

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

The Manasquan Planning Board held a regular meeting on March 5, 2019 at 6:04PM. Chairman Hamilton opened the meeting stating that the meeting was moved up an hour due to the need for the special presentation for Ordinance and Resolution review by our Planner, Jennifer Beahm. Neil Hamilton opened the meeting stating the meeting was moved up in time for the presentation. He then asked everyone present to please stand and salute the Flag.

ROLL CALL:

Board Members Present:

Mayor Donovan, Councilman Mangan, John Muly, Robert Young, Mark Apostolou, Kevin Thompson, Neil Hamilton, Mark Larkin, John Burke,

Board Members Absent:

Greg Love arrived at 6:33PM

Leonard Sullivan

Professionals Present:

Al Yodakis – Board Engineer/Planner – arrived at 6:11PM

George McGill – Attorney

George McGill read the Sunshine Law.

Approval of minutes of February 5, 2019 – motion to approve made by Mark Apostolou, seconded by John Burke, all in favor none opposed.

Bob Young made a motion to approve the vouchers, seconded by Kevin Thompson.

Board Members Voting Yes:

Mayor Donovan, Councilman Mangan, John Muly, Robert Young, Mark Apostolou, Kevin Thompson, Neil Hamilton, Mark Larkin, John Burke

Jennifer Beahm introduced herself, she is the Planner for the Borough dealing with the affordable housing issues here for many years, specifically this round starting in 2015. The Borough has been engaged in the Court proceeding regarding the provision of housing for low and moderate income households since submitting a declaratory judgement action in 2015. We have been negotiating with the Court through their Court appointed special master whose name is Mike Bolan, we've also been negotiating with Fair Share Housing Center and their representative Adam Gordon, herself, Eric Nolan who is the Borough's Special Council for Affordable Housing along with others that have been sitting on the Affordable Housing Subcommittee, Mayor Donovan, Councilman Mangan, and the

Administrator, Tom Flarity. Jennifer went over COAH obligations and Fair Share Housing. She also went over the timeline of required Court dates and the Housing Plan Element and Fair Share Plan. She explained that the Borough had an interested party a developer who came to the table with a piece of property that was .84 acres which warranted the Borough's attention claiming that they could provide us with a project to provide affordable housing within the Borough. They have been in the process of negotiating with said developer through the Court proceedings with Fair Share Housing and the Court Appointed Special Master, which culminated this past Summer where we were pushed to force mediation with Judge O'Brien where we came to a meeting of the minds where there is going to be two (2) projects that take place. But the combined number of units between the two projects, one being Broad Street and the other being Union Avenue, the combined number of units of which is 45 units, 20% of that which is 9-units would be provided to the Borough and they would be able to take advantage of rental bonuses because they are family rental units giving us a total RDP potential of 12 units and we satisfy through these two projects. The Borough will get three rental bonuses because they will be family rentals giving the Borough a total of 12 affirmative credits in this round which has been accepted by the Court and by Fair Share Housing Center. In addition, there is a rehabilitation obligation Borough wide which is 6 units and the Borough has been consistently participated with the County and we have 8 units so we have satisfied that and we have two surplus rehab units moving forward to the next round, so that's an obligation that has been satisfied just to the diligence of the Community and moving this forward. All the affordable housing units will be on Union Avenue. Jennifer explained the entire process of how the Borough is participating with the Affordable Housing Regulations. The Borough is afforded immunity having participated in this process from this active participation in 2015 and we have an order that provides immunity for the Borough so that builders remedy lawsuits cannot come forward through 2025. If the Borough continues to participate that protection will extend while they are working through whatever comes our way in 2025. Jennifer said first we want to approve the Housing Element Fair Share Plan, then that Resolution needs to be addressed. After that then we'll talk about the Ordinances that were introduced last night at the Governing Body. They are only here for consistency with the Master Plan and that's not subject to public input. The public should input on the Ordinances at the Public Hearing at the Governing Body which is scheduled for the 18th. Mark Apostolou made a motion to open the meeting to the public, seconded by Bob Young, all in favor none opposed.

Audience Members Coming Forward:

Mark Kinn-Giurzo – George McGill swore him in, he asked if there was any consideration about growth. Why put all our stakes in one basket. Jennifer said we are really not, we are putting them in two baskets, one is on Broad Street one is on Union. We really were kind of backed into it. Mr. Kinn-Giurzo said we really don't have density. Jennifer said that's where you are wrong, we do, when you look at the mixed use development on Main Street right now you think you don't have that density. Mr. Kinn-Giurzo said Main Street is a different district, a different Zone. Jennifer said you are required under the Law to Zone for these properties included in these plans. No matter what Zone it's in. Jennifer said she

has argued this not just for this Community but for others as well. Mike Mangan said the other important proponent aside from the proximity to Main Street was the 18-20 was how this was presented. Jennifer said so right now, based on your current Zoning Broad Street could maintain 18 units, so from the Court's perspective the impact of an 18-unit project to a 22-unit project is diminimus. Jennifer said be aware they are going to have to come to this Board with an absolute Site Plan application similar to any other development application in the Community, so you will have your opportunity to review exactly what you are saying. Is the parking adequate, is the drainage adequate, is the buffering adequate, they are not absolved of going through the process like any other applicant? The difference is that they will have Zoning for their property. It's not spot zoning for affordable housing you have to under the Law. You are obligated under the Law for affordable housing purposes to zone for the project, it's required, there is nothing we can do about that.

Mark Apostolou made a motion to close the public portion of the meeting, seconded by Bob Young, all in favor none opposed.

RESOLUTION #17-2019 – Adopting A Housing Element and Fair Share Plan – George McGill read it in full. Mark Apostolou made a motion to approve, seconded by Bob Young, all in favor none opposed.

Board Members Voting Yes:

Mayor Donovan, Councilman Mangan, John Muly, Robert Young, Greg Love, Mark Apostolou, Kevin Thompson, Neil Hamilton, Mark Larkin and John Burke.

Jennifer Beahm said the next item on the agenda is a consistency review of the Ordinances that were introduced last night by the Governing Body that are a part of this overall settlement for affordable housing. We talked about them, we talked about the overlay zoning on Main Street, #71, we're talking about an upgrade to the RM Zone, we're talking about the accessory apartment program, our overall affordable housing Ordinance which just basically lays out what low to moderate housing is, as well as the establishment of your Municipal Housing Liaison. This portion of the meeting is simply whether or not these Ordinances are consistent with the Master Plan for the Borough and based on the fact that you just adopted the Housing Element and Fair Share Plan I would submit to you that the Ordinances in totality mainly #81, 82, 83, 84, 85 and 35-8 are all consistent with the Borough's Master Plan as recently adopted. Mark Apostolou asked if the Board Engineer/Planner could certify that as well based upon his position on the Board that he also ratifies this as being in conformance, Al said he does agree. Jennifer said she needs a Resolution from the Board stating that these Ordinances are consistent with the Master Plan, what will then happen is that Resolution will be forwarded back to the Governing Body, a Public Hearing on all these Ordinances will be held on the 18th at which time any member of the public is welcome to ask questions, offer opinions and what have you but right now it's just simply consistency, that's it. George McGill said he has a Resolution ready to go he asked Jennifer why he has 5 Ordinances, Barbara told Jennifer that that is correct. Mark Apostolou said there was a typo on the last page which needs to be changed

and Barbara said they have all been corrected. Mark also said on Ordinance 2282-19 on page 4 it talks about husband and wife, Jennifer said this language has been given to them by the Court. George said we need a motion finding Ordinances 2281 through 2285-19 consistent with the Borough's Master Plan. Kevin Thompson made a motion to approve, seconded by Mark Apostolou.

Board Members Voting Yes:

Mayor Donovan, Councilman Mangan, John Muly, Robert Young, Greg Love, Mark Apostolou, Kevin Thompson, Neil Hamilton, Mark Larkin and John Burke.

RESOLUTION #18-2019 – George McGill read this Resolution in its entirety, this Resolution states the Consistency with the Master Plan of the Housing Element and Fair Share Plan. 2281-19 through 2285-19. Mark Apostolou made a motion to memorialize, seconded by Robert Young.

Board Members Voting Yes:

Mayor Donovan, Councilman Mangan, John Muly, Robert Young, Greg Love, Mark Apostolou, Kevin Thompson, Neil Hamilton, Mark Larkin and John Burke.

John Muly asked for a recess – George McGill said the Board has to wait until 7 o'clock because the applicants noticed for that time, John Burke made a motion, seconded by John Muly all in favor, none opposed.

Roll Call following recess:

Mayor Donovan, John Muly, Robert Young, Greg Love, Mark Apostolou, Kevin Thompson, Neil Hamilton, Mark Larkin, John Burke.

George McGill said he had the opportunity to talk to Victoria Reinert in reference to Application #12-2019 – 360 Cedar Avenue which will be carried to May. In reviewing Al's report there was an issue as to the nature of the half-story and whether or not it complied. As far as we can tell, it doesn't comply and there seems to be some agreement on the applicant's part. The notice didn't include the reference to the half-story. George asked Victoria to send him an e-mail, she is not represented by Council. He read the e-mail into the record. She will re-notice adding the additional Variance. She asked for the April meeting but we have to put her on for the May 7, 2019 meeting. Mark Apostolou made a motion to carry the Reinhert's to that meeting, seconded by Kevin Thompson, all in favor none opposed.

Keith Henderson addressed the Board regarding the Shadlum Application – 539 Brielle Road – He said they did what the Board asked them to do, reduce both the coverage and the height variance but then he heard from Al Yodakis who was kind enough to call Keith and tell him he was having a problem with the half-story. Keith asked the Board to give them 60 days, they will re-design the house completely. Ed Donovan made a motion to carry the application to May 7, 2019, seconded by John Burke, all in favor none opposed.

APPLICATION #13-2019 –Fisher, Mark, Raymond, JoAnn – 174 Second Avenue – Block: 171 – Lot: 12 – Zone: R-5 - Keith Henderson is the attorney for this application. This property is in the AE Zone. The Board accepted jurisdiction. Keith stated the notice did not include a height variance but it did include any and all other variances or waivers which the Board may deem necessary in connection with the application. They prepared a legal memorandum which justifies the Board in hearing the application tonight. He said there is also some correspondence, after we received our original letter of denial we wrote the Zoning Officer and said we think you overlooked a height variance, he wrote us back and said no I didn't. No height variance is required because the lot is conforming. We had a discussion about it and the logistic was a portion of the Ordinance which also refers to non-conforming structures Dick thought was going to be repealed. He put the correspondence into evidence. Keith passed out exhibits. A-1, e-mail correspondence between Richard Furey and Keith's office. A-2, the letter of denial which doesn't mention the height variance. A-3, legal memorandum from Keith's office of a prior case. Keith argued the notice issue. Our notice clearly satisfies that, he read the notice in its entirety. George McGill said his position is that there is nothing in the notice that would alert anybody receiving the notice that there is a height variance required. In this matter there is a 36-foot structure proposed, 33-feet is permitted, it's a 3-foot difference, it's a significant difference in his opinion. I think somebody's opinion as to whether or not they would object or not could be changed based upon the lack of that information in the notice. It's not a technical or minor variance and under the circumstances that notice should be provided to the public on that issue. That's George's position on this. Mark Apostolou said so your opinion is we should not hear it tonight. George said yes, if it went up on appeal he would not be able to defend the hearing in the Court. Keith said in response to George's statement, the risk is on him Keith not the Board. Keith said the neighbors are all on board, and if it did go to appeal they would just knock the whole house down and build a conforming house and they will go to 38-feet. We have an absolute right to do that. George said he appreciates the risk argument he doesn't think under the circumstances the notice is legally sufficient, he can't tell the Board it's ok. Neil said we can carry this until May 7, 2019. Keith said alright that's what we'll do. Kevin Thompson made a motion to carry the application, seconded by Mark Apostolou, all in favor none opposed.

Kevin Thompson and Mayor Donovan excused themselves from the next application. Kevin lives within 200-feet, the Mayor because this is a Use Variance.

APPLICATION #27-2019 - Mallue's Auto Body – 53 Atlantic Avenue – Block: 37 – Lot: 2 – Zone: B-1 – Pre-existing non-conforming Use. The attorney representing the applicants is Roger McLaughlin. The applicant is Thomas Gelay, Sr. George McGill reviewed the notice and found it in order and accepted jurisdiction. Mr. McLaughlin said we are here under that provision of the statute which gives this Board jurisdiction to issue a certification of a pre-existing, non-conforming use. The room filled up and Mark Apostolou asked them all to enter and close the door behind them. Mr. McLaughlin proceeded with his statement. We are seeking the Board's determination that the use of

this property for automobile service and repair is a non-conforming use which existed before the Ordinance which made it a conditional use and therefore is entitled to continue. We will provide testimony to you this evening that the Gelay's use of the property for automobile repair and service goes back to 1962. Tom Gelay, Sr. and his then business partner rented the property from the couple that owned it, they continued to rent it for about 10 years then they purchased it in 1972. The testimony is going to indicate to you that since 1962 the use that has been questioned and that brings us before the Board tonight has in fact existed then and has existed continually on. The only time that has been questioned in all those years, about 57 years was last Spring when a violation notice was issued to the property owner Mr. Gelay, Sr. who is with us this evening and will testify. The property owner was required to come in and apply for a conditional use. The only reason we are here tonight is because a complaint was made by a property owner who is a member of your Board and disqualified himself tonight. He has an issue with Mr. Gelay and with his tenant. I think you will find at the end of the testimony it is a very complex set of facts, I'm going to have Mr. Gelay, Jr. testify, I'll have very brief testimony from Mr. Gelay, Sr. and a brief testimony from Mr. Mallue who has been there for a tenant for the last 17 or 18 years. I have Joseph Kociuba, a professional Planner who will testify about his review of the Borough's Ordinances going back to 1957 when this use was a permitted use in that Zone, and the amendments to the Ordinance since and he'll give you his professional opinion as a professional planner that in fact we have a legitimate pre-existing non-conforming use which has the right to continue. George McGill said on the record the way he sees it, you are looking for the certification for a pre-existing non-conforming use, so what we have to look at is when did it become non-conforming? So, that would be the change of the Ordinance when the use that is there now changed from a permitted to a non-permitted use. Then we have to look at what was there at that time, because that is going to be what's permitted as a non-conforming use. There is case law that doesn't allow for expansions so that is something we will have to address. When did it become non-conforming, what was there at that time and compare that to what's going on now. That's the overview of what we are going to look at. Mr. McLaughlin said he agrees with Mr. McGill. The testimony that you will hear from Mr. Kociuba is that the use changed from a permitted use to a conditional use in a 1972 Ordinance. We will fill in the blanks and tell you what existed between '62 and '72 and what exists now. Mr. McGill said he will swear in all Mr. McLaughlin's witnesses. Joseph Kociuba, KBA Engineering Services, Manasquan, NJ. Robert Mallue, Thomas Gelay, Jr., Paul Clancy, Thomas Gelay, Sr. Also, Al Yodakis, Board Engineer. Mr. Gelay was the first to speak, he said the business was established in 1930, his brother and he are third generation, our previous location was across the Street from the 4 Winds Restaurant, in the Mueller Building, however at the time it was called Buddy's. In 1962 they moved to 53 Atlantic Avenue, he is the president of the company, he works with his brother. We used to get three or four tractor trailers a week, we had 14 employees, his business was gigantic. They had a very sizable business. Mr. McLaughlin said back in 1962 when the business moved over to 53 Atlantic Avenue, that was under a lease that your father Thomas Gelay, Sr. had, could you describe for the Board back in '62 what took place on the property with particular reference to automobile

repairs. Mr. Gelay said he was 10 years old but he remembers moving from the one building to the other. His dad's brother was an army mechanic, when we first moved over we did not have very much in auto parts. His father had the dream of expanding into an auto part store. We had tons of products, motor oil, greases, we sold all throughout NJ and Upstate NY. The name Highway Oil, that's why it's called that. We've always had an excellent reputation. There is nothing to dispute that. It was always an auto repair shop, my uncle taught me some things. In those days we used to sell tons of products. Down the road we started to get busy, we hired a manager. On top of that we had a full-service machine shop. There were only a few at the Shore. We re-built motors. Mr. McLaughlin said let's talk about the layout of the property. You had auto parts and you had auto repair and servicing. The portion of the property that is now used by Mr. Mallue for repair services was that used back then as well? Mr. Gelay said yes, he said there is a platform behind Mr. Mallue that stored drums of oil. Mr. McLaughlin said so the expansion of your auto parts business did not impact this space, this space was always devoted to repair of automobile. Mr. Gelay said the type of repairs changed. The truth is most of those customers are dead, we've been around that long. Mr. Mallue does what was done back in the day. Since '62 the space has always been used for auto repairs. Next, Mr. Gelay, Sr. was called to testify. Mr. McLaughlin asked him if he agreed to what his son testified to. He said the dates he had to check himself. But yes everything he said was done back in the '60's. He and his brother leased the property then purchased it. He still goes down to the shop and helps out a little. He can't say the date for sure but from day one when they moved in the shop has been used for auto repairs and service. Next, Mr. Mallue came to testify, he stated he became a tenant of the Gelay's about 19 years ago. When he got there 19 years ago they were basically doing oil changes, small repairs. Tom gave him the opportunity to go in there on a handshake. That's when he started his business. It's the same space now as it was then. He described the repairs he does, oil changes, brake jobs, electronics, general service. Joe Kociuba was the next to testify. The Board accepted his credentials. He explained his review of the Ordinances and his findings at the site. In 1957 this site was zoned Industrial, they didn't identify any uses they basically allowed any Industrial Use on this particular property. This would be considered part of your Industrial Use and would be a permitted use in 1957. In 1967 the Ordinance was amended, there was a substantial amendment throughout the Borough and at that time it changed this property to the B-1 Zone and established conditional use for this particular use, it's very close to what the Ordinance states today but it is slightly different in that it had a special regulation relative to automotive service stations. At the time in '67 you were permitted a garage that serviced five (5) vehicles or less. Even in the change in 1967 this would have been permitted. In the latest Ordinances in 1972 there was a change and the conditional use criteria stayed the same but it exempted repair. So repair was not permitted as a conditional use in the B-1 Zone at that time. As testified, the use had existed well prior to that. It's my professional opinion that this is a pre-existing, non-conforming use. It existed, has existed, has continued its existence since and prior to the Ordinance change. Mr. McLaughlin recapped the testimony of Mr. Kociuba. Mr. McGill interjected that the five car definition is in the conditional use section of our Ordinance, this is not a

conditional use. This is a non-permitted use. What they are doing is establishing that before it became non-permitted in 1972 they were operating as a repair facility and that they should be permitted to operate as a repair facility now because they are a pre-existing, non-conforming use which under the Law they are allowed to continue. Mr. McLaughlin asked Mr. Mallue how many cars can he accommodate? His response was they can get three inside the building at present. Mr. McLaughlin agrees with Mr. McGill's interpretation. No further questions for Mr. Kociuba. Mr. McLaughlin had no further witnesses at this time. Neil asked him to explain to the Board other than the violation notice that was issued from the Zoning Officer indicating that the current use under current Zoning the operation is not permitted. I guess that's what generated the violation notice. Mr. McLaughlin answered yes that's correct. The violation notice indicated that we needed to apply for a conditional use permit. When you look at the Ordinance there is a reference to public garage and a section that is referred to in the conditional use but in any event the interpretation of the Zoning Officer was that you don't have any permit to be here, you need to apply to be here. We asked the Zoning Officer to recognize us as a non-conforming use. The statute does have a provision in it that you can only ask the Zoning Officer to do that within one year of the adoption of the Ordinance. Somebody would have had to ask the Zoning Officer that back in 1967, or 1968. Otherwise the avenue of determination is here with the Board, so that's why we are here. Neil said I don't recall why that was even changed. Mr. McLaughlin said we did ask the Zoning Officer to provide the entire file on this property but the only thing that's in the Borough's records is what we've produced. Neil asked if that garage operation which is directly behind this a part of the Gelay's property as well. Mr. Gelay said yes. Neil said and that operation is entirely different than Mallue. But he's pretty much similar in what he does there but it's even lighter repairs. Greg Love asked about the lift installed, when was that installed? Mr. Gelay said there was an existing lift prior that's been in there forever, this is a new lift this is an above ground bolt on lift. It's removable, both lifts are removable. Mr. McLaughlin so you have basically three bays, two lifts. John Burke asked how many cars are stored in that parking lot alongside the building. Mr. Mallue said we try to avoid storing cars at all means, it ebbs and flows. For me probably an average of maybe five or six cars at the most. Let's say magically a couple of cars appear from the High School for him it's about five. Neil said we are here for the use not site plan. Mark Apostolou made a motion to open the meeting to the public, seconded by Bob Young, all in favor none opposed.

Audience Members Coming Forward:

All audience members coming forward were sworn in by Mr. McGill

Susan Thompson – 62 Atlantic Avenue – She said first thing she has to say is Neil Hamilton I think you should step down; you were the Zoning Officer for years when I complained about this. I don't think you should be able to hear this case or run the meeting. Neil said that's Council's call, I was never aware the Ordinance was in violation. Susan said you spoke to me numerous times about it. George McGill said that's the first time he has heard of this so he recommends that Mr. Hamilton stays on the Board at this point. Mrs. Thompson said she has been a property owner in Manasquan since 1984 and built her

home that she lives in across from Highway Oil in 1986, she also owns four adjacent properties to Highway Oil. Highway Oil has a garage located next to the entrance where Mallue Auto is. The garage was used as a storage facility from the time she moved in her home from 1986 until recent years. There was never a mechanic there when she lived there. Highway Oil began leasing the space to a mechanic without obtaining a change of use approval by the Borough. She is against this application for an auto repair shop largely due to safety concerns. She had pictures to present which were marked as Exhibits O-1, Mr. McLaughlin said he briefly looked at these pictures he doesn't know how any of these photographs would be linked to the issue of our application because we are not here for site plan review. Mr. McGill said let's mark them, we'll give Mr. McLaughlin an opportunity to look at them and then you can tell us what they show and Mr. McLaughlin can make some fair comment about that. The first set of photographs will be marked as O-1, it's a small board with 4 photographs, O-2 is another board with 4 photographs, O-3 is a board with 4 photographs, O-4 a board with 4 photographs, O-5 a board with 4 photographs and O-6 is one photograph. Then Mrs. Thompson said she is against this application largely due to the safety concerns and that's what the pictures show. The garage is located on the corner of Atlantic and Osborn which is a busy intersection on a County Road near both the High School and the Elementary School. The garage has a shortened driveway and no parking for customers. There is often double parking, parking across the sidewalk in addition customers parking in the yellow zone on Atlantic Avenue. Tow trucks deliver vehicles to the garage both in the evening and the daytime. This is a quality of life issue, there is increased noise and environmental concerns. She has witnessed Mr. Mallue power washing grease and oil into the Street and into the Storm Drains. They also allow a taxi business to run out of its location. They also have garbage pick-up at 9pm and 4am, outside of the time set by the Town Noise Ordinance. The sidewalks are in disrepair and need replacement. This is not acceptable especially in a School Zone. She urged the Board to consider her concerns and deny this application. She explained the photographs to the Board and Mr. McLaughlin. George McGill said the application is about the applicant being allowed to maintain its operation that they say they have always had. Some of the items you have brought up should be addressed and the applicant will address them. Mr. McLaughlin didn't have any questions for Mrs. Thompson, he has the same objection he mentioned earlier to the irrelevance of the photographs.

Nancy Malone – 43 Atlantic Avenue – She is addressing the noise through the night, banging and beeping. She moved in last May.

Jim Vazquez – He is the chief operator and business owner of one of the Martial Arts School in Town, he is also a member of the Chamber of Commerce. He has been taking his vehicle to Mr. Mallue Automotive for the last 18 years. During that time period he has gone at numerous times, there has always been maybe two cars in that shop, maximum. On his behalf he hopes the Board can support this application.

Richard Strucek – He has lived at the Jersey Shore most of his life, he is a 1969 graduate of Manasquan High School, he went to the Lutheran Church as he grew up and was fortunate to park in their parking lot. Every day he walked by that facility. He feels there has been

enough commentary about the fact that this has been a repair shop for a long time. As a 17-year-old guy his eyes went into that shop every day after leaving school to see what they were doing. This business supports the Community. He is in favor of the application and was met by applause from the audience.

Reverend Joe Gratzel – First Baptist Church in Manasquan – South Street – He spoke in favor of the application.

Andrew Thomas Marcucci – He goes to the Elementary School and has never had an issue with any trucks or cars there. At night he never hears any noise at night from the site. He is 12 years old in the seventh grade.

Christine Marcucci – She lives on the corner of North Main and Atlantic Avenue – she said it is a truck route but has never noticed a large amount of trucks in and out. He doesn't do transmissions he does very small repairs. She is in favor of his continuing at the site.

R. Waldman – he is an employee at Mallue's Automotive, he said Atlantic Avenue is like a Speedway, he was a Fire Chief in Point Pleasant Beach and when he first started to work at Mallue's he would drive the Chief's car and park on Atlantic Avenue when there was a spot available but people would drive at a normal speed thinking it was a Police car. Since his tenure as Chief is over the traffic that comes down Atlantic Avenue is very fast. In the years that Mr. Mallue's been there no one has ever been hit by a car there or an accident due to anything coming out of his shop. The tow truck that was there at two in the morning was dropping his own personal truck off, he got stuck in the middle of the Lincoln Tunnel at 11 o'clock at night, he apologized for that but he had no other place to bring his truck. We generally don't have people's cars towed in overnight. We don't have a 24-hour telephone number. You can leave a message or you call Mr. Mallue's cell phone. Then we would have cars towed in during the day. He has worked there for about two years. He has known Mr. Mallue much longer than that, he is the egg head that he calls. He does trouble shooting for him. It is a neighborhood place.

Dave W. Kircher – He is in favor of the application, in 1975 he graduated Brookdale Community College Automotive Technology, he has been in the car field he has held ASU Certifications, he can do repairs on cars first professionally then as a hobby. In 1977 he met Mr. Gelay and became a steady customer so much so that on a number of occasions he had the opportunity to actually work in his shop and he can prove that he was there doing repair work in his shop prior to '80, between '76 and '80. George McGill asked Mr. Kircher what kind of repairs were going on in '77? The answer was machine shop work, oil changes, basic tune-up stuff, you could pull your car in work on it, back then there was a lot of machine shop work going on.

Latisha Green – Mary Mallue is her sister, Bob Mallue is her brother in law. She is in favor of the application.

Dr. Michael Najjar- 1234 Manito Road – Stated Bob Mallue has worked on his car for 40 plus years, stating he is the most honest person when it comes to mechanical repairs. In favor of the application.

James Graziano – He lives on Minnehaha Trail he has been bringing his car to Bob for 15 years, he is in favor of the application.

George McGill addressed the audience stating we have to stick to what is operating there now and what has been operating there in the past. He doesn't want to cut anybody off but please keep the comments to operations that will move things along quicker, thank you. George asked how many people are here who want to make comments other than those who are standing up, how many have things to add that haven't already been added? There are a lot of people in the room, so we will get to everybody. George continued to swear each speaking audience member in.

Laura Scranton – 48 Atlantic Avenue – She has lived at this address since 1993 and has not seen any change of use in the property since she has lived here. She does have her cars serviced there, she doesn't find it to be excessively noisy and she lives directly across the Street. She has no complaints.

Steven Radwanski – He has been in the area since 1993 and swore the doors are not left open at night, he was towed there once.

Tim Kellers – He went to MHS, he grew up in Brielle his father and grandfather had a repair shop in Asbury Park, his entire life he has known the Gelay's from his father and grandfather, he has had his car repaired for the last 16 years by Bob. As long as he has been alive 33 years he remembers auto repair work going on there. George asked him if he remembers seeing cars being worked on at the Atlantic Avenue site? He said he would have been very young; he does remember his father bringing cars there to have stuff out of his realm be repaired.

Christopher Baymore – His comment is he lives at 19 Elizabeth Avenue right around the corner from Bob and he doesn't really hear any noises outside of regular business hours. He does hear the dumpster being picked up at the High School around 4am.

Grace Rogers – She moved here 10 years ago, she thinks the relevance of everybody coming up here tonight is just to establish the fact that for many years people have gone to Bob Mallue to have their cars repaired.

John Ippolito, Jr. – He thinks this whole thing is a travesty that this applicant has to go through this expense to get approvals for something he has been doing for 50 years. George explained this has to be established.

Anthony Lamo – He used to live at 53 Osborn Avenue right across from Tom Jr., Tom Sr., he said the shop has been there for a while.

Jeff Foster – He is on both sides of the aisle here, he's torn tonight. He's known this gentleman since 1975 doing parts with him, Tom Sr. He has his own repair shop for 32 years in Wall Township. He used to work at Dunphey Smith, that's where he met this gentleman. He also knows the other person Mr. Thompson, they are both friends of his and the Gelay family you couldn't ask for a better family. Mr. Mallue, he has no idea of who you are, he thinks he should get a bigger shop. Between '76 and '80 before he opened his own shop in '81, that was a machine shop and one of the best in the area. That's why he went there. The bay where Mr. Mallue is right now used to be an old Volvo repair shop in the back. That's the only repair shop he knew, that's all he can testify to. It's a tough business and you have to respect your neighbors. He asked the Board if they would want to live next to this place.

Paul Clancy – He lived in Manasquan for 35 years, he is in favor of the application.

Tankhiwale – He has known Bob for 18 years, he has a good reputation. Every time he has pulled up the doors have been closed, he is from Neptune and people from other Towns come to Mallue for service.

Mike Applegate – He is 4th generation Manasquan, he had a family business in Town until 1973. He went through Manasquan School system. He remembers the property all the way back. He remembers when Tom moved into that building, to his knowledge there has never been a time that he can remember a time that there were not cars going in and out of that door to have work done on them. There was always some kind of activity going on in that building with the repair of cars.

George McLaughlin – As vice-president of the Manasquan Library, we have property within 200-feet of this property and as such we were notified by certified mail. At our monthly meeting we discussed the situation and voted unanimously no objection to them continuing this practice.

Mark Levine – 227-1 Beachfront – He has a different definition of noise, he lives across from Leggets, that's noise. He's been bringing his cars to Mallue's for over 17 years.

Jessica Mallue – She is the daughter of Bob Mallue and he doesn't work late, her mom does. Her father drives her to her gymnastics class every other night and that is proof that he doesn't work late since he drives her. If you close his shop without that money she would not be able to continue gymnastic lessons and fulfil her dreams of being on the USA competition team.

Ira Waldman – He worked at many different shops, Bob is very conscientious of his neighbor. He gets in about 7 in the morning, the door does not open on nice days until Ira gets there at 9 o'clock. He is gone by 3pm at the latest and the door is closed. The windows on the door are covered so that light does not project across the Street. He is the most conscientious person, we don't scream, shout. The other thing there is a camera that faces the sidewalk from the corner to the corner so when we are moving a car in or out we stop, we look at the camera, we have a big screen to make sure nobody is walking by. There are High School children that walk by that shop every day that there is school, they walk through the parking lot, they walk past the front of the shop, same with the regular school. There has never been an incident in which any of the children have been hit by a car or anything like that. He is very safety conscious and conscious of his neighbors. Mark Apostolou made a motion to close the public portion of the meeting, seconded by Bob Young, all in favor none opposed.

Roger McLaughlin has three exhibits to mark, the first is a copy of the 1957 Ordinance that Mr. Kociuba referred to in his testimony, this was marked A-4, the second is the 1967 Ordinance which was marked A-5, also referred to by Mr. Kociuba, these were obtained from the County Planning Board. The third exhibit is the e-mail from Mr. DiRoma that Mr. McLaughlin referred to earlier and the copy of the Borough's file on the property. This was marked A-6. Mr. McLaughlin said we don't intend to address what little has been said that they find objectionable, that has only come from one person. He proceeded to sum up, he thinks the testimony has been very clear that on the issue that really is before the Board is that the character and standing of the owners of the property and the tenant of the property were certainly spoken very highly of tonight. What is relevant is what the

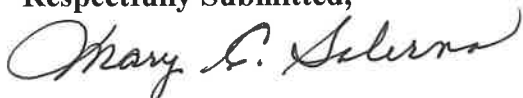
Use was before 1967 and whether that has continued to the present time and he believes that has been quite clear both from the owners of the property and the individuals who have experienced the property at various points in time during that 57 or so years, that the area of the building that Mr. Mallue occupies and that's the subject of the application that is before you tonight was used starting in 1962 and has been used continually since that date for the servicing and repair of automobile. That is the only question before the Board the only determination for the Board to make is whether that in fact is the case and once that determination is made the conclusion of course is that we have a non-conforming use that is entitled to continue without the need for any further applications or determinations in the Borough. I would submit to you that the testimony truly is uncontroverted by all the testimony presented to you tonight and we ask you to make that determination that in fact there is a nonconforming use in this portion of the property for automotive repair service. Thank you for your attention and time. He corrected the time to 1972 as George asked him about the year. Mark Apostolou asked what the Board is to consider, he questioned the taxis on site. George said you can't have any use there now that you didn't have in 1972. Mr. McLaughlin said we didn't come here to ask the Board to approve a Taxi service, but I'm telling you that under the current Ordinance Taxis are a permitted Use in the B-1 Zone. George said Mr. Mallue is not operating a Taxi service correct? Mr. McLaughlin said no he is not and I'm not asking permission from you for him to do that. Neil said so the only issue before the Board is whether or not this operation can continue to operate and anything outside of that has nothing to do with Mallue it has to do with the owner of the property the Gelay's and if there is anything else in there permitted use or not permitted use, they would have to go back to the Police and Code Enforcement and have them take a look at the site again. Greg Love said he is confused as to whether or not this was a repair shop or a machine shop in 1972. George said that's a determination you are going to have to make from the testimony that's presented. Mr. McLaughlin said the testimony from any number of people including Mr. Gelay but others who testified here is that there has always been automotive repair and service from this portion of the property, even though there may have also been a machine shop which operated in that same spot. George McGill had to take control of the audience stating now is the time for the Board to make a determination and as they speak you can't shout out. Mr. McLaughlin said both Mr. Gelay Sr. and Jr. testified that automotive service and repair began on the property in 1962 and has continually existed on the property since that time. We also had others who testified back 33 years and into the '60's. John Burke made a motion that we certify that this is a pre-existing condition on this property, Mark Apostolou to tighten that up, that Mallue has operated in a continuous fashion and that that specific location alone was the repair shop that's been there. The testimony tonight has only been what's going on in that spot. Mr. McLaughlin had no objection to that. Bob Young seconded the motion.

Board Members Voting Yes:

John Muly, Robert Young, Greg Love, Mark Apostolou, Neil Hamilton, Mark Larkin, John Burke

Neil asked for comments from individual Board members. He said one announcement to make is Peter Ragan has resigned from the Board. Both alternates will be moved up. The other is to cancel the second meeting of March. In April we have the regular meeting and then we have a Special, two cases on the second meeting. April 2, 2019 we have 4 cases, May 7, 2019 we have 4 and then April 16, 2019 we have the two. Bob Young asked if we want a Special in May so we don't get back logged. Neil said until we get through this back log of carrying cases the others are going to have to wait unfortunately. Mark Apostolou made a motion to close the meeting seconded by Greg Love, all in favor none opposed.

Respectfully Submitted,

A handwritten signature in cursive script, reading "Mary C. Salerno".

Mary C. Salerno

Planning Board Secretary