

**MINUTES**

**7:30 PM**

**PRESENT:** T. Ciacciarelli  
M. L. Haring  
D. Hewitt  
J. Laudenbach  
C. McBride  
P. Stepanovsky  
C. Ostergaard, Alt #1  
T. Decker, Engineer  
D. Pierce, Attorney

**ABSENT:** L. Frank

**CALL TO ORDER**

The meeting was called to order by M.L. Haring at 7:31 PM.

**NOTIFICATION**

In order to ensure full public participation at this meeting, all members of this Board, and members of the public are requested to speak only when recognized by the Chair so that there is no simultaneous discussion or over-talk, and further, all persons are requested to utilize the microphones which are provided for your use by the Township. Your cooperation is appreciated.

Notification of the time, date and place of this meeting has been published in the Hunterdon County Democrat and Courier News, and has been posted in the Kingwood Township Municipal Building at least 48 hours prior to this meeting and has been filed with the Municipal Clerk.

**NEW AND PENDING MATTERS**

M.L. Haring announced all proceedings end at 10:30 PM.

1 KINGWOOD TOWNSHIP BOARD OF ADJUSTMENT  
2 Kingwood Township Municipal Building  
3 599 Oak Grove Road  
4 Frenchtown, New Jersey 08825  
5 Wednesday, July 27, 2015  
6 Commencing at 7:30 p.m.  
7 IN RE: Delaware River Tubing  
8 Block 6, Lot 21  
9 Use and Bulk Variance and Preliminary/Final  
Site Plan

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8 M E M B E R S:  
9 MARY LOU HARING, CHAIRWOMAN

- 10 THOMAS CIACCIARELLI, MEMBER
- 11 LEE FRANK, MEMBER
- 12 DAVID HEWITT, MEMBER
- 13 JIM LAUDENBACH, MEMBER
- 14 CHARLES McBRIDE, MEMBER
- 15 PETER STEPANOVSKY, MEMBER
- 16 CYNTHIA OSTERGAARD, ALTERNATE MEMBER

17 P R E S E N T:

- 18 DAVID PIERCE, ESQUIRE, BOARD ATTORNEY
- 19 THOMAS DECKER, BOARD ENGINEER
- 20 DAVID BANISCH, BOARD PLANNER
- 21 BARBARA WILSON, BOARD SECRETARY

22  
23  
24

25 Job No. NJ2106152

1 A P P E A R A N C E S:

- 2 LANCIANO & ASSOCIATES, LLC
- By: MICHAEL W. HOFFMAN, ESQUIRE
- 3 and LARRY E. HARDCASTLE, II, ESQUIRE
- 2 NJ-31
- 4 Pennington, New Jersey 08534
- (609) 452-7100
- 5 Attorneys for the Applicant

1 MR. HOFFMAN: Good evening, Madam  
2 Chair.

3 CHAIRWOMAN HARING: David, did you  
4 have any --

5 MR. PIERCE: Yes. I have two  
6 procedural things to note before we begin the  
7 hearing. First is the applicant has provided proof  
8 of publication and proof of mailing and has  
9 satisfied the notice requirements under Municipal  
10 Land Use Law.

11 The board may open the meeting, open  
12 the hearing, the continuation of the hearing,  
13 because proper notice has been provided.

14 Lee Frank, who was absent at the last  
15 meeting has signed a certification verifying that he  
16 has listened to the recording of that meeting and he  
17 is, therefore, eligible to vote tonight.

18 CHAIRWOMAN HARING: Mr. Hoffman?

19 MR. HOFFMAN: Thank you. Good evening  
20 everybody.

21 Picking up from where we left off last  
22 evening, we proposed Exhibit A-56, an updated site  
23 plan, and I would like to have my engineer go  
24 through that real quickly with the updates.  
25 MR. PIERCE: Just a reminder,

1 Mr. Rupnarain, you are still under oath.  
2 MR. RUPNARAIN: The site plan is shown  
3 on the overhead projector and has a revision date of  
4 7/14/2015. That is the most recent drawing that we  
5 have submitted, and it was prepared to address some  
6 comments that arised along the way through the  
7 public hearing and also some of the agreements that  
8 the applicant was willing to make as a part of  
9 obtaining any approval from this board.  
10 Some of the revisions that we have made  
11 entailed reconfiguration of the proposed entrance.  
12 As you can see in this area here, we have expanded  
13 the turning area that the buses would utilize to  
14 enter a property. What is shown in this hashed  
15 area, that is the area that is being proposed to be  
16 paved. And one follows the bus turning templates  
17 that is utilized that have been shown previously on  
18 the prior site plan submissions.  
19 In addition to that, on the prior  
20 submission, there used to be a separate access road  
21 that connected this new widened entrance, new  
22 configured entrance to the gravel path that follows  
23 along the perimeter of the existing parking lot. We  
24 have eliminated a portion of that gravel area that  
25 was previously shown here.

1 All traffic that enters this property,  
2 either from the bus turning lane or onto the  
3 existing paved driveway will, at some point in time,  
4 converge back to the existing pavement in  
5 approximately this area.  
6 As they proceed further into the site,  
7 there is going to be a new intersection which, with  
8 directional signs that are being proposed, to show  
9 DRT traffic keep right where they can follow the  
10 field driveway to the parking area or Artie's  
11 traffic, they will keep left onto the existing  
12 pavement. And they can park wherever parking is  
13 available within the existing pavement.  
14 That is primarily the changes that we

15 made to the entrance configuration. In addition to  
16 that, there was some additional landscaping that  
17 were proposed. The landscaping that was shown, the  
18 screening in this area has been expanded to further  
19 screen the proposed parking lot from the property  
20 across the street. In addition to that, they have  
21 added some additional evergreen screening in this  
22 area to further screen the parking area.

23 Also, what we have done is at the last  
24 hearing there were some questions regarding  
25 screening the residents that is shown on this

1 property, due to some openings within the existing  
2 hedgerow that is located along this property.

3 We have added this note here,  
4 indicating that the applicant will meet with Tom  
5 Decker's office to review the screening in the  
6 field, and appropriate screening will be provided in  
7 this area.

8 Also, along this property line, the  
9 original screening proposed on the prior submission  
10 stopped at approximately this area. There were  
11 discussions with the applicant and the board that we  
12 should extend that screen to cover the entire field  
13 parking area and additional landscaping has been  
14 added in this area, to further buffer this field  
15 parking from the adjoining property.

16 There were also conversations regarding  
17 the buses as they would exit from this gravel lane.  
18 On the prior submission, there were two parking  
19 spaces, one shown in this area and one also that was  
20 shown here, that there could be a potential  
21 conflict. What we have done is this striped area  
22 will be painted on the existing pavement. That is a  
23 no parking area. That eliminated two of the  
24 existing on-pavement parking area that was  
25 previously applicable to Artie's.

1 The current use of Artie's requires a  
2 total of 53 parking spaces. With these two spaces  
3 eliminated, the applicant is still proposing 54  
4 parking spaces. That allowed any buses or traffic,  
5 as you are exiting this parking area, to have a more  
6 direct access to the existing aisle and exit point  
7 onto Route 12.

8 And the final significant change that

9 was made is -- at the last board meeting, there was  
10 some discussion regarding the sign that Delaware  
11 River Tubing uses during their seasonal operation.  
12 It was suggested that the applicant move that sign  
13 closer to the right-of-way to create more visibility  
14 and to provide more appropriate notice to patrons  
15 who are looking and travelling along Route 12 where  
16 the DRT parking actually is.

17 That sign has been relocated to  
18 approximately this area and that sign is going to be  
19 located about 3.2 feet from the existing  
20 right-of-way on this existing property.

21 I believe that completes the major  
22 changes that the applicant has made. There is some  
23 signage to be placed in appropriate locations.

24 We have corrected the parking or the  
25 directional arrows within the existing pavement.

8

1 And also, there is a temporary sign that the sign is  
2 proposing, an A-frame sign that would indicate that,  
3 during the DRT's seasonal operation, this would be  
4 an exit-only drive. That sign would be removed at  
5 the end of each day when DRT is not in operation, so  
6 that driveway, during DRT hours, would function as a  
7 one-way drive. And when they are not there, be it  
8 the weather or their off season, that sign is going  
9 to be removed and stored appropriately.

10 MR. HOFFMAN: That is it.

11 CHAIRWOMAN HARING: Does the board  
12 have any questions?

13 Charles?

14 MR. McBRIDE: When we had the earlier  
15 discussion about trucks coming in with deliveries,  
16 weren't they supposed to use that entrance for the  
17 deliveries?

18 MR. ERIC RUPNARAIN: This entrance  
19 here?

20 MR. McBRIDE: Yes.

21 MR. ERIC RUPNARAIN: I believe so.

22 MR. HOFFMAN: No. They come in from  
23 the east.

24 MR. McBRIDE: So, they are going to be  
25 in front of the loading dock and if there is a

9

1 delivery happening during business hours, are they  
2 going to stand in front of that loading dock,  
3 because that loading dock is pretty informal.

4 MR. HOFFMAN: The testimony has been  
5 that there are no deliveries of that kind during  
6 business operation. They occur only in the morning,  
7 if I recall correctly.

8 MR. McBRIDE: You are saying that  
9 there is going to be no deliveries during the DRT  
10 business hours, which start at what?

11 MR. MATEO BATTIMELLI: Sometimes a  
12 delivery might run late. If he can't enter -- what  
13 do you do if a truck breaks down and shows up later,  
14 push them away and come next week?

15 MR. McBRIDE: So, what is your  
16 proposal for remediating the traffic that will have  
17 to go around that truck or --

18 MR. MATEO BATTIMELLI: Before we open  
19 -- right before we open is usually when the  
20 deliveries come.

21 MR. McBRIDE: What are the operating  
22 hours of the pub?

23 MR. MATEO BATTIMELLI: During the  
24 week, we open at two in the afternoon. Weekends we  
25 open at 12 noon.

10

1 MR. McBRIDE: They are opening, I  
2 believe, the business, The Delaware Valley (sic)  
3 business opens when? The Delaware River Tubing?

4 MR. JAY TROUTMAN: Jay Troutman,  
5 traffic engineer. I am still under oath.

6 I evaluated that east side of the  
7 building, where there is a designated loading area  
8 for delivery. And, No. 1, the loading area is  
9 plenty-sized to handle any size delivery truck. It  
10 is overly-sized in terms of width. You still have  
11 excess with -- for any vehicle to pass by that  
12 truck, if it were to be sitting there simultaneously  
13 at the same time. You could have both things going  
14 on at the same time on the site and not have any  
15 issue that they could simultaneously exist.

16 I also did talk to the owner and  
17 confirm that certainly before they open they take  
18 most of their deliveries, to answer your question  
19 about the hours.

20 MR. HOFFMAN: My engineer has  
21 calculated the distance between the loading area and  
22 the other side of the paved surface.

23 MR. ERIC RUPNARAIN: Even if there is  
24 a truck that is parked in that loading zone, we  
25 still have about 17 feet that is available for

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1 bypass traffic, and, in fact, entering the traffic  
2 on the existing property. They are not going to be  
3 precluded from going on to the parking lot and  
4 parking or exiting the site as necessary.

5 MR. McBRIDE: I am not convinced.  
6 Sorry.

7 MR. BANISCH: Hours of operation?

8 CHAIRWOMAN HARING: -- area located on  
9 either of the drives, whether it be the one for the  
10 cars to go right or going straight, the loading area  
11 is separate from those two areas.

12 MR. JAY TROUTMAN: Yes, this is out of  
13 the area of onsite traffic completely.

14 CHAIRWOMAN HARING: Is out of the  
15 traffic?

16 MR. JAY TROUTMAN: Out of the traffic.  
17 Oversized one-way aisle is available. It is just a  
18 matter of numbers. There is no way to dispute the  
19 fact that those two things can happen at the same  
20 time.

21 MR. BANISCH: You were asked about the  
22 hours of operation.

23 MR. MATEO BATTIMELLI: We open at two  
24 during the week and on the weekends we open at 12,  
25 once again.

12

1 MR. BANISCH: Thank you.

2 MR. PIERCE: Just to confirm  
3 Mr. Battimelli, I think your testimony was that on  
4 the weekend you would close at midnight and on the  
5 weekend you would close at 2 a.m.?

6 MR. MATEO BATTIMELLI: That is  
7 correct.

8 CHAIRWOMAN HARING: Any other  
9 questions?

10 MR. HOFFMAN: Mr. Pierce and my office  
11 exchanged correspondence and had some conversation  
12 as well. Mr. Pierce has prepared a list of the bul  
13 and use variances, along with design waivers in  
14 conjunction with us. I have marked that as Exhibit  
15 A-57.

16 Also, Mr. Pierce brought with him a  
17 list of proposed conditions that would be referenced  
18 as a schedule. Do we have any exceptions to the  
19 schedule?

20 MR. PIERCE: Just for the record, I  
21 have not circulated that to the board yet. The  
22 board has not discussed whether it is considering an  
23 approval or disapproval at this point.

24 MR. HOFFMAN: For the purposes of  
25 these variances and design waivers we prepared in

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1 writing, we can certainly read it out loud and I  
2 reviewed it and it seems to cover everything that  
3 has been addressed. That is why I marked it. I  
4 understand a copy of this has been distributed and  
5 this would be a variance request, along with the  
6 design waivers.

7 MR. STEPANOVSKY: Mr. Pierce?

8 MR. PIERCE: Yes.

9 MR. STEPANOVSKY: I have a question for  
10 you. One of the things that they have to  
11 demonstrate is that this can be divided up into two  
12 different pieces.

13 MR. PIERCE: That is what the  
14 ordinance requires. So they are requesting a  
15 variance from that requirement. I presume, based  
16 upon the seasonal nature, albeit a permanent  
17 seasonal nature of the business and the fact that  
18 the only structure related to this business is that  
19 of a small office.

20 But typically, if they were able to  
21 demonstrate that the two uses could be subdivided  
22 into two conforming uses, two conforming lots, they  
23 wouldn't need a variance for putting two principal  
24 uses on a single lot. Since they can't do that,  
25 they need a variance from that condition.

14

1 MR. BANISCH: If you are concerned  
2 about that, an appropriate condition might be no  
3 subdivision of the parcel, so long as the two uses  
4 share that tract.

5 MR. PIERCE: There was a question  
6 from one of the board members about one of the  
7 conditions listed or one of the variances required  
8 in the list, which is a variance to permit two  
9 principal uses on a single lot. And that variance  
10 is required because if they could put two uses on a  
11 single lot in such a condition that they could be  
12 subdivided and be conforming uses on separate lots,  
13 then it would be permitted under the ordinance to



14 have two uses on a single lot.

15           Since they cannot satisfy that  
16 condition, they require a variance from that  
17 condition.

18           Mrs. Banisch suggested that an  
19 appropriate condition, if there was concern about  
20 that, would be -- if there is approval, an  
21 appropriate condition would be a prohibition against  
22 subdivision of the lots while both uses remain --  
23 subdivision of the lot into more than one lot while  
24 the two uses remain on the property.

25           MR. BANISCH: Thank you.

15

1           MR. HOFFMAN: That is what we would  
2 ask the board to vote on tonight, this list. Again,  
3 I can read it out loud, but we have written it out  
4 and tried to --

5           CHAIRWOMAN HARING: David, we have  
6 been over quite a few of these items on the list.  
7 We did say that we would waive -- back months ago,  
8 didn't we? I know, Tom, you went through the list  
9 as well.

10           MR. PIERCE: I think what was waived  
11 was for completeness purpose. It was not waived for  
12 purposes of deciding on the variance application.  
13 That would not be proper.

14           CHAIRWOMAN HARING: Mr. Hoffman  
15 doesn't want to go through item by item, but how  
16 else are we going to say whether we agree to it or  
17 not?

18           MR. PIERCE: I don't think there is  
19 any real dispute as to the variances that are  
20 necessary or required in connection with the  
21 application or that they are asking for them  
22 separate. This is a summary of them. Eventually,  
23 once the board closes the testimony portion of the  
24 hearing, the board will deliberate about all of  
25 these variances and various conditions the board may

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1 or may not want to impose with respect to the  
2 difference variances.

3           MR. HOFFMAN: To be clear, I don't  
4 have any further testimony to offer, unless the  
5 board has additional questions of us, based on this  
6 list. I can certainly read it aloud in summary form  
7 and/or certainly read them one by one. But I was

8 hoping that a writing of this kind would facilitate  
9 a motion or further questions of me or my experts on  
10 further line items, numbers, but I would like to see  
11 if the board could move at this time.

12 CHAIRWOMAN HARING: Does the board  
13 have any questions of the professionals?

14 MR. McBRIDE: Item 19 says that it  
15 needs some testimony associated with the separate  
16 trash dumpster.

17 MR. HOFFMAN: We are using two  
18 separate dumpsters. I am bringing the site plan  
19 back up.

20 MR. McBRIDE: Mr. Pierce, does that  
21 require a separate variance, two separate dumpsters?

22 MR. PIERCE: No. The purpose -- I  
23 wasn't certain whether they had two separate  
24 dumpsters. I couldn't locate the second dumpster  
25 myself on the plan. So I just put that in there as

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1 something and made a note that it needed to be  
2 discussed, because I wasn't sure how it had been  
3 handled at this point.

4 CHAIRWOMAN HARING: Will there be a  
5 second dumpster?

6 MR. HOFFMAN: So there is an area  
7 shown for dumpster.

8 MR. ERIC RUPNARAIN: Correct, in this  
9 hashed area is where the dumpsters are going and I  
10 believe Artie's will have their dumpsters --

11 MR. HOFFMAN: So, the hashed mark site  
12 in that drawing is where our dumpster is going to  
13 be, and Artie's dumpster is to the left, correct?

14 MR. ERIC RUPNARAIN: Correct.

15 MR. McBRIDE: How is access to that  
16 first dumpster done when you have got a parking  
17 space right there?

18 MR. HOFFMAN: You mean the area that  
19 is clear with no hash?

20 CHAIRWOMAN HARING: If I can  
21 interrupt, it says that it is 16-foot wide and even  
22 if dumpsters -- if you have a two-yard, it is what,  
23 six-feet wide, so there is more than enough room to  
24 put two in there.

25 MR. ERIC RUPNARAIN: Correct, if we

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1 had to put multiple dumpster in there.

2 CHAIRWOMAN HARING: That is just  
3 designated as the dumpster area.

4 MR. ERIC RUPNARAIN: Correct.

5 MR. BANISCH: What time is trash  
6 pickup?

7 MR. MATEO BATTIMELLI: The last  
8 meeting, we determined that it was well before  
9 anybody shows up at Artie's. So, it is an  
10 early-morning pickup.

11 MR. BANISCH: And you don't expect  
12 those parking spaces to be occupied when the trash  
13 is picked up, is that correct?

14 MR. PIERCE: One second. Just for the  
15 record, this is Mr. Battimelli responding again.

16 MR. MATEO BATTIMELLI: Yes, we don't  
17 open until two during the week and they pick up  
18 early in the morning. So there is usually no cars  
19 in the parking lot.

20 MR. BANISCH: Thank you.

21 MR. McBRIDE: I am sorry, can you  
22 please stay for a second? Are you required to have  
23 separate dumpsters for recycling and for trash?

24 MR. MATEO BATTIMELLI: Required by  
25 who?

19

1 MR. BANISCH: Law.

2 MR. HOFFMAN: Any authority of any  
3 kind, to your understanding?

4 MR. MATEO BATTIMELLI: I don't believe  
5 I was ever required to have a recycling dumpster,  
6 no.

7 MR. PIERCE: Actually, I have another  
8 follow-up question on that. Do you have a separate  
9 dumpster for oil?

10 MR. MATEO BATTIMELLI: We have a  
11 container. It is not really a dumpster.

12 MR. PIERCE: Where is that located?

13 MR. MATEO BATTIMELLI: It is by the  
14 building.

15 MR. PIERCE: Can you show us?

16 MR. MATEO BATTIMELLI: Right about  
17 there.

18 MR. PIERCE: Okay. Thank you.

19 CHAIRWOMAN HARING: Are there any  
20 other questions for this waiver listing of the  
21 professionals that are here this evening?

22 If not, at this point, we are going to  
23 open the hearing for testimony from the public. If  
24 you are a --

25 MR. PIERCE: Also, if they have any

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1 questions on the testimony given tonight.  
2 CHAIRWOMAN HARING: Are there any  
3 questions of the professionals that are here this  
4 evening? First we will go with the property owners  
5 within 200 feet. And this is just for questions.  
6 We will get to testimony afterwards. Is there  
7 anyone that has questions of the professionals? Is  
8 there anyone in the audience that have any questions  
9 of the professionals?

10 All right. So, at this point we will  
11 have testimony from the property owners that live  
12 within 200 feet of this business. I am going to ask  
13 that you try to limit yourself to five minutes.  
14 Please don't repeat what you have said last month.  
15 That is on the record. We know what you said. So,  
16 if you have anything new that you would like to  
17 bring forward, please do.

18 MR. JOHN KIKA: John Kika. I am a  
19 neighbor of the property.  
20 (John Kika was sworn in.)

21 MR. JOHN KIKA: Actually, it is more  
22 of a question for the engineer. But when are these  
23 proposed changes going to take place? I see you  
24 have additional trees and the roadway, when are they  
25 actually going to take place in terms of after the

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1 applicant is approved.  
2 MR. HOFFMAN: As part of the condition  
3 listing that Mr. Pierce has prepared, there is  
4 reference to phasing. In terms of hard scape, we  
5 respectfully ask for the ability to have that done  
6 by the operation of 2016. In other words, the  
7 fencing, the ADA parking and if the gravel is  
8 required.

9 Otherwise, the list of conditions  
10 discusses the compliance escrow relative to trying  
11 for one season at the inspection of Mr. Decker on  
12 two times during the year as to whether or not the  
13 looping area is being maintained properly and  
14 suffering in any regard to the required gravel.

15 We will see how things work for the  
16 rest of this season and 2016. And then for 2017, it  
17 would be accomplished by the open of operation. Th  
18 screening of plantings and so forth that are

19 referenced on the site plan. So hard scape, by the  
20 operation of 2016. And the remainder by 2017, of  
21 course, subject to the pathway around the property.  
22 Hopefully that answers your question.  
23 MR. JOHN KIKA: John Kika again.  
24 Question about the temporary sign. Is that still  
25 going to be the boat sign and does that height so

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1 close to the road meet the variances for that?  
2 MR. ERIC RUPNARAIN: Right now, it is  
3 still going to be the boat sign. And the variance  
4 we are requesting is for the location, not the  
5 height or --  
6 MR. JOHN KIKA: Because I know there  
7 was an issue with the amount of lettering or  
8 verbiage on the boat. We asked if it could be just  
9 a little bit more conforming with the scenic  
10 overlook of Kingwood Township.  
11 MR. HOFFMAN: It just strikes me as  
12 that is the minimal amount of information that we  
13 can relate to individuals to understand the nature  
14 of the enterprise. River tube rides, the phone  
15 number and the website. The only thing that you can  
16 take away from that is "www" because I think we have  
17 all figured out by now we need that in the website  
18 address.  
19 CHAIRWOMAN HARING: I think at the  
20 last meeting, we discussed moving the sign, which we  
21 made -- everyone was in agreement.  
22 MR. DECKER: That was my suggestion,  
23 to move the sign, but there is still an issue with  
24 the regards to the sign being a portable sign, the  
25 size of the sign, the number of letters and so

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1 forth. That still requires a variance.  
2 CHAIRWOMAN HARING: Does anyone else  
3 have any testimony they would like to give before we  
4 close the hearing?  
5 MR. KEVIN LINDELOW: Kevin Lindelow,  
6 1163 Route 12, down on the hill.  
7 (Kevin Lindelow was sworn in.)  
8 MR. KEVIN LINDELOW: First off, I  
9 really didn't want to be here. This is not  
10 something I try to get involved with, but my  
11 experiences from last year -- I live on the hill,  
12 about a quarter mile down, right side.

13           Twice last summer, coming home from  
14 being out for the day, came home to trespassers on  
15 my property. The first time was some foreigners in  
16 a van with broken English looking outside, looking  
17 at an old pickup truck that I had parked. I asked  
18 them what they were doing. They said, "For sale.  
19 For sale."  
20           "No, it is not for sale." I said,  
21 "What are you doing here."  
22           "Well, we are tubing up at -- tubing."  
23 So they leave. I chased them out.  
24           I drive halfway up the drive, I said,  
25 you know, let me go down to make sure every was good

24

1 with the pickup. I go and turn around to where they  
2 were standing, and there is two large puddles. They  
3 were urinating on the side of my truck, one of them  
4 on the tire. Luckily they had gotten out there  
5 before I saw that.  
6           Second time, about two weeks later,  
7 again, I come home late in the afternoon. There is  
8 a small bridge I have in my driveway that goes over  
9 a little creek. There is a car parked there, four  
10 doors open, four or five people in it. They have  
11 got their feet up on the windows and their towels  
12 and some swimming trunks are laid over the railing  
13 of my bridge, drying.  
14           They are having sodas and like a little  
15 picnic. I said, "What are you doing?"  
16           "We are coming down from the tubing.  
17 We decided to have a little rest."  
18           I am like, "This is private property.  
19 Please leave." That is only two that I have ever  
20 come across. Who knows what goes on while I am not  
21 there.  
22           The other thing I have is just basic  
23 what everybody else has been saying. The traffic  
24 issues around here, I have seen two or three minor  
25 fender-benders just last year, just down front here.

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1 These people coming to visit, they are not familiar  
2 with the area. They -- you come around that bend  
3 there with that hill, somebody is going to get into  
4 a serious accident. It is almost guaranteed.  
5           The other issue, main issue my wife and  
6 I have is the buses. Coming down that hill, it is

7 the steep part of the hill, they are either coming  
8 down off the gas, the accelerator. And these are --  
9 I bet you couldn't say a single one of those buses  
10 is newer than 1990.

11 They have virtually no emissions,  
12 smoking constantly. It is worse than the trucks  
13 during the week. We cannot have our windows open.  
14 We cannot sit out on the patio. I pay some of the  
15 highest property taxes in the United States to live  
16 here. And I don't think we should be subjected to a  
17 -- excuse me, but a low-rent enterprise. This is  
18 not the location for these guys.

19 I feel for you guys. I am  
20 pro-business. I didn't want to do this, but you  
21 need to do the right thing and they need to buy or  
22 lease a piece of property on the river. What is in  
23 this for Kingwood? None of you people live in this  
24 section. So, you don't have to deal with the  
25 constant buses up and down. When they are going up

26

1 the hill, it is even worse, because they are blowing  
2 smoke with the load.

3 The other thing is -- that is the --  
4 there are others, but I can't think of them at the  
5 moment, but the only other thing I can say is every  
6 single person that is pro for this being here has a  
7 monetary gain. The only people who are against it  
8 are the ones that don't and live here and are going  
9 to have to deal with this.

10 Personally, I can't see how it has even  
11 gotten this far with this mess, but I am not happy  
12 at all. I have been here 25 years. They don't even  
13 live in New Jersey. They don't even pay the taxes  
14 we pay. I think it is a very, very bad decision for  
15 this whole township. I think that is about it. I  
16 am sorry and I mean you guys -- I wish you guys the  
17 best in your enterprise, but this is not the spot  
18 for you.

19 CHAIRWOMAN HARING: Anyone else in the  
20 audience that wishes to give testimony?

21 MS. MELISSA ALLEN: Melissa Allen,  
22 A-L-L-E-N.

23 (Melissa Allen was sworn in.)

24 MS. MELISSA ALLEN: I do have a  
25 monetary gain. My son works for him. I live in the

27

1 town, and I don't think that what he is doing is any  
2 more awful than any other business around here. I  
3 live in Frenchtown. I am not complaining about the  
4 people in the market, breaking into my home, into my  
5 cars. I have no trespassing signs up. He can't  
6 control his customers when they leave. I have never  
7 heard of any other business that have customers  
8 admit that they are coming from this business to  
9 urinate on somebody else's property.

10 (Off the record.)

11 MS. MELISSA ALLEN: Let the man run  
12 his business. Let this family have their business  
13 and let these kids get back to work.

14 CHAIRWOMAN HARING: Is there anyone  
15 else in the audience that would like to say  
16 something?

17 MR. JOHN SNYDER: My name is John  
18 Snyder. I have lived in Kingwood for 29 years.

19 (John Snyder was sworn in.)

20 MR. JOHN SNYDER: Any other business  
21 in the township has to have a proper office. How  
22 can you allow a garage or a shed as an office  
23 without proper electric, ventilation and all the  
24 rest of the stuff that goes along with the Building  
25 Code?

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1 Now, what happens if he doesn't do what  
2 he says he is going to do. Is there going to be any  
3 penalty? Is there going to be any bond put up for  
4 any work that he is supposed to do and have it done  
5 when he says he is supposed to have it done? Is  
6 there any fine for noncompliance?

7 I know last year I was sitting in this  
8 -- I think it was -- one of the boards, and there  
9 was an issue brought up about the sign and  
10 Mr. Decker told him that it was totally illegal for  
11 him to have that sign. And I believe that was in  
12 the beginning of July. And that sign stayed there  
13 all summer long, after he was told that it wasn't  
14 illegal (sic).

15 That is it. I am a tax-paying citizen  
16 here, and I just want to make sure what he is doing  
17 is good for Kingwood. Everything I have seen and  
18 hear, he is going to come in, make his money and  
19 Kingwood is going to be left holding the bag. Thank  
20 you.

21 MR. HOFFMAN: Madam Chair, my only  
22 comment to that is the listing of conditions that



23 was provided of a reference to a performance bond,  
24 No. 30. I know you haven't seen the list yet, and  
25 we have obviously discussed on the record a bond

29

1 for, if the operation closes, the removing of the  
2 hard scape and so forth. So it is certainly  
3 contemplated.

4 MR. McBRIDE: If it pleases the  
5 committee, when we go to look at the waivers that we  
6 are going to consider, shouldn't that be on the  
7 record so the public can comment on that also, or  
8 does that come after the hearing is closed, because  
9 I don't know what the whole list of these conditions  
10 will be or waivers that we are looking at.

11 CHAIRWOMAN HARING: The waivers that  
12 we are looking at are the ones that are in front of  
13 us.

14 MR. McBRIDE: I am sorry. I am mixing  
15 up the terminology. Any of the conditions that may  
16 or may not be part of this.

17 MR. PIERCE: That is -- what the  
18 board has to do is -- I mean, there has to be a  
19 point where the board closes the testimony and  
20 evidence and questions and the board deliberates and  
21 the board -- you can get a sense for where the board  
22 might be going with some of the questions and  
23 discussions it has, but the board can't discuss  
24 conditions -- I mean, it is appropriate for the  
25 board to consider conditions with respect to the

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1 variances and the operation. And the board has to  
2 make a judgment about what conditions are  
3 appropriate based on the testimony and evidence that  
4 has been presented, both from the applicant and the  
5 objectors and from the Board's professionals as  
6 well, and the board's own experiences.

7 I think it would be unduly cumbersome  
8 to try and have a colloquy or a discussion with the  
9 applicant and the public about each and every  
10 possible condition.

11 MR. McBRIDE: Thank you.

12 CHAIRWOMAN HARING: Is there anyone  
13 else in the audience that has anything they would  
14 like to say?

15 MS. DIANA EVANS: Diana Evans. I am  
16 on Route 29, 3410.

17 (Diana Evans was sworn in.)  
18 MS. DIANA EVANS: Just a question.  
19 What are your operational dates? What are their  
20 operational dates, as far as, is it the beginning of  
21 June to the beginning of September?  
22 MR. HOFFMAN: The testimony that was  
23 provided at the last meeting was Memorial Day  
24 through the third week of September. And the  
25 applicant can correct me if I mischaracterize that.

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1 And the beginning and the end of the season is  
2 always dependant on weather and how the river is  
3 accommodating as well.  
4 MS. DIANA EVANS: So, for about four  
5 months, because I have seen in print that it is  
6 closer to four months and I think it is closer to  
7 four, just to clarify.  
8 MR. HOFFMAN: Three and a half, plus  
9 or minus. Again, if the river is not accommodating  
10 tubers -- if the river is low --  
11 MS. DIANA EVANS: I have seen myself  
12 that they really try to start mid-May and they go to  
13 at least mid-September and to me is four months and  
14 I just don't why it is claimed as three months.  
15 MR. HOFFMAN: Understood.  
16 MS. KAREN NUCKOLS: Karen Nuckols. I  
17 live at 2753 Daniel Way, which is Route 29.  
18 (Karen Nuckols was sworn in.)  
19 MS. KAREN NUCKOLS: I really wasn't  
20 going to say anything until I heard the gentleman  
21 earlier.  
22 I just want to say -- well, I really  
23 wish no harm and it is only a seasonal operation,  
24 but what needs to be considered is, the weeks that  
25 we enjoy our property -- this is the first time in

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1 seven years that I have been able to leave my  
2 windows open, I have been able to have a  
3 conversation on my front porch. And yes, we do, we  
4 pay a lot of money to live here. Our home and  
5 location are our biggest investment, and this is  
6 affecting our quality of life.  
7 Buses go by my house every five  
8 minutes. We have to stop a conversation for a bus  
9 to go by and then start. I have loud speakers  
10 telling people to stay to the left for the hot dog

11 man. That sound travels so far off that river. I  
12 don't think their neighbors would appreciate loud  
13 speakers selling hot dogs. They don't, and I think  
14 you need to be more aware of your neighbors.

15 The other thing is, I have a question  
16 on the lighting. I see that they are not requiring  
17 lighting. Last year, 10:30 at night, there were  
18 buses coming back pulling people off the river.  
19 What time will you stop putting people on the river?  
20 Will you close the door? Will you tell the people,  
21 nothing at four o'clock on the river?

22 MR. HOFFMAN: Four o'clock. And if we  
23 need to post hours of operation to make that certain  
24 to our clients, we will certainly do that.

25 MS. KAREN NUCKOLS: Close the parking

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1 lot, regardless of how many people are in the  
2 parking lot, the last bus to leave out at  
3 four o'clock.

4 MR. GREGORY CRANCE: Yes.

5 CHAIRWOMAN HARING: Mr. Crance, can  
6 you have a last call on the bus, like a last time  
7 when someone should pull away and you say, I am  
8 sorry, that was the last bus. Will you do that?

9 MR. GREGORY CRANCE: Greg Crance, and  
10 I am still under oath. Yes. We close the door  
11 strictly at four o'clock and don't let anybody in.  
12 They need to be on that bus by 4:15. That is it.  
13 We cut out, because we don't want anyone else out  
14 there at dark.

15 CHAIRWOMAN HARING: So, really, the  
16 only people that are left in the parking lot is the  
17 busload that you just took?

18 MR. GREGORY CRANCE: Right.

19 CHAIRWOMAN HARING: The rest of them  
20 are on their way out?

21 MR. GREGORY CRANCE: Right. That is  
22 correct. We stop allowing in at four o'clock, no  
23 matter what.

24 CHAIRWOMAN HARING: And you have no  
25 control over how long it is going to take them to

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1 come down the river.

2 MR. GREGORY CRANCE: No. But that is  
3 a very, very rare situation. If we have a variable  
4 river or an upriver wind or the wind changes, it

5 could be something totally out of control, but it is  
6 extremely rare.

7 CHAIRWOMAN HARING: Is there anyone  
8 else in the audience that has anything they would  
9 like to say? If not, the proceedings are hereby  
10 closed and we will deliberate.

11 MR. STEPANOVSKY: Before you close the  
12 proceedings, I need to ask Tom a question.

13 The new entrance to that building, will  
14 it be big enough so that there is no backup between  
15 the buses and the people coming in, so that it backs  
16 up on the road?

17 MR. DECKER: The way that the  
18 entrance is designed is to get the bus -- first of  
19 all, to provide a turning radius for the bus to  
20 enter the site. Those buses heading in an easterly  
21 direction were not able to make that turn into the  
22 existing Artie's driveway. The concern was getting  
23 buses into the site and avoiding the confusion at  
24 the intersection.

25 Before, customers for Artie's would

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1 take the Artie's driveway, bearing to the left; and  
2 tubing company, buses and cars, would go to the  
3 right, which created some issues, as far as stacking  
4 of the vehicles turn in as you are coming westbound  
5 on Route 12.

6 By providing this design, the cars  
7 travelling westbound don't have to make a decision  
8 as to whether or not they are going to Artie's or  
9 the tubing company until they get further into the  
10 site.

11 The buses will still be going into that  
12 eyebrow section and it provides stacking for at  
13 least two buses in that area to allow for vehicles  
14 to continue going through Artie's.

15 Ideally, from an engineering  
16 standpoint, it would be better for a long-term  
17 solution if Artie's driveway and that new section  
18 were combined, if you will, took that new section  
19 and widened it and eliminated part of Artie's  
20 driveway to make it a single driveway coming in, as  
21 opposed to still having that split. I think it  
22 provides a longer term solution than what is there  
23 now.

24 What is proposed would satisfy the bus  
25 turning. It is just that you kind of still have

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1 that split in there. So I would -- my preference  
2 would be the long-term, that Artie's driveway be  
3 reconfigured to kind of follow that bus movement.

4 MR. STEPANOVSKY: So, in other words,  
5 you are recommending that both Artie's driveway and  
6 the turning driveway be one and the same?

7 MR. DECKER: Correct. So basically,  
8 if you took that gravel or -- I think you decided  
9 last week that that would be paved --

10 MR. STEPANOVSKY: Yes.

11 MR. DECKER: So, if you took that and  
12 basically widened that a little bit more to provide  
13 the Artie's driveway, you are almost there. You can  
14 almost kind of picture it there. If Artie's came in  
15 more 90 degrees to the road and had the turning  
16 radius for the buses coming in.

17 MR. LAUDENBACH: How wide is the spot  
18 that is left?

19 MR. DECKER: How wide is --

20 MR. LAUDENBACH: That is in between  
21 the two.

22 MR. DECKER: I believe it is about  
23 ten feet at its widest. So, over time, they may  
24 start becoming more one, you know, if cars clipped  
25 the corner or whatever.

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1 So, ideally, if you were looking at  
2 this from scratch, you would have one driveway  
3 coming in without the split.

4 CHAIRWOMAN HARING: Any other  
5 questions for the professionals?

6 I am going to start with -- the zoning  
7 laws and the codes that are in Kingwood Township are  
8 put in place as guidelines to what you can do with  
9 your property. There has been a lot of concern  
10 about this business going in, which is a seasonal  
11 business.

12 The codes and laws are not perfect and  
13 they are not a one-size-fit-all. And if you want to  
14 do something with your property and an ordinance  
15 says you can't, you come to us. We are the board of  
16 adjustment. We make adjustment to zoning codes and  
17 law so that remedies can be found for all parties  
18 concerned.

19 Mr. Crance was probably wrong to not  
20 have started this process earlier in the year  
21 causing this application to drag on into his prime

22 season.  
23           What he has done right is that he has  
24 been agreeable with our engineer's suggestions.  
25 Many of his neighbors requested, plant more trees

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1 and shrubs, just to name a few. And if this  
2 application is approved, this board of adjustment  
3 will place conditions on his resolution that have to  
4 be met.

5           The board has to also weigh the  
6 negative and positive criteria in making its ruling.  
7 Something you don't agree with or something that has  
8 never been there before or something that you don't  
9 want to see does not qualify as negative criteria.

10           The parking area is remaining grass and  
11 not macadam. That is positive. There will be no  
12 additional runoff. He is installing fencing. This  
13 will ensure order in the parking, as well as safety  
14 for the patrons.

15           He is installing a better, safer  
16 entryway. These are just a few of the positives.  
17 Delaware River Tubing brings patronage and commerce  
18 to local businesses. We have restaurants, markets,  
19 an ice-cream stand, a tavern, auto parts and repair  
20 shops, farm store, and we have the scenic Delaware  
21 River. He brings safety and accountability to the  
22 enjoyment of that river.

23           To say no to this application now would  
24 be unjust when we have previously said yes. We said  
25 yes with the condition that he find adequate

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1 parking.  
2           With all of the changes that he has  
3 made through this application process, I don't see  
4 where he has left anything out or said no to  
5 anything that this board has requested or our  
6 professionals have requested.

7           Mr. McBride?

8           MR. McBRIDE: I look at this  
9 application and I see at least two dozen different  
10 requests for adjustments to code in the form of  
11 variances.

12           I see a piece of property that  
13 overviews (sic) the Delaware Valley and I see it  
14 being marred so that that view is going to be gone  
15 from that area. I think that there are a lot of

16 if's, but's, most of the time, some of the time. I  
17 think that this is going to cause traffic issues.  
18 I think it has been modified to make it  
19 a little bit better, but I don't think the traffic  
20 is going to flow in here very well. I think it is  
21 obvious that the concept wasn't working last year  
22 with some of the photos that we saw with the cars on  
23 the outside. And basically, that will be what the  
24 applicant is asking for the 2015 year, what is left  
25 of it.

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1 I don't think this is a workable  
2 solution, albeit, there have been some complaints  
3 about things like buses and such. If this were put  
4 on a piece of property where it was eligible, down  
5 in, let's say, the flex area or something like that,  
6 we would still have the buses and that is part of  
7 the business. But putting this business in this  
8 area, I don't think is appropriate.

9 CHAIRWOMAN HARING: Cynthia?

10 MS. OSTERGAARD: I do have some  
11 concerns, and my concerns are that the conditions  
12 for approval being phased in over time, especially  
13 over a period of two -- possibly beyond that point,  
14 does not show good faith. I think that a business  
15 of this type -- and I am not against tourism at all  
16 in Kingwood -- does not -- is not conducive with the  
17 scenic overlook.

18 CHAIRWOMAN HARING: Lee?

19 MR. FRANK: There is nothing that I  
20 can say that hasn't been said ten times already. So  
21 I am going say I am ready to move on and vote.

22 MR. HEWITT: I have some of the same  
23 concerns. This hearing and the approval of the  
24 property on 29 and so forth and -- I was a little  
25 taken back that there hasn't been anything done on

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1 that property on 29.

2 And from some of the testimony we have  
3 heard, some of the things that were going to happen,  
4 haven't happened. There are a lot of relief here  
5 that we have to, which is -- I have doubt that, you  
6 know, that this may not happen. So, I am not so  
7 sure I am in favor of this.

8 And the site itself, I think is --  
9 there is a lot of congestion there already.

10 MR. LAUDENBACH: I think they did a  
11 nice job with the site with the screening. It is  
12 adequate. It is seasonal, and I know maybe four  
13 months, and I like that the site is going to be  
14 completely cleaned up at the end of the season.

15 I am not in favor of phasing in. I  
16 like everything to be done before next season. This  
17 season is already done. There should be definite  
18 dates for setup and the ending. And the end being  
19 not the last day of tubing, the last day any  
20 equipment is on the site.

21 MR. STEPANOVSKY: I have a little  
22 problem, especially with the entrance and where it  
23 is, especially that Route 12 is three lanes with no  
24 shoulders. So, this already leads to where it is  
25 going to be a problem with the traffic and

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1 everything. You can see by the pictures they show  
2 you.

3 You know how the people are around here  
4 driving. They have no patience. They go right  
5 around somebody. And I am afraid somebody is going  
6 to go around somebody down there and all of a sudden  
7 we have a death on Route 12.

8 Mr. Crance, we can see from the last  
9 site which we gave to him that improvements -- and  
10 he said, well, I didn't do the improvements because  
11 I am going to get another entrance down into the  
12 river. But we didn't pass it on the fact that he  
13 might get another entrance. We passed it that he  
14 would clean the place up, walk out to the path, walk  
15 down the path and go onto the boat ramp and down to  
16 the river. He has shown us nothing down there to  
17 improve that site whatsoever.

18 This site here, the problem is you have  
19 families going and then you have liquor. And then  
20 kids down there and everything, and they don't mix.

21 I am sorry that some of the kids are  
22 going to be out of a job or anything. I do not  
23 think that this is a good site for this operation.

24 MR. CIACCIARELLI: I echo what  
25 everybody else said and kind of agree with the

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1 majority that has been said. So I am ready to vote.

2 CHAIRWOMAN HARING: David, as far as  
3 -- because we haven't heard the conditions. Some of



4 them might answer what the board is having negative  
5 thoughts about.

6 I know myself, as far as the  
7 improvements to be completed by 2017 is not  
8 acceptable. It does not take a year and a half to  
9 plant shrubs and trees. A business can be brought  
10 in and have it done in two to three days.

11 As far as the fencing there, that is  
12 the same. There are companies that come in and they  
13 put in a horse arena in two days. It is called a  
14 post hole digger.

15 So, to be asking us to wait that long  
16 to see these improvements is not acceptable.

17 MR. HOFFMAN: Madam Chair, you asked a  
18 question of Mr. Pierce, but you are looking at me.

19 The variances are one issue, the  
20 conditions are another. I certainly anticipated  
21 discussing the conditions. All the conditions I am  
22 seeing on this list are things that have been  
23 discussed throughout.

24 On the issue of phasing, if the board  
25 is not inclined to grant the variances because of

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1 the phasing that we suggested, then impose the  
2 phasing on us that you require as a condition.

3 CHAIRWOMAN HARING: Thank you.

4 MR. HOFFMAN: And as to any other  
5 condition that is necessary as to site plan and so  
6 forth. Put the conditions on if you grant the  
7 variances, and then we will obviously have to deal  
8 with those conditions.

9 CHAIRWOMAN HARING: Thank you,  
10 Mr. Hoffman.

11 MR. HOFFMAN: The only other thing I  
12 can say at this point regarding --

13 CHAIRWOMAN HARING: Mr. Hoffman, I  
14 just had a question.

15 MR. HOFFMAN: I am sorry.

16 MR. PIERCE: Mary Lou, I think the  
17 most helpful thing would be to poll the board  
18 members and ask them, because some have expressed  
19 concern that they just don't feel the site is  
20 appropriate for the proposed use. We could spend  
21 another two hours reviewing the conditions.

22 I think it is appropriate to poll the  
23 board members and ask if they are willing to  
24 consider a vote for approval provided that adequate

25 conditions are imposed. Because, if there are three

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1 members of the board who are not willing to consider  
2 an approval with conditions, based on what they have  
3 heard, then there is really no point in discussing  
4 the conditions to death.

5         If there are specific conditions that  
6 the board members think would ameliorate their  
7 problems, I mean, I can read off the various  
8 conditions that I have compiled. I can read off the  
9 various conditions that I had compiled or potential  
10 conditions that I compiled. But -- and I think I  
11 should do that, but I think you should poll the  
12 board and ask each member if they are willing to  
13 vote for an approval with conditions or if they are  
14 inclined to vote for disapproval.

15         So, with that said -- and I have added  
16 conditions based on the discussion tonight. One  
17 condition I have added tonight is that no tube trips  
18 will start after 4:15 p.m., and no customers will be  
19 allowed to enter the parking area after 4 p.m.

20         The season would open at the end of  
21 May, the week before Memorial Day, and would run  
22 until the third weekend in September. The tents and  
23 equipment are to be removed at the end of the season  
24 and to be offsite by September 30.

25         No tent, bus, boat, equipment storage

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1 on the property after September 30; and no signage  
2 on the property for this operation after September  
3 30.

4         An annual compliance inspection by the  
5 township engineer for October 31, weather-  
6 permitting, and by May 15, weather-permitting, to  
7 review compliance with conditions of any approval.

8         If the township engineer determines the  
9 applicant to be noncompliant, they would have ten  
10 days to correct the condition. And if not  
11 corrected, then site plan approval would be revoked  
12 and operations not permissible until compliance was  
13 achieved.

14         I will skip -- I have a list of  
15 revisions to the plans that list various conditions  
16 and notes, but they will all be discussed.

17         Receipt of a letter from the  
18 owner/operator of Artie's confirming the hours of

19 operation; weekdays, 2 p.m. to midnight and  
20 weekends, noon to 2 a.m. He has provided that  
21 testimony, but I think, as a condition, it should be  
22 in writing.

23 One question is on the loop road that  
24 has not been resolved at all. Mr. Decker  
25 recommended the loop road to be gravel, to be

1 stabilized. The applicant has requested that the  
2 loop road remain dirt and that they provide tilling  
3 and reseeded and mulching each year at the end of  
4 operations. They have also proposed, let's do it  
5 one year and see if Mr. Decker likes it, whether it  
6 recovers; and if not, then we can do the gravel.  
7 That is one thing that hasn't been resolved, and the  
8 various conditions relating to that.

9 There would be no vehicle or vessel  
10 servicing, fueling, repair or maintenance conducted  
11 onsite. The applicant would maintain a spill kit  
12 onsite for spills of hazardous materials.

13 Receipt of a certificate of occupancy  
14 for the office.

15 Providing additional landscaping to the  
16 east side to buffer the residential dwellings,  
17 subject to the approval of Mr. Decker. The  
18 applicant has provided additional landscaping down  
19 the westerly side, down the entire length of the  
20 parking area there. There is a question whether the  
21 board wants to require further landscaping down that  
22 flag stem.

23 Receipt and submission of approval from  
24 the Hunterdon County Health Department and Kingwood  
25 Township Board of Health for use of portable

1 toilets.

2 Annual restoration of the tent, storage  
3 and portable toilet areas through tilling, reseeded  
4 and mulching.

5 A prohibition of onsite water usage by  
6 this operation. The prohibition of the installation  
7 and operation of any connection and/or conveyance,  
8 such as a hose or a pipe or any other connection or  
9 conveyance from the existing potable well on the  
10 site and/or the buildings on the site for Delaware  
11 River Tubing water consumption and/or use.

12 A condition that website and

13 advertising or promotional materials make no  
14 reference to availability of showers onsite. The  
15 applicant has already revised his website to remove  
16 that reference, and it should be imposed as a  
17 condition of approval, if approval is granted.

18 MR. BANISCH: Do you want to add hours  
19 of operation to that website as well? It closes at  
20 four.

21 MR. PIERCE: Sure. That would be  
22 fine.

23 No -- a prohibition on the discharge of  
24 any water to the ground by the operation.

25 A requirement that Delaware River

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1 Tubing and customer buses to be parked in the  
2 westerly parking area.

3 Receipt and submission and approval  
4 from the Hunterdon County Soil Conservation  
5 District.

6 The split rail fence to be removed  
7 within 90 days if operations are permanently  
8 discontinued.

9 There had been discussion at one point,  
10 and I did not see it on the revised plan, requiring  
11 a gate to be installed at the exit of the loop road.  
12 They installed a gate at the entrance to the loop  
13 road, but I did not see one on the plans for the  
14 exit.

15 There was discussion last month about  
16 removing a tree existing in the area of the new  
17 driveway eyebrow, as it has been referred. It is  
18 not shown on the plans now. So, I don't know  
19 whether it has been taken out or not, but that would  
20 be something to be clarified.

21 There was a gravel area left from 2014  
22 operations. That should be removed.

23 There will be no lighting of the  
24 parking area. There is an open question as to  
25 whether the applicant should be allowed to keep the

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1 office lights or whether they should remove that.

2 There would be a prohibition on no  
3 activities other than rental of kayaks, tubes and  
4 canoes for public customers and associated parking  
5 and provision of life jackets. Any approval would  
6 be limited to the tubing outfit. No other

7 operations.

8 No food or drink sold or provided by  
9 Delaware River Tubing customers onsite.

10 A condition that Delaware River Tubing  
11 implement, observe and enforce a no alcohol policy  
12 at the site and for customer use of equipment and  
13 service that they provide.

14 The submission of an estimate of cost  
15 of improvements, subject to review and approval by  
16 the township engineer.

17 Posting of performance bonds to  
18 guarantee the installation of the fencing, the  
19 installation and maintenance of the driveway and the  
20 loop road maintenance.

21 A condition that Delaware River Tubing  
22 make weekly inspections of the parking area and  
23 remove any and all vehicle fluid that is visible.

24 Prohibition on bus idling for more than  
25 three minutes. A requirement for the installation

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1 of "no idling" signs. And we need to decide how  
2 many and what location they should be placed.

3 Receipt and submission of approval from  
4 the Kingwood Fire Company. Receipt and submission  
5 of approval from the Hunterdon County Planning  
6 Board.

7 Receipt and submission from the  
8 owner/operator of Artie's that no Artie's customers  
9 will be permitted to park in the Delaware River  
10 Tubing's parking area.

11 If an approval was granted, no approval  
12 would be granted for Artie's operations or existing  
13 nonconformities with respect to Artie's operation or  
14 its buildings or its apartments.

15 Requirements for maintenance and  
16 funding of an inspection escrow to the semi-annual  
17 engineer's compliance inspection.

18 A condition that no use of Artie's by  
19 Delaware River Tubing customers that are parked in  
20 the Delaware River Tubing parking area. There was  
21 concern about them crossing back and forth and  
22 leaving vehicles there.

23 Receipt and submission of a letter from  
24 the owner/operator of Artie's that no food or  
25 beverage storage will be provided at Artie's for

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1 Delaware River Tubing or its customers.  
2 The office to be powered by generator  
3 for 2015 only. And for 2016 and beyond, they will  
4 require permanent electrical connections. There is  
5 a suggestion of a condition that no subdivision,  
6 while both uses are operating at the property.

7 And David may have one or two more or  
8 four or five more.

9 MR. BANISCH: Yes, I might have a few  
10 more.

11 If the turf fails to establish and soil  
12 erosion results, the township engineer can require  
13 that the applicant install bales of hay throughout  
14 the year, including during the cold weather months;  
15 and he may require double rows of bales of hay.

16 Require conventional signs instead of a  
17 boat. Have it be removed seasonally. The sign goes  
18 up when the season starts. And the sign comes down  
19 when the season is over. Have the hours of  
20 operation posted on the sign.

21 Complete the proposed eyebrow pavement  
22 this year. Require the applicant to go to DOT for a  
23 state highway access permit approval to modify that  
24 driveway. Have them prosecute that diligently and  
25 submit that permit within a month of the Board's

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1 approval and pursue that approval diligently and  
2 complete all construction of the modified driveway  
3 by 2016.

4 Install landscaping as per plan and  
5 include a condition that supplemental landscaping  
6 will be provided as directed by Mr. Decker.

7 Require recycling, both of the bar and  
8 of the Delaware River Tubing operation.

9 Those are the additional conditions  
10 that I think you need to consider.

11 CHAIRWOMAN HARING: Tom, do you have  
12 any additional?

13 MR. DECKER: No. Both the board  
14 planner and attorney covered all the conditions that  
15 I could think of.

16 CHAIRWOMAN HARING: Now, with all  
17 those conditions that were just set forth, I want to  
18 poll the board to see if it is even worthy of a vote  
19 for approval for this application with those  
20 conditions set forth. I just said that we would be  
21 polling the board to see if it is worthy of a vote  
22 of approval of this application with all the

23 conditions that have just been set forth by our  
24 professionals.  
25 MR. CIACCIARELLI: I am not happy with

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1 the site.  
2 MR. STEPANOVSKY: I am not really  
3 happy where they are, just because of the fact of  
4 traffic and safety.  
5 CHAIRWOMAN HARING: The pictures that  
6 we saw from last year, that was when Mr. Crance's  
7 employees were at the end of the driveway collecting  
8 parking. And he assured us that that would not  
9 happen. So that now it is just a free flow in.  
10 MR. STEPANOVSKY: I don't really care  
11 if he has people out there or not has people out  
12 there. When you do not have a shoulder on the side  
13 of the road, on either side and -- it is not safe.  
14 CHAIRWOMAN HARING: I just didn't want  
15 it to be set on that picture.  
16 MR. STEPANOVSKY: No. It is just a  
17 fact that it is a three-lane highway, no shoulder.  
18 If they can build shoulders on both sides, that  
19 changes the picture.  
20 MR. LAUDENBACH: With the conditions  
21 and no phasing in, yes, I would be in favor.  
22 CHAIRWOMAN HARING: I am in agreement  
23 with Jim. With those conditions and the phasing to  
24 be shortened instead of two years, I would be ready  
25 to vote.

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1 David?  
2 MR. HEWITT: I still say it is not an  
3 appropriate site.  
4 MR. FRANK I am a no also.  
5 MS. OSTERGAARD: I don't think it is  
6 the appropriate site as well.  
7 MR. McBRIDE: I agree it is not the  
8 appropriate site for this.  
9 MR. PIERCE: Then it would appear  
10 that we need a motion to deny the application.  
11 MR. FRANK: So moved.  
12 MR. STEPANOVSKY: Second.  
13 MR. PIERCE: Lee made the motion, and  
14 Peter seconded it.  
15 CHAIRWOMAN HARING: Roll call, please.  
16 MR. McBRIDE: Read it please, so that

17 we all understand what the motion is.  
18 MR. PIERCE: The motion on the floor  
19 is a motion -- the motion currently before the board  
20 is a motion to deny the application for the use  
21 variance and other variance and design waiver relief  
22 requested by the applicant requested for this  
23 application.  
24 MR. McBRIDE: Thank you, Mr. Pierce.  
25 I just want to make it very clear. An aye or a yes

1 vote will be a vote to deny the application. A no  
2 vote would be a vote to approve the application.  
3 CHAIRWOMAN HARING: We have a motion  
4 and second.  
5 Roll call, please.  
6 SECRETARY WILSON: Lee Frank?  
7 MR. FRANK: Yes.  
8 SECRETARY WILSON: Charles McBride?  
9 MR. McBRIDE: Yes.  
10 SECRETARY WILSON: Jim Laudenbach?  
11 MR. LAUDENBACH: No.  
12 SECRETARY WILSON: David Hewitt.  
13 MR. HEWITT: Yes.  
14 SECRETARY WILSON: Peter Stepanovsky?  
15 MR. STEPANOVSKY: Yes.  
16 Thomas Ciacciarelli?  
17 MR. CIACCIARELLI: Yes.  
18 SECRETARY WILSON: Mary Lou Haring?  
19 CHAIRWOMAN HARING: No.  
20 MR. HOFFMAN: I appreciate your time  
21 folks. Thank you.  
22 (Hearing concluded at 8:48†p.m.)

1  
2 CERTIFICATE  
3  
4  
5 I, RITA GARDNER, Notary Public of the  
6 State of New Jersey and a Certified Court Reporter,  
7 do hereby certify that the foregoing is a true and  
8 accurate transcript of the testimony as taken  
9 stenographically by and before me at the time, place  
10 and on the date hereinbefore set forth.  
11 I DO FURTHER CERTIFY that I am neither a  
12 relative nor employee nor attorney nor counsel of any  
13 of the parties to this action, and that I am neither



14 a relative or employee of such attorney or counsel,  
15 and that I am not financially interested in the  
16 action.  
17  
18 <%Signature%>  
19 Notary Public of the State of New Jersey  
20  
21 Dated: October 7, 2015

**All members voted AYE on ROLL CALL VOTE.**

### **CORRESPONDENCE**

M.L. Haring announced the minutes of June 4, 2015 – Kingwood Township Committee were available for review.

### **PRIVILEGE OF THE FLOOR**

M.L. Haring called for comments from the public.

ML called for the public

### **ADJOURNMENT**

It was moved by C. Ostergaard, seconded by D. Hewitt and carried to adjourn the meeting at 8:15 PM. All members voted **AYE**.

**Respectfully submitted,**

**Kris Boxwell, Secretary**