday, September 5, 2007, at 7:00 p.m., at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of Catterina & Anthony Gallo for a Use Variance under Article XIII, Section 128-99, Schedule of Uses of the Code of the Town of Bethlehem for construction of a self storage facility at Old Route 9W, Glenmont, New York.

The procedure that we'll use this evening, we'll hear the Applicant's presentation, we'll entertain any questions or comments from the audience, we'll hear anyone wishing to speak in favor of the Applicant or anyone wishing to speak in opposition. Anyone desiring to speak will be allowed to do so, we just ask that you come up to the black microphone in front; it's for recording purposes only. Any questions or comments should be directed to the issue this evening and directed to the Board. Mr. Lynch?

MR. LYNCH: Yes Mr. Chairman and members of the Board, I'm Peter Lynch. I represent Catterina and Anthony Gallo. Anthony is here tonight; Catterina could not make it. Before I go any farther Mr. Chairman, I'm not familiar with the recording, should I move that closer?

CHAIRMAN HODOM: Please. You may take the microphone out of the holder if you would like or you can just move it.

MR. LYNCH: You have as a Zoning Board, of course, had many applications for Use Variance's and you are all very much aware of the heavy burden of proof on the Applicant to show that but for the granting of the variance, no reasonable use of the property can be achieved in an economic fashion and also that but for the granting of the Variance would not alter the essential character of the neighborhood. You recognize, of course that the hardship that exists must arise out of the property itself and overall you have to consider whether or not the Applicant has created their own hardship, because as you know in an Use Variance standard a self- created hardship is a bar to the grant of the Variance.

We are very familiar with the very stringent standards on the Applicant, however as we've laid out in our application, due to the unique circumstances of this particular parcel we do believe that the applicant has the ability to the Application itself and hopefully tonight any questions that you may have demonstrated that the standards for the Use Variance for the Use Variance have been met. The very first thing that jumps off the page with this particular site is that it is not serviced by water or sewer utilities and frankly what we did is got an estimate to run the existing mains which are on Corning Hill Road just east of 9W and 32 actually on the North side of Corning Hill Road so we have to do a bore under the road and it's a 1,500 linear foot run for both the water, which we projected a water line and a sewer line with pumping capacities at a cost of 135,000-dollars. So to bring water and sewer to this site for any use that you're going to utilize, that's your initial start up cost.

Now, residential use is a permitted use within the Rural Zone, some retail, some professional business's are permitted. Residential, you can have one house on this lot, so clearly to build a house at a cost of 135,000 to bring water and sewer to it is not viable. Of course the question that arises if you wanted to build a house why don't you just do a well and septic. Well with the problems with the site are not limited to the lack of utilities. As you can see from this site and you know, you all have this package, we have a 2-acre site, Old Route 9W, frontage over 500-feet and approximately 530-feet of – at the rear fronting the New York State Thru-Way. These photos that we took just demonstrate from the South end of the site up to the middle of the site, up to the north end of the site. You can literally see the New York State Thru-Way at the edge of the property line. The noise volume is significant and it's our contention that because of that noise problem this particular site is not suitable for residential development.

Business offices, professional offices, those types of uses that are otherwise permitted within the Rural Zone, you have to remember that we have an entrance right over on this part here off of Corning Hill Road and it's our contention that by virtue of the limited access to the site as well as, basically being tucked away, if you will in a non-commercial type corridor. The viability of this use to attract a business or a professional use is simply not there, especially in view of the fact that those types of uses would likely want to have water and sewer utilities. So it's contention it's not viable for that use either. Agricultural is a use, nursery's are a use, but given the limited size of the site of 2-acres we don't believe that's viable so Tony and Catterina Gallo owned this property since 1989 and the question for them is what can we do with this site to achieve a reasonable return rate on our investment without being detrimental to the surrounding properties and what Tony has come up with, with

Catterina is a self storage facility. Self-storage facilities do not require water or sewer. They are not going to have those types available to it. They're not high intensity like a business with like a business with traffic coming and going all day long. They also, we believe are consistent with in the sense of being a softer use, we have the bio-reserve lands right across the street here and in our application we did take photo's of several of the buildings on what would be the east side of Languish Place as well as the old tower – water tower on that land. It's essentially a preserve like area and at first blush, one may think well wait a minute if you have a preserve area on the east side of Languish - - because remember Languish is essentially a dead end on the south. There is one residential property on the north end on the east side, other than that there is nothing on Languish Place other than this preserve area.

The self-storage use will – we believe actually be compatible with that preserve setting. Again, it is commercial but it's not like a store where you would have people coming and going at all hours of the day constantly. It is a storage area, we've all seen them, we have a sample of the type of building – single story building, all metal construction. We have a very preliminary layout of the structures, there would be 7-buildings approximately 30-storage units and we would of course, if this Board grants the application move on to a more detailed site plan and apply to the Planning Board for Site Plan Approval. With that said the type of use is really the key issue here tonight, whether or not you feel that we've met our burden of proof. Now, because we feel that the otherwise permitted uses are essentially obsolete by virtue of the New York State Thru-Way noise levels, the absence of utilities and the high cost of bringing the utilities to the site we have come up with this plan for the self-storage unit but we've done it in a manner to say well okay, well how can we make this work economically? What's the cost of this project? What's the income to be derived from this project? And what's the rate of return? We put the cost in our application and it's approximately 600,000-dollars. We put in the projected expenses and income and it yields approximately a 2-percent rate of return on the investment. Of course you could do better at the bank in a passbook and a 2-percent rate of return is modest. And as a short term investment it wouldn't be a viable investment, but on a long term investment when you consider the pay down of the principal balance of the mortgage, when you consider the tax benefits from depreciating the improvements from a long term projection, it would basically turn this property, which is yielding no benefit whatsoever to the property owner into a viable long term investment and that's actually what Tony and Catterina had in mind. This is a long-term investment plan for them and their family.

What are the benefits to the Town? Well at number 1, clearly we would be turning this into a viable commercial use, which has real value. And I'm not that worried that would be inviting the assessor to go crazy on the taxes obviously in turn if you change the land from Rural vacant parcel into a viable use, there will be a change of assessment and there will be of course corresponding tax benefits to the Town without any burden on school system. So from a tax - - real property tax point of view there would be a benefit to the Town.

I think the real question tonight is whether or not this particular use, given the problems with the site itself, whether or not it would have a detrimental impact on the surrounding properties, we don't believe it would. Now, clearly if you had for example a number of homes along Languish Place with, you know, a number of families and children, you may be considering – well what would be the potential impact on traffic and safety for the individuals on Languish Place and of course as I indicated before there is really only one family on the east side, north end. So it's really not going to have a direct impact on individuals along Languish Place of any significance. As far as the surrounding properties other than that as I indicated on the east side the bio-preserve is essentially a preserve area at the moment and lands of course to the west would be separated from our parcel by the New York State Thru-Way and to the north-west by Route 9W. So really our direct impact, if any, is on Languish Place and we submit that on balance, while it might very well be that if someone is living on Languish and they are the only resident there and they may want it to stay that way without any other users on the street, but on balance, I think that given Tony's interest in trying to develop this piece into a viable property this type of use is the type of use that can be done on this site without limitation due to the noise impact. It can be done on the site without limitation given the absence of utilities and it is relatively in world of a commercial use, a soft use, via traffic. Via people coming and going to Languish Place. So I would defer the balance of our argument to the application that we've submitted in writing. If there are any questions we would certainly be happy to entertain them, whether I entertain them or Tony. Thank you.

CHAIRMAN HODOM: Thank you Mr. Lynch. Either Mr. Lynch or Mr. Gallo, the property was transferred back in August of 1989?

MR. LYNCH: That's correct.

CHAIRMAN HODOM: For a dollar?

MR. LYNCH: Yes.

CHAIRMAN HODOM: And there has been no action taken for 18-years. Can you explain why there's been no action taken for 18-years? Please introduce yourself, give us your name and address.

MR. GALLO: My name is Anthony Gallo, I'm the husband of the person that owns the land. The land was left by my father-in law to my wife, who previously owned it. The reason behind - - we haven't done anything is because we moved to the State of Massachusetts 20-years ago. Now we bought then - - since we've owned it, we've always have it in the back of our mind, we wanted to develop it but I've been in Massachusetts for 20-years. My wife and I are ready to come back and we're ready to develop this land that my father-in law bought. Okay?

CHAIRMAN HODOM: There are 50 allowed uses for this property in a Rural District. Are you prepared this evening to discuss why each and every one of those uses are not appropriate for this property?

MR. GALLO: Yes.

CHAIRMAN HODOM: Okay, would you like to start?

MR. GALLO: Yes.

CHAIRMAN HODOM: Okay.

MR. LYNCH: Well first of all on a generic, before I start getting the chart out and reading it I've got to put my spec's on because the charts pretty small. Listen, I am very much aware of the fact that part of the Use Variance Applicants burden is to show that but for the grant of the Variance, no otherwise permitted use could be achieved on the site. And that's why I did speak initially about what would be the obvious use; the residents or the other uses that jumped off the page of your chart. Retail business's, professional business's, agricultural, nursery's and the like. I will go to them specifically now, however, with respect to all of the uses on your use schedule, every single one of those uses has the corresponding problem, before anyone is going to go in there and develop that site on a commercial basis water and sewer is an essential. If you're going to attract an investor, attract a tenant to this site the water and sewer is the number one problem and the number one limitation, but I will go to your schedule, which we do have attached as an exhibit.

CHAIRMAN HODOM: Mr. Lynch, maybe before you get into that schedule, has there been any tests performed by the applicant to determine the adequacy of well water or septic system use, any percolation tests taken on the property?

MR. LYNCH: It's not conducted any engineering tests, no. One and two family and three to four family dwelling are by right in the Rural Zone, however, as you know that density limits to one unit per two unconstrained acres so what we really have here is the right to build a single family home on this lot and as I indicated earlier I don't think that - well the utility cost is excessive and the noise factor from the New York State Thru-way, which literally hovers over the lot at a higher elevation throughout the entirety of 530-feet of length would render this site unsuitable for residential use. The next by right is accessory apartments, again, not really germane given the fact that we have a one unit residential limitation on this site. Agricultural is the next by right use. You have a 2-acre piece, it would not be economically viable to develop a farm at this location on a 2-acre piece as far as - - it is our contention. The next by right would be broadcasting facilities, FCC licensed and I did address this in the text of my application. We don't really feel that this is a viable opportunity for this site to be developed as a broadcasting facility. Business office I have spoke of earlier, again, this site as you know, I mean this has a very limited access on the north end where Languish hits Corning Hill and it's a dead end on the south end. It's not really a viable site for ingress and egress for a business, which actually has people coming and going all day long on a regular continuous basis. The Next - well that's it for page one.

CHAIRMAN HODOM: Mr. Lynch, also, and I mentioned 50-uses, which the SP uses are Site Plan review by the Planning Board, that's an allowed use in this Rural District. The SUP is also an allowed use in the Rural

District.

MR. LYNCH: Well the SUP would be a special use permit.

CHAIRMAN HODOM: That's correct.

MR. LYNCH: And as you know there's no entitlement as a matter of law to a Special Use Permit.

CHAIRMAN HODOM: That's correct.

MR. LYNCH: But I will go to the SP's and the SUP's. Animal hospital clearly require utilities, we don't believe it's a viable use at this site. Appliance Repair shop, same type of problem. Also I don't whether or not a repair shop would be compatible with the existing environment because you would have customers coming and going on a regular basis. A bed and breakfast, well the bed and breakfast, again you would have to have the appropriate utilities and I don't think it would be a particularly good setting given the noise factor for a Bed and Breakfast. A business office we talked about – day camp, vacation camp ground clearly not an appropriate site given the size – limit restrictions. A Special Use Permit, we don't believe that a Use Variance applicant has to show that but for the grant of a variance if they could get a special use permit, that that's a requirement, but going to the Special Use Permit, a public cemetery, certainly would not be viable on this site. A club, fraternity or lodge, again if you're going to have a club, fraternity or lodge you have a 2-acre site of limited size, you're going to have parking issues and you're going to have utility issues. Again that 135,000-dollar cost jumps right off the page.

MR. HENNESSEY: Is there power to the site right now?

MR. LYNCH: There is power on Languish Place so there would be an ability to get power to the site.

MR. GALLO: There is a main transformer directly across from the property, which I had an electrician look at it; yes I can get power out of there.

MR. LYNCH: The next permitted use is what, SP, is Cold storage facilities. Cold storage facilities, when I first looked at this, I'm thinking, well wait a minute this looks like it fits the bill there, but in talking to the Building Department, Mark basically going down the chart didn't really apply to self storage but we don't know of any market to bring in a cold storage facility on a 2-acre site. Most of the cold storage facilities today are large warehouses and we don't believe that that would fit on this 2-acre piece nor would it be readily accessible to large trucks that would be coming and going from that type of a facility. A commercial bakery, no retail sales, commercial bakery would clearly require utilities at a cost of 135,000 before you get anywhere else. Again, we think it's not viable.

Commercial recreation on a Special Use permit basis, clearly this site is not viable to develop as a sports field or any kind of recreation activities. SP conservancy, well you could do that I suppose. You could establish a conservancy parcel, but you wouldn't achieve any return from that investment and again the idea of by right uses really speaks to whether or not you can adapt a use, which by right would yield a reasonable return on your investment. There would be no return on that use. Contractor's yards, offices, storage buildings, etc. again a contractor's site on this particular parcel is not one that we've considered to date, however in looking at it, it would be a harder use if you will on the site than the proposed self storage units that we've talked about and a typical contractor's offices and yards and storage buildings would likely necessitate the expenditure of the 135,000 to bring the utilities to the site.

So at this juncture we do not believe that's viable, however if this particular Use Variance is not granted by this Board, this would be a use that we would take a harder look at. Convenience store, mini-mart clearly that particular type of use will typically require utilities and that particular type of use we don't believe would be economically viable. You really don't have a market of people that a convenience store would service on Languish Place. Day care center, same type thing a problem with utilities, not really readily accessible and we don't really have a market that we would service there and by market I mean customers. Educational institution; absolutely inappropriate for that. Again, you would have limited parking, you would have limited access you would have no utilities, no prudent investor would build a school or other educational institution at this location.

Fabrication shop, same problem with utilities. Farm equipment rental sales and repair, not really viable from our contention that you're going to want to be on a visible commercial corridor for that type of sales use. You're going to want to have the utilities at the site and again we don't believe that this site is appropriate for that. A fitness club, same type thing, I mean you're not going to put a fitness club on this site. You have limited access; no utilities and you have a limited area. A commercial garage, same type problem, commercial garage, commercial vehicles, this is not the type of site that you're going to want to have heavy trucks or heavy equipment coming in and out of on a regular basis.

MR. GALLO: The lot is too small anyway; you couldn't get in.

MR. LYNCH: Same thing with garage, commercial storage. Same type argument there. Home occupations, of course a home occupation just ties into the residential use and the residential use would be limited to one residence and as I've indicated earlier we don't believe that the residential use itself would be viable and correspondingly neither would a home occupation accessory to that use. A house of worship, again you have a limited access to this site, you would have a limited area for parking, you would have no utilities; we feel that it would not in any shape and form be viable for a house of worship.

Same argument goes for an Inn, a kennel – a kennel you're going to have to have utilities running to this kennel and we don't believe it would be viable for that use. Moving on, a lumberyard mill, we would have to have utilities for that use. We don't believe that it would be viable. Medical Clinic, wellness center, again, the absence of utilities would foreclose that use. Mining operations, mineral extractions, clearly given the limited size of this site that would be wholly inappropriate and not a viable use. Motor Vehicle repair shops, we would have to bring in, if you will, the utilities, we don't believe it would be viable, you've got limited access and just by way of example clearly the self storage unit that we're proposing is infinitely softer use on the impact on the surrounding properties than a motor vehicle repair shop. Motor vehicle sales, now we don't believe that this site, really you know you can't do it from the thruway but you've got the limited access off of Corning Hill just from a marketing point of view using this lot as a motor vehicle sales lot would just be economically a disaster. Motor vehicle service station, again you would need the utilities, we don't have it and your not on a major commercial thoroughfare, you wouldn't be attracting customers, it would be an economic disaster.

A nursery, we believe that the 2-acres are too small to develop - - well this particular nursery – I guess I don't know the definition of nursery is here, but later they talk about agricultural. It's too small for a garden nursery, and the next thing is a nursery school. You're not going to have a nursery school on this site without utilities and it's really not big enough to develop a nursery school. Given your start up cost on utilities of 135,000 before you spend dime one on anything else. An outdoor drive-in theatre clearly doesn't fit the bill. A professional office, you're going to have to have those utilities to the site. You also have the limited access – we spoke about that in our application, we don't believe that that's appropriate. A religious camp or retreat, you have a 2-acre site here not large enough to establish any type of use like that. A residential care facility, again you need the utilities; you don't have them.

A restaurant without a drive-thru, again you need the utilities, you don't have them and this area is not really accessible for restaurant purposes because the limited access at the north end of Languish. A retail business, same argument and I talked about that earlier. A riding academy, this is only a 2-acre site. A riding academy envisions a facility that would have utilities and a much larger area for the riding capabilities as well as the ancillary parking in any buildings. A service business, again you're going to have utilities to this site. Telecommunication facilities, co-located facilities, this site absent the utilities, a telecommunication business is not going to be located here and we don't believe that its otherwise appropriate for a development of a telecommunication tower or any other like facility.

The last use by a Special Permit, by the Planning Board, is a trucking business, fuel delivery and no-bulk storage. Again, that exhausts the lists of uses permitted as of right or by special permit of the Planning Board or by Special Use permit and that last one, again, you know a trucking business for this site, you probably all have been on this road before, you all know how the road itself has very limited access and it's really not designed for trucking type activity of any, you know commercial trucks. The point to be made I think is that anyone can say that just like I just did that we don't think that these particular uses are viable and someone else can get up and say well hey you know what I do think a riding academy is viable or I think a retail business is viable. I mean anybody can make that conclusion, but at the end of the day what you really have here is you really have a constrained parcel – a 2-acre parcel of land bounded by the New York State Thruway on the north and the north

west side. Almost 600-foot of thruway hovering over you.

You have a site that has limited access on one end of Languish off of Corning Hill Road. You have a site with no utilities so you have a site that – from a development point of view if you’re going to try to achieve a viable use of the property you have to use your imagination and that’s actually what Tony ended up doing. I’m sure when they got the deed from their mom and dad in 1989 and I noticed that I was actually the notary on that deed so I had forgotten about that. The - - you know they weren’t thinking oh boy, we’re going to run out build a self storage facility because if somebody came in today and said to Tony, I’m going to buy your property and I’m then go and apply to build a self storage facility then they would know that they were buying a property that’s not zoned for it and they do it anyway and then they come in for relief. That’s the self-created hardship example that would otherwise bar the granting of a Variance. That’s not what we have here. We have the lands purchased by Catterina mom and dad essentially passed down to the kids. The kids have the land and they now have to achieve a viable use for their long term retirement plan – it’s not retirement plans but their support, in other words, their financial ability to have a business that yields income on a viable basis. What type of use can you do on this site? And this self-storage facility is the only use that we feel really jumps off the page as being economically viable. So we ask that you give this application consideration and if you have any other questions I’d be happy to entertain them.

CHAIRMAN HODOM: You’ve made a strong point for the 135,000-dollar utility to bring sewer and water into the site. Have there been any cost estimates prepared to construct a well and a septic system?

MR. LYNCH: No.

CHAIRMAN HODOM: Do you have any belief or knowledge that these two systems would not be appropriate for this site?

MR. LYNCH: It’s not that. It’s that the well and the septic system would really tie into the use itself. For example the residents that I talked about earlier, I mean obviously when I looked at the thing, the first thing I’m thinking of well why don’t you just build a house and put a well and septic because you could do it. The fact of the matter is and when you go out there you really see it and we’ve laid it out in these photos on the Board here. You are literally, you know in the back yard of the New York State Thruway at an elevated level with a noise levels are really just too much for residential use.

As far as the commercial uses are concerned, we don’t believe that - - if I’m going to build for example a small professional office building there I’m not going to be attracting a tenant with a well and septic system or an investor to buy the site. In an city environment and granted we’re in the Town of Bethlehem, but we’re really in an area where people are expecting to have water and sewer as they have all the way up Corning Hill. We don’t believe that a well and septic is going to be a viable marketing item for any of the other uses in this zone. The Rural Zone as you’ve indicated has 50-type uses, but look at what they are, gas stations, trucking terminals, I mean uses that are extremely intense and which would be really grossly inappropriate for this site, I mean can you imagine the Planning Board giving a Special Permit to put a gas station on this site. That would be insane and nobody would really expect to be able to do that not to mention the fact you would have a gas station but you wouldn’t have any customers because nobody could get to you. This is a very, very limited site. Very limited in terms of it’s location on a street with 1-access, limited visibility, and so we’re trying to achieve a use that actually works. That’s my point.

CHAIRMAN HODOM: Maybe this for Mr. Gallo, were there any other costs obtained from contractors to bring in the sewer and water to the site other than Marando?

MR. GALLO: First of all she made me aware, I forget your name, I’m sorry. When I went to talk to her, I believe she works in the Building Department. She made me aware that actually the property I can’t even get water there because it’s not in the district. In actuality the water would be - - I’m out of the district so the only I could get right now is sewer. The line, the district line I’m referring to so - - they’re saying yes, but I can’t do it.

CHAIRMAN HODOM: Well I guess my question was based on the Marando Construction estimate which is pretty general and doesn’t have a signature on it, doesn’t show cost for materials, equipment or labor. It just has 4-items on it and then comes up with 135,000-dollars.

MR. GALLO: What happened was he came and he said to me - - the gentleman's name was John Marando, he came and basically he gave me a price and he faxed that to me and that's all I have.

MR. LYNCH: You know, if for example the Board said well we as a Board don't want to vote on this Application unless the Applicant goes back, for example and says to Marando hey look it you gave us your general estimate but give us your specific break down. We would do that, I mean we would ask that this Board simply table the application to make a further submission and if there's any other item on the application that you as a Board need more information on we would simply ask that you table the application and give us a reasonable opportunity to respond. So with respect to the cost estimate we would be happy to provide a detailed explanation of those costs.

CHAIRMAN HODOM: Thank you very much. In your narrative Mr. Lynch, there was mention of the 2006 and 2007 property tax bills.

MR. LYNCH: Yes.

CHAIRMAN HODOM: You have included a 2007 property tax bill but I don't see one for the 2006 or any previous years.

MR. LYNCH: Well that was an inadvertent error on my part. However exhibit 15 – or excuse me 12 of the application does include the 2007 property tax bill, which shows that this property is yielding 179.00-dollars a year to the Town of Bethlehem as a real property tax and that was the point I was making earlier that this particular property is not generating any kind of significant tax benefit to the Town. In turn the type of commercial use that we're proposing would clearly be subject to a reassessment and would clearly be generating taxes far greater than 179.00-dollars a year without any detriment or burden on the school system because if you put in a self storage facility that's certainly not going to attract new residential property owner with families who are going to send kids to school because we put in a storage facility. This storage facility is really to service the population that already exists. So from an overall tax point of view the Town is really – you know, 179.00-dollars a year and probably a like amount for the school so it's not really making any money on the deal.

MR. HENNESSEY: Just looking at all the numbers you provided on what the income is, you're saying that it's 965.00-dollars a month income and that an annual income is 11,580-dollars. If you were to build a residential property and rent that out the rental I would assume you'd end up actually making more money. I mean you can rent a place for 1,200-dollars a month, 1,400-dollars a month and end up actually realizing more than 965-dollars.

MR. LYNCH: Well that....

MR. HENNESSEY: I'm just asking, walk us through that a little bit.

MR. LYNCH: All right, well let's talk about what type of residential property you would build. Let's just take a conventional house, let's say 2400-square foot house. A nice house; 2-acre parcel. If you're going to bring in the water and sewer you have 135-g's up front, you're not going to do that. So then of course you do the well and septic and the well and the septic I mean you're typically fair game somewhere in the 30 to 35,000-dollar range for that package. So now you have a house that is sitting on the New York State Thruway, if you will – who is it going to be marketed to? Who is going to pay 1,200-dollars a month to live there and incur the noise problem? Who as an investor is going to do that? Who is going to spend – all right, lets just say that they build a house on this particular lot with those costs who is going to spend 300,000-dollars if you will, to put a house on that lot on the hope that you might get a tenant who might pay you a grand a month or so. I don't think any prudent investor is going to do that.

MR. HENNESSEY: I mean I understand the claims you made about the noise problem. I was down there today and I didn't really notice it. Maybe it was just me, maybe it was the time of day it was about 5:30 – something like that. I didn't notice that so is that a constant noise problem or is it intermittent, I mean....

MR. LYNCH: Well I've been there 3-times and it was very noisy each time I was there, but Tony has been there countless times. Tony why don't you address that.

MR. GALLO: It's the New York State Thruway. Probably the time you went it was slow. Is anybody aware where this property is located? Has everybody been on this property? Everybody knows because if you don't I suggest you go look at it. I mean we have a piece of property, which was given to us, which you can't do nothing with. Anybody with half of brain would not invest – a build something there. I think we came up with a great idea. I don't see no effect negativity to anybody – to anybody surrounding there. Me and my wife have been working on this for 20-years. What can we do with this 2-acre parcel; we can't build a house. I wouldn't want to live there, would you? No, truly....

MR. HENNESSEY: I already have a house so that's sort of a moot point.

MR. GALLO: But the question is would you want to live there? I can't put a 300,000-dollar home and leave it open. I mean my hands are tied What can I do to this 2-acre land? Give it back to the Town? I can't do nothing with it. What you people are telling me to do, I can't do. This is where it stands. This is a decision that has to be made. Thank you.

CHAIRMAN HODOM: Mr. Gallo, and Mr. Lynch, the noise issue has been raised several times this evening. Has there been any tests taken as to the decibel rating for the noise?

MR. LYNCH: We have talked about that and I suggested to Tony before he incurs the engineering expense to conduct those tests if that is a request that this Board would make we would do it. So consequently like the cost of the construction if and by asking the question I think it's clear that this Board would want us to quantify in terms of an evidentiary showing what those noise levels are we would ask that we would be given a reasonable opportunity to have those tests conducted, ask that the Board table this application for maybe a month if you will because we would have to retain an engineering firm to go down and do that and we would make that submission. Now again, if we turn around tomorrow and decide well we're not going to do that, well we would let you now of course and we would suffer the consequences of that. But if - - to have the noise levels established with proper engineering technique we would be willing to do that and we'd ask that you would give us more time to make that part of our application.

CHAIRMAN HODOM: Okay, we'll entertain that. You are aware I would think that in the Town of Bethlehem there is no noise ordinance.

MR. LYNCH: I'm not aware of any noise ordinance, right so consequently what we're talking about here is the fact that you know that Tony has lived it and he has expressed to me; we've gone there – myself I've gone there 3-times and each time that I have been there it has been very significant so consequently rather than me talking about it or Tony talking about it we'll have it measured. We'll get the documentation and hopefully when the engineer goes out to measure it, it's not as quiet as when you were there. Just kidding, but the truth of the matter is I understand you want it quantified in objective terms and we'll be willing to do that.

CHAIRMAN HODOM: Thank you. This is on page 5 and 6 of your narrative discussing the cost of the project and so forth. Unless I've overlooked some of the numbers I don't find how you determine your site work and soft costs of 261,500-dollars. There is no break down.

MR. LYNCH: No breakdown, Tony do you want to respond to the site work cost?

MR. GALLO: Which one is he referring to?

MR. LYNCH: 261,500 for the site work and the soft costs. If I may that particular number – yeah you're right, right here, 261-5 for the site work.

MR. GALLO: Okay well that's all for the – that's the concrete work, the blacktop, the fencing, the landscaping, the electrical work, the heating system – some of the units are weathered units, you know air conditioned and heating.

CHAIRMAN HODOM: But isn't that all part of the building costs?

MR. GALLO: No.

MR. LYNCH: Actually no, the building cost on page 5 you can see the building costs. The prefabricated buildings are 233,000, freight 19-4, the erection of the building 73,000 for a total of 324 plus tax or 333 and that carries over to page 6. The 261 is consisting of concrete work of 65,000, blacktop 23,000, fencing 45,000, landscaping 22, 000, electric 33, 000, security 17, computer systems, 11, lawyers fees is part of the soft costs and architect fees and land clearing fees so that's the 261-5, but the banks fees to be determined, Town permits to be determined. So that's how we came up with the projected number.

MR. GALLO: The 333, or 334 I can't remember right, that's just to purchase the packages from the companies and then they have to put together and there's also a cost to that.

MR. MICELLI: So that number will rise?

MR. GALLO: Of course, of course. That's just a....

MR. MICELLI: An estimate.

MR. HENNESSEY: At the base of Corning Hill there's another self-storage facility. Do you think the market can bear 2-facilities within ½-mile of one another.

MR. GALLO: So close to Albany, yes. There is nothing in the Albany area, there is nothing on Delaware Avenue or that side of Town. Yes I do, I wouldn't be investing over 600 – 700,000-dollars if I didn't think so.

MR. LYNCH: And because you're familiar with that facility at the base of Corning Hill, you know that's really the same type of operation we're talking about here.

CHAIRMAN HODOM: In conjunction with that, had you made any cost analysis to build either a single family home or a 2-family home or 3 or 4-family unit.

MR. LYNCH: No we don't because just a base line argument we don't think it would be viable. 2-Family is not permitted because of the density requirement. You can only have 1-unit per 2-acres so even though the Rural Zone allows for, you know 2 and 3-family homes because of the acreage restriction you're really talking about a single family home and we don't think it's viable.

MR. GALLO: It wouldn't make sense.

CHAIRMAN HODOM: There is a cost item here that it shows 3-employees at 8-hours a day, 15-dollars an hour for 11,000-dollar monthly cost. What is that?

MR. GALLO: You have to have employees on the - - incase you come in an employee has to be present at all times. There would be a little office – I would take one of the storage units and make like a little office out of it and it has to be so it's assessable.

CHAIRMAN HODOM: And how do those employees use water and sanitary systems?

MR. GALLO: Well they would have to go to Stewarts or someplace. It would be a contractor.

CHAIRMAN HODOM: By State Law you don't have to provide facilities?

MR. GALLO: By State Law, not if he's a contractor.

CHAIRMAN HODOM: I don't know about that either. Maybe you could also investigate that for us as to what the requirements are when you have employees on the site. My understanding is that you have to provide services.

MR. UMINA: Along those lines how would you clean up if you don't have water or the ability to...

MR. GALLO: There's nothing to clean up. I mean the storage business – steel frame....

MR. UMINA: Car's driving in and out and trash and stuff.

MR. GALLO: Trash, I mean put it in the dumpster – I mean your not dealing with food. You're dealing with mostly furniture and clothing, boxes, you know papers. It's not a food that you have to clean up.

MR. MICELLI: What would you're hours of operation be?

MR. GALLO: I really don't know but it would probably be 12 to 14-hours a day, but it has to be assessable 24. I believe that's a State rule.

MR. MICELLI: And when the customers come to those storage areas, do they access to them - - they can go right to them?

MR. GALLO: What we're going to do is it will be enclosed in with a fence, okay and you would have a pad where you would put your code in there and the door would swing open, you go in and you would come around the other way – I don't know if you have a picture, but you would go the other way and the door would open up and let you out.

CHAIRMAN HODOM: Mr. Gallo have you tried to sell the property?

MR. GALLO: Have I tried to sell the property? No. Have I been approached? Yes.

CHAIRMAN HODOM: So you're not interested in selling the property?

MR. GALLO: I'm interested in selling it, but I'm not interested in giving it away.

CHAIRMAN HODOM: That's a fair assessment.

MR. GALLO: Thank you.

MR. UMINA: Mr. Gallo, can I revisit a question?

MR. GALLO: Sure.

MR. UMINA: What I'm interested in if somebody was storing something there that was of liquid nature and it spilled.

MR. GALLO: You can not store that there and also cars have to be - - the tanks have to be emptied.

MR. MICELLI: Who monitors that? Who checks that?

MR. GALLO: We check that. The employee that's there would check it out.

MR. MICELLI: Okay.

MR. GALLO: That's why you would need an employee on premises.

MR. UMINA: But there is the possibility that there could be something that you would need water to clean up the spill if it occurred.

MR. GALLO: There's always a possibility. As far as I'm aware of I've talked to a lot of people in the business and they haven't needed any water yet so - - there's always a possibility.

MR. UMINA: It concerns me that you would send your employees off site to go to the bathroom or whatever they needed to do. Who would relieve them? There would no employee on site...

MR. GALLO: There's a brand new gas station not even 50 or I don't know 100-yards down that was just built.

CHAIRMAN HODOM: Cumberland Farms.

MR. HENNESSEY: That's not necessarily incumbent upon that business to support the needs of your business. I mean that's putting your burden on that business. Wouldn't you view it that way?

MR. GALLO: Of course, but I also feel that that person is going to go in there and might grab some potato chips while he's there and get a soda to. I mean how many times I go to McDonalds and I need to McDonalds and I'll grab something to eat and go to the toilet at the same time. We all do that don't we?

CHAIRMAN HODOM: If you know, who maintains the east side of Languish Place adjacent to your subject proposed property?

MR. LYNCH: I don't know I mean we did list the property owners on the notice. We called the Bio-preserve with a P.O. box address in Albany, a mailing address, but I don't know the individuals. We did in the exhibit try to give the Board a sense of that site. I think its in exhibit 9. There are 3-photos, there's an old house and then there's another stone structured house and then there's the tower. I was just trying to give the Board a sense of that - those are the structures along the east side. Apart from the home that is on the east side up on the North end.

CHAIRMAN HODOM: Now, your proposed buildings - do you have a color scheme picked out for the structures?

MR. LYNCH: Not really. We gave this as an example because these are prefabricated metal buildings and recognizing that if this Board grants us really the base line approval for this project - - the Use Variance for this project we know that we're going to be going to the next level at the Planning Board and we will have to come forward with a detailed Site Plan and of course the color scheme will be under scrutiny. We really weren't prepared tonight to deal with that type of aesthetic question, however we do recognize that that would be part of the approval process were we to achieve this approval because we'll then be going on to the next stage.

CHAIRMAN HODOM: And site lighting, you have an idea of what type of site lighting you would have?

MR. GALLO: Yeah it has to be illuminated for insurance purposes, tall lights.

CHAIRMAN HODOM: Are they down lights.

MR. LYNCH: They would be down lights and again the Site Plan process, that lighting scheme would have to be subject to keeping the light on site as much as possible. All the lighting structures would be downward in nature so that it wouldn't be glaring off onto adjacent properties and it would likely require us to present evidence that the lighting itself would be limited to the site and not to adjacent properties.

CHAIRMAN HODOM: Do you have any square footages of the amount of paved area on the property and the amount of landscaping area on the property?

MR. LYNCH: We don't have a landscaping plan and we don't have a detailed plan on the parking layout. We did put in our application that we believe that we could layout a parking lot of up to 30-spaces because you have to have 1-parking space for every thousand square foot of storage area, but again you know if you give us this approval and we go to the Planning Board and we show a parking lot layout and a landscaping plan that they don't deem acceptable then we would have to, of course mold our plan and fine tune our plan to conform with their requirements so again that's specific of information of detail we do not have tonight. We do know that the Planning Board would require it so it would have to be a professionally designed - - certainly we have a sketch plan here, very unsophisticated.

CHAIRMAN HODOM: Which doesn't show any parking.

MR. LYNCH: Yeah I understand that, but in our narrative we talk about the fact that a site plan would require it. I think what we're really here for tonight is the concept that whether or not this use can be permitted in the first instance, and of course if the use is allowed than the details of that use will be under, I'm sure real scrutiny

at the Planning Board level.

CHAIRMAN HODOM: Maybe you can describe to us what the economic hardship would be to the Applicant if in fact this Board does not approve this application.

MR. LYNCH: Well they would have no return on the property what so ever. They would be the proud owners of 2-acres of land in the Town of Bethlehem without any ability to achieve any kind of return on that land. It would be - - while the taxes themselves are modest they would have the obligation to continue to pay taxes without it being able to achieve a use and we submit that that would be a hardship. Not to mention the fact that on balance you're always considering - you've got the interest of the property owner who wants to develop their property and of course you have the interest of the surrounding properties and the zoning laws themselves to make sure that that use does not constitute any adverse impact or detriment to the neighborhood character, but the property owner interest I think on balance should be considered and Tony has just expressed to you that for the last 20-years he and Catterina have had that question, what the heck are we going to do with this piece? What are we going to do with it? And when they came up with this plan they thought that, you know what this rings like a viable use and that's why they're here to apply to the Board.

MR. UMINA: Mr. Lynch I have a question. Is there any market research to determine how viable a use that would be and expect 100% occupancy so to speak on the rental units, on the storage units?

MR. LYNCH: Not at the level of going out and buying a feasibility study for about 25,000-dollars, but Tony has talked to a number of people and he is familiar with the area and he believes it's worth the investment so it would be on his 600,000-dollar dime that if this projects approved he's willing to take that risk, but no we do not have a feasibility study, nor do we think that the acquisition of a feasibility study would be appropriate in this small scale of an application.

MR. HENNESSEY: Have you approached a lender yet for the money?

MR. GALLO: Not yet, no.

MR. LYNCH: You're not going to get too far with a lender if you don't have an approval.

MR. BROOKINS: I'm sure that they would be interested also in some market information in terms of the potential market and how it's being served currently - certainly every new business would like to think that they're sales are going to peak at their projected level on day one. 100% occupancy seems to be a little high. Without any detail as to the size of the units and the size - - you have 8 different buildings. I estimated that your income that you're projecting scales out to about 79-cents and change for square foot of rental. How does that compare with your competition? Down the road, down Route 9W, over on Delaware near the Normanskill bridge. It's smaller than what you're proposing but give us an idea of a typical unit size and what that unit size would fetch. We don't have a detail. I've got building A that's going to generate 1,100-dollars a month.

MR. GALLO: It must not have come through, the originals. What you have is mixed sizes, you have 10 by 10, 5 by 10's, 20 by 30's, 10 by 15's.

MR. BROOKINS: So what would a 10 by 10....

MR. GALLO: A 10 by 10, yes I'll answer your question. A 10 by 10 with out heat and lights would be about 110.00-dollars. Heat and lights would bring it up about 189.00 per month. I believe the person down the street and well they're about 10/15-dollars more.

MR. MICELLI: Glenmont Storage, which is south?

MR. GALLO: Glenmont, yeah he charges 199.00- for a 10 by 10 heated with lights. And the one without he charges about 120.00-bucks so I did do the homework.

MR. LYNCH: I think what Tony is saying is that he is going to be competitive.

MR. BROOKINS: I think based on what you just said that your income estimate might be a little low here. You

might want to revise that because my .79-cents would only get you 79.00-dollars on this 10 by 10.

MR. GALLO: No, about 110.00-dollars.

MR. BROOKINS: Okay, so 26,000-square feet are going to generate more than 20,000-dollars?

MR. GALLO: Well you also have 5 by 10's and we're going to bring it down, okay and the actual square footage is diminished because I have to put an office in there. It's an estimated number.

CHAIRMAN HODOM: Any other questions from the Board at this time? Does anyone from the audience have any questions or comments? If you would just come up here and sit or stand near the black microphone.

MR. O'LEARY: I just have one question.

CHAIRMAN HODOM: Please introduce yourself to us.

MR. O'LEARY: Sure, my name is Dennis O'Leary and I'm president and CEO of the Bio reserve and I just had a question for Mr. Gallo.

MR. GALLO: Excuse me, do you live in Bethlehem?

MR. O'LEARY: No.

CHAIRMAN HODOM: It doesn't make any difference.

MR. O'LEARY: I pay mortgage on that property across...

CHAIRMAN HODOM: Mr. O'Leary if you would address your questions or comments to the Board then we can ask those in the audience.

MR. O'LEARY: That would be fine. Apparently you mentioned that there was an investment – Mr. Lynch mentioned that there was an investment in this property and apparently it was a gift for a dollar so that was a small investment and then of course there are taxes, yearly taxes, which - - incremental investment and then there was the clearing of the land, which was a certain investment. What other investments beyond that would there have been?

CHAIRMAN HODOM: Would you like to address that Mr. Gallo or Mr. Lynch?

MR. LYNCH: Their parents bought the land, the parents did but that wasn't - - I'm sorry.

CHAIRMAN HODOM: You have an opportunity to address it.

MR. GALLO: My father in law is right here who purchased the land originally – my father in law.

CHAIRMAN HODOM: Okay if you would just introduce your self to us, give us your address if you would.

MR. RAPPOCCIO: My name is Paul Raoiccio, I live on 68 Beacon Road in Glenmont, New York. Me and my father purchased the land which used to be the funeral parlor on the other side of the Thruway. It's actually the extended piece of the piece that we're talking about here. In other words if this right here...

CHAIRMAN HODOM: Okay.

MR. RAPPOCCIO: My father and I were approached with Mr. Magee, I don't know if anybody is familiar with him.

CHAIRMAN HODOM: He's a commercial realtor in Town.

MR. RAPPOCCIO: Well he used to be quite a wealthy landowner and his family is still carrying on to sell a

piece of property where the funeral parlor is now. He wanted to build a restaurant so we purchased the land and he told us that at the time it was plus or minus an acre and a half. So we said that's fair, my father being a man of his word took Mr. Magee's word that it was that 1 ½-acres. Well it comes out to less than ¾ of an acre - - I think it was the Thruway road, 9W - I've taken a portion of it and made it turn around for trucks for Languish Place, so now after we bought the property we started - - I started analyzing the property to build a restaurant and guess what, not enough room, so my father and I went to Mr. Magee and we approached him. We said you told us it was an acre and a half, we took your word on it and somehow I won't mention any day's, but some of the lawyers that took place on this piece and Mr. Magee said, well I'll try to do good - I've got another piece on the other side which I'll give you at a cheaper rate and that's how we got the property.

So for a good ten years we didn't do anything because we were very busy concentrating on putting a restaurant in the front, which that didn't come through and then my father got sick and I was too busy running Sam's Restaurant and I don't know if you guys are familiar with it, okay and I'll just let that go. And then in 95' I decided that - - I was approached by Memorial Hospital to put a clinic in - - an emergency clinic so we did that and I felt at that time it was a little stressful on my business so I didn't want to go any further with the land, I was hoping to build a house there in 91', but...

CHAIRMAN HODOM: Are we talking about this 2-acre parcel now?

MR. RAPPOCCIO: Yes. I was going to build a house there, but going there and different times of the day, sometimes it would be quiet, sometimes it's busy depending on the traffic, which I found out is the faster the truck goes, the more noise they make, when they go around the bend by the Thruway building over the bridge, okay when they go around the bend, they start kicking it into gear and the gas and that's when you start hearing it. I live on 68 Beacon Road on a nice quiet night I can sit on the porch and I can hear those trucks on the Thruway going back and forth, so it's a quarter of a mile so what ever study you people might come up with - they can put all the equipment they want there.

It's a matter of living there, you know you step in your back yard and what are you looking at, all these lights going back and forth, okay so it was never feasible for me. That's why we found a piece of property on Beacon Road and then went over there, alright because we had already figured out, hey I built a restaurant in the front, I'll have a nice home in the back, nice and quiet - - I go over there and I can't have quiet and then there was no water or sewer. And that was another expense at that time. I don't remember what it was but that was it and now I've told you a little bit of what really happened with this property and it was not an investment of 1-dollar, it was quite a bit more hard working, you know people like me, my brother in law, my father, my mother, we came over from the other country, okay, and we worked hard for it. So it wasn't a dollar that was just passed on to my sister and my brother-in-law. It was quite a bit more.

CHAIRMAN HODOM: Thank you very much. Mr. O'Leary?

MR. O'LEARY: Well my question was basically what the investment of Tony Gallo and Catterina Gallo's since it was given to them for a dollar I don't think and I could be naïve here but I don't think the investment to their predecessors would have anything to do with this. It would seem to me that Tony and Catterina are the one's who are going to make or break this and they're the ones who with the initial investment of a dollar and then of course taxes and then clearing the land. I would like to know what that is.

CHAIRMAN HODOM: Would you like to address that Mr. Gallo? Okay, he does not wish to address it.

MR. O'LEARY: That's fine.

CHAIRMAN HODOM: Was there some clearing of the land previously?

MR. GALLO: Yes there was.

CHAIRMAN HODOM: There was, okay.

MR. GALLO: And it cost me 13,000-dollars to clear it.

MR. O'LEARY: I thought you said it was 8,500-dollars.

MR. GALLO: No.

CHAIRMAN HODOM: Let's not get argumentative. If you would, why was the land cleared?

MR. GALLO: It was just wild, running wild and I couldn't get into the land no longer so I had a bulldozer clean it up, that's all.

CHAIRMAN HODOM: You had no proposed use for it when you cleaned it up?

MR. GALLO: No.

CHAIRMAN HODOM: Just to clean it up?

MR. GALLO: Just to clean it up.

MR. LYNCH: And it's pretty much depicted on the photos.

CHAIRMAN HODOM: When was that work done Mr. Gallo?

MR. GALLO: That was done about a year ago – 7/8 months ago.

CHAIRMAN HODOM: Any other questions or comments from the audience? Yes sir?

MR. JENSON: My name is Craig Jenson and I live at 22 Old Route 9W. I live on that road; I am the insignificant other home that is in there that so is said and the longer I live there the more insignificant I feel and take offense to it. And I can tell you that the construction - - the demolition started last October, at the end of October and went into the first week of November because it also took away a clearing of my land.

MR. GALLO: That's not true.

MR. JENSON: It most certainly is and I have pictures.

CHAIRMAN HODOM: You'll get a chance to talk.

MR. JENSON: And I also have from a contractor who did it when I approached him, he was supposed to replace it with trees, which I'm still waiting for delivery. So I don't get emotional I wrote down what I would like to read to you if I can.

CHAIRMAN HODOM: That's fine.

MR. JENSON: In 1995 my wife Doris and I purchased a property in residential, at the time residential, now Rural zoning of Old Route 9W in the Town of Bethlehem. The main influence on our purchase was the location, the unique location of the residents and the unique neighborhood in which it was situated and still is. The commercial environment of the present Cumberland Farms, Dunkin Donuts borders the outside perimeter of this, as does the 9W corridor. I am clearly aware of any noise but I live very comfortably and happily in this household. However I emphasize the fact that it borders yet doesn't impede 9W as well as Dunkin Donuts and Cumberland Farms.

My family lives in a unique neighborhood that is outside the commercial confines. I emphasize again that it is the neighborhood where neighbors from Corning Hill walk for relaxation, exercise, nature viewing and they do that due to the heavy traffic on Corning Hill itself. And they do walk and they walk tonight. A man walked down my street tonight pushing his grandchild. It is a neighborhood that offers a reasonable level of privacy and has for many years. It is a neighborhood that provides a serene setting for exposure for the elements of nature. This is particularly emphasized by the bordering bio-preserve maintained by Mr. Dennis O'Leary that is here tonight and I appreciate what he has done out of his own money and nothing and no money from anyone else to maintain that property so that my family can enjoy it and anyone else who would like to drive down Old Route 9W.

It is a neighborhood where children and their friends can play in the front yard without concern without excessive traffic. It is a neighborhood. I continue, if you don't mind that the proposed land area right here, there is a pond that is my property because my property borders this particular area. The pond that is there is approximately 60 to 70-feet in diameter. It has been there for as long as the property is there because there is also a runoff underneath this road that runs into a ravine that borders my property so it was existing part of 9W, Old 9W. In construction right back here, this was cleared behind there so I am further aware of any noise that might occur because I am lacking those trees that were knocked down by the person who cleared this property. And I have that which should be documented because I contacted the Town at the particular time and the Town sent people out to look at it and to verify. This body of water is owned by my wife and myself, me Craig Jenson, Doris Jenson and is used on a regular basis for research and educational purposes by Mr. Dennis O'Leary for the programs that he runs on the bio-preserve.

It was a pleasure this summer to stand in my front yard and watch children from Saint Peter's Hospital program walk down my street and take water samples out of that pond so they could go into a field next door and look through them through microscopes and learn. I am an educator; I work at Guilderland High school; that is my job. I feel very strongly about what I've heard tonight in the fact that if I as an educator was to tell someone that their child was not significant as my house is not significant on that one street that I would be out of a job because to my knowledge particularly in New York State it's one for all and all for one. There's no separation. the same regard as far as quality of living is concerned. I think it would have a very strong impact on it and in contrast to answers provided for the short answer - - short environmental form for unlisted actions only which I received last Thursday in the mail, and part two, environmental letter assessment letter C-1 through C-7, we disagree with the listed responses of no by the applicant to all questions with regard to having a negative impact on the surrounding environment.

The proposed storage warehouses will most definitely have a drastic negative effect on the body of water I so mentioned as well as specific regarding concern, the neighbors, myself and my wife as well as people I'm sure on Corning Hill Road feel the quality of living will be adversely be affected by the proposed storage houses. There will be, no doubtfully, increased traffic flow as mentioned at any hour of the day. We have already been - - in twelve years that we have been there; we've been burglarized once with my wife walking in on it and nice enough I called the Town at that particular time because there were no street lights and Mrs. Egan at the time, the very next day had Niagara Mohawk out there installing a light for us in front of our house; very much appreciated. If you've ever been robbed; it does not take away the feeling of living on a dead end road with cars going by, which you know they have no other meaning on that road other to go to the end and come out or for whatever reason going to a warehouse. It does not help your security, nor your stress level when you're raising a family at the end of that road. Both the bio-preserve and 22 Old Route 9W residents have been burglarized, as well as mine, as well as Dennis's, he has had microscopes taken out of the facility there in which he stores them. I myself have made police calls; they would be documented in the times that I have lived there to cars that have pulled into his neighborhood. I have called the police; they have responded; it's been an issue, so that property there as well.

Increased lake pollution, which we would have it on this side of our house, on the south side which we already have which I would say the Cumberland Farms looks much better, it's a nice improvement and I never thought I would say that, but light wise it's still when the leaves fall off of my tree this year there's going to be an increased light production will be on my property so now I will have it on both ends. There's a further increase in traffic noise from the New York State Thruway due to the fact that this has been cleared. I would ask you if maybe you would ask Mr. Lynch with no due disrespect, did you visit the site prior to the clearing of the land as well as visit the site after the clearing of the land and can you comment on any noise difference from that?

MR. UMINA: I have a question for Mr. Jenson.

CHAIRMAN HODOM: Go ahead.

MR. UMINA: I was wondering if you could illuminate on an issue that was raised. You said that some of your property was cleared...

MR. JENSON: Yes sir.

MR. UMINA: And I just.....

MR. JENSON: About a 70 by 50-foot area.

MR. UMINA: And then could you tell us what happened or what you did or...

MR. JENSON: I found out about the clearing of the property one day when I drove into my street and my wife came out and approached me as I pulled in and said come down and look at this in last October. As I went down to look at it there was a front-end loader that was tearing out the brush and that what it is, it was brush, it was trees, it was not a manicured lawn, but it is a buffer. I approached the man who was on my property and I said, sir you are on my property and he said I didn't know that and I said let me show you my document which I have present with me and it was my survey. And I said according to this survey, which I pay very close attention to I showed him where it was. He immediately made a phone call and I'm not sure, I can't document this to either Mr. Gallo, who had hired him, which I believe it was because Catterina – Catterina? I'm sorry. Another sister drove out onto the property immediately to see what we were doing; to see what the problem was. And at that time construction for that day was halted. After that construction began again. I raise comment to the fact that there was no permit and there's a bulldozer on the property as well as a large excavator and I also question the man about what he was going to do about the property that he clearly now recognized had cleared on my yard as well as taking down a New York State fence section that now creates an access for ATV's from Hannay Lane to ride down my street.

Neither that has been replaced nor have the trees, and which at the time he said – his response to me was I know a contractor, which I will not say the name, but is a very well known name in Bethlehem and he said I know this guy and I can get some pine trees put in for you without any problem and I left it at that. I have not heard from him since, I have the name of the contractor and as a matter of fact on my way to Guilderland I drive by his house everyday. I have not stopped in; it's irrelevant. That is what has happened to my property as well as next to the pond, which use to be besides brush it was reasonably sitely. I now a border about this high of pushed up dirt with pieces of concrete in it and other things with pushed over trees that now creates a beautiful environment right there for me. If I can answer any other questions, I'd be glad to.

CHAIRMAN HODOM: Well unfortunately Mr. Jenson, we can't get into the legal issues that you're speaking about and we won't.

MR. JENSON: I appreciate that and I'm not looking to get into those legal issues. I just want to clarify that that was one of the things that led to me being here this evening.

MR. HENNESSEY: Obviously there's a pre-existing legal issue, but have you two talked at all about what happened; what's going to happen, the possible acquisition of that land? Have you guy's ever discussed that?

MR. GALLO: I have not.

CHAIRMAN HODOM: Have you concluded Mr. Jenson or do you have more?

MR. JENSON: I have more if you wouldn't mind?

CHAIRMAN HODOM: Sure.

MR. JENSON: I also feel as well and I am a very hardworking person myself, I bought a house that sat vacant for 3-years on that property and as a person making an investment in a home that I bought I can't afford someone to do the work. I stay up countless hours doing the work myself on a 4,000-square foot home that now can depreciate in value. And I think we all understand that when you put a structure, commercial structure in a residential neighborhood such as this there is a very great concern for the value of that. I have taken time away from my family as well as other instances as well as my own money to increase the value of this home. As well I have a concern, emergency vehicle access and would that be hindered by more cars coming through that road which as stated has a very somewhat inaccessible narrow access as well as exit point to it, but now we'll have more traffic. And lastly or one of the last things is right now there is a bus that comes down that road every morning to pick up my children and it can turn around. Where will it turn around when this goes into place and why is it that my children will then have to be picked up on the only place that they could be picked up would be

at the end of that somewhat inaccessible road, the end of my - - what I consider to be a driveway, Old Route 9W, and Corning Hill Road looking at Cumberland Farms and Dunkin Donuts on the other side with a yield sign only a 100-feet away and cars that come through that yield sign going in excess of 50-miles per hour with my children standing right there with also a CDTA bus stop that was there - - that was put in the last 1 ½ with Walmart's creation. So that is another concern that I have as far as what happens with the bus route and my children's accessibility to having a public education and the right to be picked up in their driveway as well as every other child in Bethlehem.

I continue, I don't mean to take your time but to me this is extremely important that I say it now because this is where I live and I value the neighborhood that I live in. Very lastly, in reviewing the present Town of Bethlehem's Zoning Laws, which I did and I got the book and I looked through it, I also attended the Route 9W corridor's plans and so forth and I went to all of those meetings that took place at Glenmont School because I am concerned. In review of all of that and the approved master plan, I find the proposed request for a Variance to be highly negligent with specific regard to the allowable square footage. I teach phys-ed and I mean no disregard to phys-ed but I can multiply and 4,000 to 26,000 is a significant difference to me that's almost 6 - - a little over 6-times what is allowed. So to me as a resident to, I find that discrepancy in square footage a clear violation in the Town of Bethlehem's master plan. Thank you for your time.

CHAIRMAN HODOM: Thank you Mr. Jenson.

MR. JENSON: If there's any questions I would be glad to answer them.

CHAIRMAN HODOM: Mr. Gallo, are there wetlands on your property?

MR. GALLO: No.

CHAIRMAN HODOM: There are no designated wetlands.

MR. GALLO: There is no wetlands on my property what so ever.

CHAIRMAN HODOM: Okay, and you've looked at the Federal maps and the State maps?

MR. GALLO: Yes.

CHAIRMAN HODOM: Okay. Mr. O'Leary, would you mind...

MR. O'LEARY: I have much more to offer....

CHAIRMAN HODOM: Well why don't you come up here. I was going to ask you to describe what the bio-preserve does.

MR. O'LEARY: I'm sorry?

CHAIRMAN HODOM: Can you describe to us what the bio-preserve is all about?

MR. O'LEARY: That's right, I was going to start off that way. Again my name is Dennis O'Leary and I have - - I run 3-business's, no time for T.V. At any rate one is Albany's indoor rock gym, and I have a partner there and manager and employees. I also run what's called Micro-Optical methods and that is a microscope consulting business. I travel around the world and so forth teaching and doing consulting work - like that. And I use those skills to be able to make something happen that we now call the bio-reserve. I'm no longer the owner of it; I was the owner; I purchased it and of course been paying the mortgage and turned it into a 501 C-3 and have a Board of Directors and I'm the President and CEO and I'm still footing the last part of the mortgage because I believe in this - what we're trying to do. And basically it's education, research for all ages. It's not like 5-Rivers where just anybody's allowed on. It's open to the public for anybody that wants education - to do education programs and research and we've had teachers workshops and we've had many children and they've both worked outside and inside. That little house that you see is run down looking but we're doing construction on the inside and we have actually set up a lab. There's a lab that has a lot of optical instruments and sampling instruments and so forth so we can do water sampling, soil sampling and a lot of monitoring of the body's of water. So that's what

it's doing and we hope to continue on with and so that's why...

CHAIRMAN HODOM: Is this a year round process?

MR. O'LEARY: Yeah, it's all the time. And it will be on the increase because Suny Albany Biology Department, Russell Sage, Saint Rose – they all want to be part of it now because it's so easily accessible. It's right off 787. Instead of having to go way out someplace in the country, you can just turn the corner from the city and there is the country. So what I wanted to do if possible is to show you a few things. I have a few visuals here. I have some before and after's here.

CHAIRMAN HODOM: Before and after of?

MR. O'LEARY: 2-sets, this is the buffer zone that used to exist there right in front of the bio-reserve. Almost impenetrable as you can see, but there was a perfect buffer for visuals and noise. It mitigated noise considerably. Even in the winter when all the leaves were down it still mitigated the noise and a lot of visibility increased was not there.

CHAIRMAN HODOM: Why don't you...

ATTORNEY MOORE: Orientate us a little bit.

MR. O'LEARY: I'd be glad to, sure.

CHAIRMAN HODOM: If you can use this map here?

MR. O'LEARY: Okay, all right this....

CHAIRMAN HODOM: This is the part that we're talking about this evening?

MR. O'LEARY: Yes. Toward me is the east side, okay, Thruway is over here.

CHAIRMAN HODOM: Maybe if you could put it up there so everybody could see.

MR. O'LEARY: Sure, okay. Thruway side, west side, Northway side, 9W. Here's the little dead end road right there. This is the parcel in question; this is Jenson's parcel of about 2-acres right here and over here is Jenson's property. There's a big ravine here draining this pond, which you can't see here and then this is the bio-reserve that goes on for 68-acres and this is the east side – Hudson River down here. And so that picture refers to you standing on this little road and looking directly west into this parcel of land right here. You can do that now if you move north across from Jenson's and look in there and then you can see what was the past for here. And what's that single picture is. Then as Craig Jenson mentioned this kind of thing occurred. Doris had taken the pictures and this as you can see has been cleared right up to what is known as Fragmities, this is the reed at the boarder and is dependant upon that pond.

CHAIRMAN HODOM: Who did you say took the pictures?

MR. O'LEARY: Doris Jenson. I was able to get them from them. The result now is this. The noise has increased considerably and on a fairly regular basis and especially at night when noise carries. Well when people are asleep of course the noise is incredibly - - there's an increase of decibels and of course - - it's like a big moving lit poster and that was all hidden if you look at the previous picture.

CHAIRMAN HODOM: Are you submitting these for the record?

MR. O'LEARY: I'd be glad to.

CHAIRMAN HODOM: Thank you.

MR. O'LEARY: The difference is night and day. And this was down, though he may not have needed a permit, was done without even asking for a permit. Now the advantage of this piece of property is the fact that cheek to

jowl with the city, you just turn the corner and you're away from the city. All that there is is some residual sound. You walk on that property, we've made many nature trails and so forth – Corning did an amazing job and he left a feral old estate, which has some aspects of wilderness to it and people have been amazed by walking through that property and seeing what has been found there, all the unusual flora and fauna totally surprised. So that's why many of these institutions want to get involved with this and some are all ready doing research on the property now. So the one major advantage like many businesses is its location. It's isolated but yet it's right next to the city. It's a little bit less isolated now. I want to take you to the warehouse concept because I also talked to warehouse owners and you've might have seen this. This is the one at the foot and they're undergoing construction so there's going to be something like that occurring.

MR. GALLO: Can I just see those pictures also?

CHAIRMAN HODOM: Yes you may.

MR. GALLO: This is not true; this is not what I intend to do.

CHAIRMAN HODOM: You will get a chance to respond to it Mr. Gallo.

MR. O'LEARY: I wanted to mention something about this particular route – this is Bentley's and they've done a nice job of building their warehouse but you can see the world of difference between what a warehouse – a mini warehouse concept looks like and what it used to be. It has a certain austere beauty to it but nowhere near the kind of aspects the natural setting has. Finally, they again have no wetlands but they are required to put in a retention basin mainly because of the great amount of runoff that occurs, not only up from the blacktop, which of course has toxic materials in it but also from the roads and results of tires that run over that just like on the thruway and everywhere else that tires run. There's tire particles; we've sampled for that in some of our ravine; waterways, there's rubber particles in there so there's a lot of toxic materials that can be part of the runoff of a business like this as many other business's have areas where vehicles drive in and drive out and also blacktop itself. For the like of blacktop gives off toxic materials. So the question is where does it go? You're welcome to come up here and see any of this to, I'm not - - I'm sorry I have to put my back to you.

CHAIRMAN HODOM: Mr. Lynch, you're welcome to look at anything.

MR. LYNCH: Yeah, absolutely.

MR. O'LEARY: This is the Encon map made of the property and the other properties are part of it to.

CHAIRMAN HODOM: Can you put it up for us so everybody can see it?

MR. O'LEARY: Sure. Here's the thruway right here, 9W, Corning Hill Road. Jenson's property is right here and the little dead end road right there. This is the other side of Jenson's property with Gallo's property. You can't see the border obviously through the trees, but here is the pond, okay, I wanted to show you it's approximate location here. The bio-reserve is over here; this is the little house for the bio-reserve.

MR. GALLO: If you notice across the street, this is the property line right here. Can you see that? This is the property line – it goes all the way through.

MR. O'LEARY: That's actually a continuation of Hannay Lane.

MR. GALLO: Exactly. That's the property line of my property. That's all I wanted to mention.

MR. UMINA: Excuse me, I need a clarification that's a continuation - - thru a street? Did somebody say that there's a street there?

MR. O'LEARY: Yes.

MR. GALLO: There used to be an old road but the Town gave it up. It was Hannay Lane – it went this way right across - - see right here? That's what this was known, we took it back - - the Town gave it back to us.

MR. O'LEARY: What? I didn't hear that – how did that happen? I'd like to see that procedure.

MR. GALLO: It's a paper road. They got 15-feet and so did I get 15-feet.

CHAIRMAN HODOM: Let's not get in to that, that's another issue.

MR. GALLO: It doesn't matter. My property line is right here – right exactly here. So as far as the water goes that he stated - - there's plenty of room.

CHAIRMAN HODOM: Okay.

MR. GALLO: Between his water and my property line. That's all I wanted to mention.

MR. O'LEARY: This map here – let me make sure I have it in the right orientation for you. Here's the thruway and here's Corning Hill, here's the dead end road and you can see the parcels in question right here. And right there on Jenson's property is the dark area is the pond, okay. Now from this, which shows a legend of 1-inch equals 200-feet, we took....

MR. GALLO: May I see that please?

MR. O'LEARY: Yeah, sure.

MR. MICELLI: Can you put that up on the board so we can take a look?

MR. O'LEARY: We should bring it over to you because it won't have any meaning unless you look closely at this, which I can show you.

MR. GALLO: What are you referring to?

MR. HENNESSEY: What is it that we're looking at?

MR. GALLO: Division line?

MR. O'LEARY: I wasn't actually talking about the division line so much. I'm not even referring to that yet.

CHAIRMAN HODOM: Mr. Gallo, would you let him finish please? You will get an opportunity.

MR. GALLO: Well I just want to make sure his story is right.

CHAIRMAN HODOM: Well how do you know what he is going to say?

MR. O'LEARY: I haven't given the story yet.

MR. GALLO: That's what I'm saying; I'm asking questions.

CHAIRMAN HODOM: Then give him an opportunity.

MR. HENNESSEY: Is this an elevation map? What is this?

MR. O'LEARY: Yeah, this is a topo sheet placed on an aerial view and I can bring it over to you.

MR. HENNESSY: No, just go ahead.

MR. O'LEARY: What we did then is to take that and magnify it exactly twice so that 1-inch equaled 100-feet, okay, and with a little more contrast you are able to see the pond and I will not dispute the division line at all. That's fine, that's perfectly fine with me. You see this division line there?

CHAIRMAN HODOM: Yes.

MR. O'LEARY: Okay, this is Gallo's property, this is Jenson's property; this is the pond but you also see some other markings there. Article 24, the fresh water wetlands act states that and I have the information here, there has to be a 100-foot buffer between the edge of what's called the emergent vegetation, not the water but the emergent vegetation that depends on that water for it's sustenance and a 100-feet out is the boundry you can not do a thing with it. So I measured it.

CHAIRMAN HODOM: Were you aware of that?

MR. LYNCH: 100-foot setback off of the DEC wetlands, yes.

MR. O'LEARY: But off their emergent vegetation, so...

ATTORNEY MOORE: Only if it's a mapped wetland, though. I don't know if that's a mapped wetland.

MR. O'LEARY: No it isn't a mapped wetland, it does not have to be. DEC also says that you have to have 12.4/10-acres unless there's a certain circumstance that overrides that and I've included that to and this is one of them right here.

ATTORNEY MOORE: This Board is not going to get in to...

MR. O'LEARY: I just wanted you to be aware of it that's all.

ATTORNEY MOORE: If you want to ask DEC whether they consider it a protective wetland, that's a different matter. We are not going to make that determination.

MR. O'LEARY: Yeah, I've been in touch with the Army Corps of Engineer on this too and they include 1/10 or less acre of a body of water and it does not have to be navigable any more.

CHAIRMAN HODOM: That would be more of a Planning Board issue.

MR. LYNCH: Yeah and it's also not on our site.

CHAIRMAN HODOM: Well he is talking about the 100-foot buffer.

MR. O'LEARY: That part is on your site. The problem is that what is on your site will run off to that site and then that site feeds the Hudson river so ultimately it would be part of what ever pollutes the Hudson River and then you definitely get into the Army Corps of Engineers and EPA, and so forth. One other area I wanted to cover, New York just put an article out – well in August on lighting and I thought maybe I would read a small section of it to you if I may.

MR. HENNESSEY: Is this about light pollution, is this what this is about?

MR. O'LEARY: Correct. I'm only taking small sections, but I'm leaving you the whole article. Anyway, migrating birds can be fatally by artificial lights, a fact that was made obvious a half of century ago when they did some testing of trying to measure meteorologically light that impinged upon clouds. In one night they killed thousands of migrating birds. Now, naturally you're not trying to shine light up into the clouds and I'm not talking about killing off thousands of birds. Let me go on further though, artificial light can be especially lethal to insects, German Fellum has written that outdoor lighting can have vacuum cleaner effect on local insect population causing large numbers to be sucked out of habitat. An earlier German study showed that new brightly lit gas stations initially attracted large numbers of insects, but the numbers fell rapidly after 2-years presumably because local populations were decimated and generally what happens, many of them think it's daylight so they land where they normally do and they would not land at nighttime and they are preyed upon and killed and there's nothing left to repopulate. Of course deer, which have even higher proportion of rods and cones in their eyes than we do. They have excellent nighttime vision and they appear extremely vulnerable to temporary blinding by bright light and so on and so forth.

Another thing that's been found, lighting is effective in preventing crime mainly if it enables people to notice criminal activity - - well let me start from here. People makes – especially about lighting, people may experience a similar phenomena driving away from a highly illuminated outdoor area such as a gas station with an intensely bright canopy, much so called security lighting is designed with little thought for eye's or how criminals operate. The reason I mention that is because we were ripped off to as well as the Jenson's. So lighting is something that - - okay Markus Felson, professor at the school of Criminal Justice, Rutgers University has concluded that lighting is effective in preventing crime mainly if it enables people to notice criminal activity as its taking place and if it doesn't help criminals to see what they're doing, bright unshielded flood lights, one of the most common types of outdoor security lighting in the country often fail on both counts as do all night lights installed in isolated structures around parts of buildings that can't be observed by passers-by such as back doors or the other sides, say the thru-way side of a storage unit area.

A burglar who is forced to use a flashlight or who's movement triggers a security light controlled by infrared motion sensor is much more likely to be spotted than one who's presence is masked by the blinding glare of a poorly placed metal halide wall-pack. So in the early 70's a published school system in Sanantonio Texas began leaving many of it's school buildings, parking lots and other properties dark at night and found that the no lights policy not only reduced energy costs but also dramatically cut vandalism. The lack of the night environment disrupts the internal clock that mammals, insects and people operate by. The bio-reserve is dark at night when its natural neighbors expect it to be. The diurnal animals sleep, the plants alter their physiology to aspire to switching off their photo synthetic systems and the nocturnal creatures are allowed to – they are allowed full reign to eat, play, make love as nature designed. We are switching that, not just full lighting in a mini-warehouse, but we're doing it all over. This is just one more aspect and that's one reason I'm trying to keep the bio-reserve as close to natural as possible.

MR. HENNESSEY: And would this project impact that?

MR. O'LEARY: Oh, very much so. It could; it has a potential for doing that, yes. Finally, since you did ask something what we're about. I thought I would just leave a little bit about what the bio-reserve is about. It's nothing you have to read tonight. I also concur with what Craig had mentioned that you folks, well maybe you all did one way or another all spent, what 100's of thousands of dollars, many, many man and woman hours making a master plan and this zoning change doesn't go from Rural to Residential. It goes way over to somewhere in Industrial and this just does not fit. It certainly smacks into evidence of what the master plan is all about. The last point is that there was an offer made to the property and the reason I asked Mr. Gallo some of the investments he made because I thought we made quite a fair offer for his property considering the 68-acres that I paid for and finishing paying up hopefully – cost me 150,000-thousand of rural land. We offered him somewhere around 40,000-thousand and we were willing to go a little bit higher. Thank you.

CHAIRMAN HODOM: Thank you sir. Would you like to address some of the issues?

MR. LYNCH: I would. First of all with respect to the storm water runoff that was talked about. Clearly when we go before the Planning Board, the storm water runoff plan will be in compliance with DEC and not only filtering the runoff but quality and quantity control is a mandate today so this site has to be developed with the standards. As far as the lighting is concerned, we will establish at the Planning Board level a lighting design that will try to achieve a zero-foot candle at the property line to the fullest extent practicable. Clearly the Planning Board is not going to allow us to put floodlights that would actually directly go on other properties. We have to keep it within the site. As far as an offer to buy the land, you know the problem with that from a zoning board perspective is it really becomes a slippery slope.

I don't think the Zoning Board should really consider whether or not Mr. O'Leary's offer is valid or not because then it becomes a question of whether or not an individuals property rights can be bought out because a neighbor doesn't like what they want to do and now all of a sudden the Zoning Board is asked to consider, well hey this guy offered to buy the land. We don't think that that's a viable option at all and as Mr. Gallo had indicated earlier, he is not here to give the land away. We heard - - I think the one fundamental thing that became very clear, Mr. O'Leary indicated well these photo's show t he site before it was cleared and it was a buffer and that was a great buffer because it mitigated the noise impact from the thruway, but now that he's cleared his land we don't have the buffer anymore and now we have to live with this noise. And Mr. Jenson also made a comment about the exasperation of the noise due to the absence of the buffer, if you will. Tony Gallo's land is not a buffer of noise from the thruway for the adjoining properties. He to has the right to develop his land

in an appropriate manner just like Mr. Jenson and Mr. O'Leary – different uses but uses that they are individually pursuing.

The fact of the matter is, I think both Mr. O'Leary's comments and Mr. Jenson's comments bear out that the noise problem with this particular site right on the thruway as distinguished from Mr. Jenson's house on the north end is really buffered by his own land and Mr. O'Leary's property is on the east side of Languish Place. We're right on it but both of those individuals I think their comments demonstrated that the noise impact is not a figment of Tony's imagination but rather a reality.

MR. HENNESSEY: Assuming for a moment though that this noise issue is now a problem that fact that Mr. Gallo was the one that cleared that property and created the problem I think plays into the idea of a self created hardship. Wouldn't you agree?

MR. LYNCH: Absolutely not. As a matter of fact whether he cleared his property or not, his property was right on the thruway and if he doesn't clear the property he would never be able to achieve any use of the property. So, I mean the non-clearing of the property and Tony did tell me that during the clearing, the Building Department came up and inspected. He was on his land and that was the end of the matter and as far as we were concerned that was the end of the matter. And the fact that this pond on Mr. Jenson's property, that's great but it has nothing to do with this project, but to say that hey you can't clear your land because if you clear your land you're going to exasperate noise but....

MR. HENNESSEY: The point I'm trying to make is that by taking down the trees that that at that point plays into the view that the only thing that can fit here is a storage facility, but the fact of the matter is that before the trees were taken down that noise wasn't as much of an issue so therefore it would have been more useful for a residential property or something like that.

MR. LYNCH: I don't...

MR. GALLO: Can I answer that question?

MR. HENNESSEY: Yes.

MR. GALLO: Trees were not taken down. All that was taken down was a bunch of brush. The trees are still - - the big trees are still on that property. The Building Department came there and saw what I was doing. I showed them a survey of my map. They said as long as you don't take the trees down we don't have a problem with you. And that's what we did. The trees - - if you went there today you can still see the trees on the property. The clearing that was done was all brush and that's it, okay because we can't take the trees down unless you get a Building Permit I believe. That's what I was told.

MR. LYNCH: But getting back to your question also, no matter what you do on that site you've got to clear it and if you clear it the noise is going to be there. The clearing didn't create the noise. It's the fact that the noise is there and the property is immediately abutting the thruway. There's no property between our site and the thruway. Clearly we are literally on the thruway so that's the noise problem and I do think that the comments of Mr. O'Leary and Mr. Jenson bear that out. It is a noise problem; it is a reality and that's what makes this site so difficult to try to develop. That and the absence of utilities.

MR. UMINA: I have a question, Mr. Jenson said that if his property was cleared – was there any accommodation made with him in regard to that.

MR. LYNCH: That's the first that I've heard of that tonight to be blunt and I don't have any other response than that. I will say one thing though, the comment that I made about the fact that this use is going on to a road where there's 1-house was not in any way, shape or form intended to insult the Jenson's nor the value of their home to them. My comment was that as distinguished if Languish Place for example had houses all the way up and down the road other than this site, well then this particular project may have more of an impact on surrounding properties, but Mr. Jenson's property is significantly down the street from this site and there are no other homeowners. Certainly I do not wish to convey and would apologize if in any way shape or form Mr. Jenson, or Mrs. Jenson thought that we felt that their rights were insignificant. I was speaking in context of a comparison of a block of a number of properties and that's pretty much it.

CHAIRMAN HODOM: Just for clarification, Mr. Gallo, Mr. O'Leary did mention that he did make an offer to purchase the property. Is that correct?

MR. GALLO: Yes, he did.

CHAIRMAN HODOM: Were there any other offers made to purchase the property?

MR. GALLO: No, but do you know of any place that you could buy in Glenmont - 2-acres of land for 40,000-dollars because if you do I'll buy it.

CHAIRMAN HODOM: I just wanted to confirm the statement, that's all. Mr. Lynch you're correct that the retention basin subject would be taken up by the Planning Board if in fact this Board approves the application.

MR. LYNCH: There's no question that storm water management becomes a pivotal part of the site plan process.

CHAIRMAN HODOM: Any other questions from the Board.

MR. BROOKINS: I have just a comment and this was brought up earlier in a couple of different configurations. It has to do with the property and the – your contention that it really is unattractive to a number of different users. One of the things that might help you to support your case is to have competent realtor advise that might be able to say that I can't find anyone who will buy this for this or this. Or conversely they might say yeah this is a diamond in the rough and I have 7-buyers for it. In either case it might be a win, win for you, but that might be helpful in supporting some of the statements that you made about the lack of desirability of some of the available uses.

MR. LYNCH: It's a fair comment and as much as I've asked that the Board not take action tonight, but rather allow us an opportunity to consider all the comments that were made tonight and to make further submissions and frankly if the Board is of the mind to keep the public hearing open post our filing submissions we certainly would agree to that also because if we do make a further submission certainly everyone should have the ability to comment on this.

CHAIRMAN HODOM: I was going to ask the Board if they would agree to adjourn the hearing to a date uncertain until we get some more information and I would just like to run through those with you Mr. Lynch. I think the first one was the contractor's breakdown.

MR. LYNCH: I'm sorry?

CHAIRMAN HODOM: The contractor's breakdown.

MR. LYNCH: Yes, contractor breakdown.

CHAIRMAN HODOM: The noise analysis, the New York State requirement for employees as far as water and sanitary, the 2006 or earlier tax bills and Mr. Brookins request for realtors comments or expert opinion regarding the other 49-uses on the property – actually 50.

MR. GALLO: As far as the New York State toilet issue, I can get a porta – toilet put over there.

MR. HENNESSEY: Well we would like to know what the actual requirement is.

MR. GALLO: Well I'm just saying....

MS. GUASTELLA: I think it's a code issue Mark.

CHAIRMAN HODOM: It might be a Code issue and that's why I want you to address that.

MR. GALLO: No problem.

ATTORNEY MOORE: Town or State?

MS. GUASTELLA: State.

CHAIRMAN HODOM: Do you have any objection to obtaining the cost to dig a well and install a septic system?

MR. LYNCH: Not at all.

CHAIRMAN HODOM: Yes sir.

MR. KARINS: Can I address the Board?

CHAIRMAN HODOM: Please come up and introduce yourself.

MR. KARINS: My name is Tom Karins and I am a licensed real estate broker, lifetime resident of the area and intimately involved with the property because I had the privilege of representing the Corning family when we settled the estate and I was involved with the sale to the Jensen's and to Dennis O'Leary of their particular properties. And I'm also the broker who is involved with the 40,000-dollar and the 50,000-dollar offer to the Gallo's for their 2-acre piece and I would like to mention two things and I will be very brief. I think the offer does have relevance because it would demonstrate an alternate use to the property. Namely if my client was successful in acquiring the 2-acres it would be folded in to the non-profit bio center and kept forever wild and they would realize an economic return from selling it for that purpose.

The other one is of a more subjective concern and if you visualize the map and the property at the very bottom of the map is approximately 65 to 70-acres owned by West Virginia Pulp and Paper I think they go by WestVacco. I also have represented WestVacco in the past as a broker and attempting to dispose of that property. Since December 1st of last year I have been discussions and negotiations with West Virginia Pulp & Paper and an organization known as the Open Space Institute. Some of you are nodding your heads and are familiar with this – non-profit that was funded by the Reader's Digest with the sole mission and purpose of acquiring properties along the Hudson River designated area for preservation. They also have worked in the past with West Virginia Pulp and Paper.

Dennis has done everything he has done for the nature preserve out of his personal capital and I can speak for him, he is not a wealthy individual. He is doing this out love of the work that he is doing. If we were successful in those negotiations the additional 68-acres would be merged into the 65 that we have now and effectively and this address's specifically the betterment of the community of Bethlehem. It would effectively create a 138-acre parcel at no expense to the Town of Bethlehem and no maintenance because it is being run by a non-profit. Why do I mention that and why did I preface it by saying it is a subjective comment? If I continue with the inducement to get money institute to come in and acquire that property it's one thing to drive down a fast rural street now versus a street with metal warehouses as the entrance to where they would be making a substantial investment. And in my personal opinion and that's all it is, it would have an extremely negative effect on the attitude and success of acquiring and merging that property with the existing nature preserve. I believe that is in the best interest of the people of Bethlehem and in turn we are also offering a viable financial alternative to the Gallo's and the property owners that fully understand. Thank you.

CHAIRMAN HODOM: Thank you very much.

MR. MICELLI: One quick question. Has the property ever been appraised with what it's worth with the 2-acres?

CHAIRMAN HODOM: In your narrative there is an assessed value of the property.

MR. GALLO: I guess my question would be does it really matter if there is storage facility over there or a construction site with bulldozers, which I'm allowed by law?

CHAIRMAN HODOM: Well if there was a construction facility being built there, it's allow by right I believe –

I would have to check the book. They wouldn't come in front of this Board.

MR. GALLO: Thank you.

CHAIRMAN HODOM: We're going to adjourn the hearing to a date uncertain for the Applicant to submit to the Board the items that we requested. While you're here does anyone else have anything to state or any questions to ask? Yes Ma'am, please.

MRS. RAPPOCIO: I'm actually Paul Rappocio's daughter-in-law and my Uncle Tony. I'm also a professional Land Use Planner.

CHAIRMAN HODOM: And your name is?

MRS. RAPPOCIO: Roberta Rappocio and I've been in business 9-years, both public and private and I did review the documents for this final sketch and I totally - - with the Jenson's, in their admission it's a unique site for family home and it's an interesting site for a family home. This piece of property is very constrained and when you're looking at a soft use, this is the best kind because it's just sitting there. It's 1-story, it's pretty - in the sense that you can make it aesthetically pleasing, you know, at a further date in the Site Plan.

You can put in some landscaping, you can talk to the neighbors directly and make sure that they're involved, but this parcel, you know, as it stands now I agree with counsel here that it - - you really can't put a residence there unless you're someone like the Jenson's, which is great and you want that kind of environment in front of you but we still have this and just to me in looking at it you can't render it useless and he is the owner and he does have the right to develop it and that's what they're really here for to see what they can do and actually being very conscious of the neighbors.

Actually this is a very soft use and I agree with that. I don't think they're trying to be a bad person about it in trying to develop their land. I think it has been taken for granted that it has been empty for 20-years and that's a big problem because it's taken for granted that here's this great buffer - no one has touched it, you know it's great and that's true but they have the right to come in and say, you know we want to develop it now. This is the time and this is the project we thought about. Thank you.

CHAIRMAN HODOM: Thank you very much. Anyone else? Mr. O'Leary? Let's not be redundant now.

MR. O'LEARY: Okay. The one thing that I regret is that we weren't contacted as neighbors in our neighborhood ahead of time as to what was going to happen. I'll have to disagree with you on the taking down and just pushing away reeds. There were trees taken down, we saw them and at any rate we were never notified ahead of time. I just happened to be working on the barn at the time and there was this steam roller or whatever it was came in and started knocking down trees and if we have been notified ahead of time perhaps we could have come to some kind of accommodation and we might have been more neighborly.

CHAIRMAN HODOM: Thank you. Yes Ma'am?

MRS. RAPPOCCIO: I'm Arlene Rappoccio, Paul's wife, Tony's sister-in-law. I'm at 68 Beacon Road. If you stand on my property and you look straight this way, I can hear 9W; I can hear Reigning Cat's and Dog's and as you all know there was a piece of property on 9W that for the past 10-15-years buffered what I think used to be the Glenmont or the Bethlehem Rod and Gun and eventually was passed on. The property was sold and they were going to put go-carts and they tore all of those trees on 9W down. There's maybe 1-line of trees now and they never notified us; it was their property. I can hear 9W now because the trees came down but there's nothing there now.

There is still no trees but Mr. O'Leary said the Jenson's should have been notified, maybe out of neighborliness they should have but I don't think anybody in my area was ever notified that all of that property was going to be taken down plus the house that are going in on Voyage and Placid, there's like I think 8-houses that were supposed to be going in there. That's been maybe the last 8 to 10-years that's been going on, we weren't notified that those trees were coming down. They did come down. I don't know that that is - - is that law? Should he by law have notified neighbors that he was clearing his property?

CHAIRMAN HODOM: I think the basis for the comment was that it would have been the neighborly thing to do to discuss it further and let them know what was going on and maybe it could have been mitigated. I think that was all that Mr. O'Leary was saying.

MRS. RAPPOCCIO: And I understand that and for 20-years that we've sat on the property we haven't done anything and they have sure benefited from us not doing anything. Unfortunately now Mr. Gallo has decided that it's time to do something and again he's doing everything he can to not disturb as much as he can.

CHAIRMAN HODOM: Thank you. Anyone else, yes sir?

MR. CICCONE: Hi, I'm Ed Ciccone, 111 Corning Hill. I just wondered if there was a traffic study being done, had been done with the increase of traffic with the traffic that's going to go in and out of there everyday, with the increase of Walmart's and Cumberland Farms because there is more car traffic now. I just kind of wondered what the average was coming in and out of there.

CHAIRMAN HODOM: I think traffic study if there was going to be one made would be requested by the Planning Board if it goes to that level.

MR. CICCONE: Okay, thank you.

CHAIRMAN HODOM: You're welcome. Anyone else? Any final comments Mr. Lynch?

MR. LYNCH: No, thank you very much for your time.

On a motion made by Mr. Brookins, seconded by Mr. Umina and unanimously carried by the Board the meeting was adjourned to a date uncertain.

Meeting Adjourned to a date uncertain 9:20 p.m.

On a motion made by Mr. Hennessey, seconded by Mr. Brookins and unanimously carried by the Board, the Minutes of September 5, 2007 were approved as amended.

The meeting was adjourned on a motion made by Mr. Umina, seconded by Mr. Micelli and unanimously carried by the Board.

Meeting Adjourned 9:25 p.m.