

MANALAPAN ZONING BOARD OF ADJUSTMENT

MINUTES OF THE REGULAR MEETING

Thursday, April 5, 2018
TOWNSHIP OF MANALAPAN – Courtroom
Manalapan, NJ 07726

The meeting was called to order with the reading of the Open Public Meetings by Chairman Stephen Leviton at 7:30 PM. followed by the salute to the flag.

Roll Call: Janice Moench

In attendance at the meeting: Terry Rosenthal, Larry Cooper, Eric Nelson,
Eve Strauss, Eliot Lilien, Mary Anne Byan,
David Schertz, Adam Weiss, Stephen Leviton

Absent from the meeting: Mollie Kamen

Also present: John Miller, Esq., Zoning Board Attorney
Nancy DeFalco, Zoning Board Officer
Janice Moench, Recording Secretary
Brian Bocciafuso, Board Engineer
Jennifer Beahm, Board Planner

MINUTES:

A Motion was made by Mr. Cooper, Seconded by Mr. Lilien to approve the Minutes of **March 15, 2018** as written.

Yes: Cooper, Nelson, Strauss, Lilien, Byan, Schertz, Weiss, Leviton
No: None
Abstain: None
Absent: Kamen,
Not Eligible: Rosenthal

PUBLIC HEARINGS:

- **Application No: ZBE1807**
Applicant: Joseph Giuseffi
Proposal: Construct rear patio roof extension
Request: Bulk variance
Location: 28 Springhouse Circle
Block/Lot: 66.01/77
Zone: CDM

Mr. Joseph Giuseffi of 28 Springhouse Circle is sworn in by Mr. Miller. Mr. Giuseffi. Mr. Giuseffi brought 10 pictures of his rear yard. These pictures were given to Ms. Moench and marked as Exhibit A1. Mr. Giuseffi explained in the year prior he decided to improve his outdoor living space by installing a new paver patio, fire pit, garden and landscaping. To complete his vision he selected a contractor that submitted a permit for an attached 14 ft wide by 12 ft deep patio roof. The permit was denied due to a difference of 9 ft between the minimum rear yard requirement of 25 ft for the principal structure and 16 ft from the rear lot line for the proposed attached roof. Mr. Giuseffi referred to his property survey and explained the rear yard property extends out approximately 28 ft from the home.

The patio is curved and the depth of the area for the proposed roof is approximately 13 ft. That leaves 15 ft from the end of the patio to the rear lot line. Mr. Giuseffi explains the proposed roof will be over the sliding glass door and the patio table. The roof is hardly imposing but suitable for adding property. The rear yard zoning requirement of 25 ft for an attached structure will allow for a covered area of 3 ft. Not even enough room to sit in a chair. Mr. Giuseffi explained he looked into alternative non-permanent patio coverings. Mr. Giuseffi referred to the pictures he submitted so the Board can have a visual on his rear yard. He further mentioned the Meadow Creek Homeowners Association has approved the modification request.

Chair Leviton asked Ms. Beahm for input regarding this application. Ms. Beahm explained that once the roof goes over the patio it becomes part of the principal structure. She reviewed the setbacks. Ms. Beahm asked Mr. Giuseffi if he feels covering the patio with a 16 ft setback will create a negative impact to the neighbors or the zone plan. Mr. Giuseffi replied there would be no negative impact at all. Ms. Beahm had no further questions.

Chair Leviton asked the Board members if they had any questions. Mr. Cooper asked the applicant if he looked into an awning. Mr. Giuseffi explained he considered the retractable awning. Although it would be functional it would lack appeal.

Mr. Schertz asked the applicant if he obtained approval from his neighbors for the proposed. Mr. Giuseffi explained he didn't necessary need approval from the neighbors but he did communicate the issue. The immediate neighbors had no issues at all.

Ms. Beahm explained as part of the application process the applicant had to notify everyone within a 200 ft radius of the property. Mr. Giuseffi explained he sent out 29 certified mailings.

Chair Leviton opened the application to the public for comment. Ms. Ester Moy of 27 Springhouse Circle was sworn in by Mr. Miller. Ms. Moy explained she received a certified mailing. She explained she understands Meadow Creek requires association approval. Ms. Moy explained the Association gave her a hard time to make improvements. She is surprised Mr. Giuseffi got this far. Ms. Moy asked if the permanent roof can blow away. Ms. Strauss explained Mr. Giuseffi will be required to obtain a building permit. The building department will inspect the roof to insure it is built to code.

Chair Leviton asked if there was anyone else from the public that wished to address the Board on the application. Seeing there were none, Chair Leviton closed public.

Mr. Miller reminded the Board they may not take any value or devalue of a property into account when deciding on a variance application. Mr. Miller referenced Mr. Giuseppe testimony where he mentioned the cost incurred to him for the variance application. Mr. Miller advised the Board they would be precluded from taking that testimony into account in deciding the application.

Mr. Cooper asked the applicant for a drawing of the proposed roof. Ms. DeFalco explained the drawing was on the Google Drive. Ms. Beahm explained further the roof is just a covering over the patio with no walls.

Ms. Strauss asked if the shingles would match the existing roof. The applicant stated they would match.

Chair Leviton explained he was able to ascertain the irregular shape of the property from the survey. The property is shallow and irregular, that establishes a hardship. Ms. Strauss agrees.

The Board members discussed the application. They all agreed that they are in favor of the application and agree it will be a nice addition to make the backyard more practical. They also mentioned the approval from Meadow Creek Homeowners Association.

Mr. Rosenthal asked how the roof would be anchored. Mr. Giuseffi explained it will be anchored into concrete footings with two posts.

Mr. Schertz asked what the posts will be made of. Mr. Giuseffi explained they will be pressure treated wood.

A Motion of Approval for application ZBE1807 was made by Ms. Strauss, and Seconded by Mr. Rosenthal.

Yes: Rosenthal, Nelson, Strauss, Lilien, Byan, Schertz, Leviton
No: Cooper
Abstain: None
Absent: Kamen
Not Eligible: Weiss

Chair Leviton advised Simply Storage of Englishtown, LLC ZBE1805 will not be heard this evening and has not been rescheduled. Mr. Miller explained Ms. Moench; the Board Secretary has been advised when the applicant will re-notice.

- **Application No: ZBE1749**

Applicant: MetaVS Gaming, LLC
Proposal: Permit operation of arcade/gaming center
Request: Use Variance****
Location: 285 Gordons Corner Rd.
Block/Lot: 11.02/25.12
Zone: C2

Gerald Sonnenblick of Sonnenblick, Parker and Selvers appeared this evening on behalf of the applicant. Mr. Sonnenblick was filling in for Mr. Licata who was present for the last meeting on March 15, 2018. Mr. Sonnenblick explained the last meeting ended with testimony from the applicant, Mr. Garguilo as well as John Rea, the Traffic Engineer. Mr. Scott Kennel was present as the Traffic Engineer tonight for questions. Mr. Sonnenblick explained he understood the Board and residents had some concerns at the last meeting they are hoping to address this evening.

Chair Leviton explained Mr. Rosenthal was absent for the last meeting when MetaVs Gaming was heard. He has not read the transcript or listened to the tape so he will be recused from the application. Mr. Rosenthal left the meeting at 8:00 pm.

Mr. Michael Garguilo, who was sworn in by Mr. Miller at the last meeting introduced himself and explained he will be the tenant of the space at 285 Gordons Corner Road.

Mr. Sonnenblick asked Mr. Garguilo if he was aware of the hours of operation for a business to stay open in Manalapan Township is 11:00 p.m. Mr. Garguilo stated he is now aware of this. Mr. Garguilo explained, with a better understanding of the hours, he changed his proposed hours of operation to close at 2:00 a.m. on Friday and Saturday; Sunday evening if Monday is a national holiday. Sunday through Thursday would have an 11:00 p.m. closing time. Mr. Sonnenblick asked Mr. Garguilo to explain to the Board the reason for the 2:00 a.m. closing time. Mr. Garguilo explained the business is an on-line business with interactions with other gaming centers located around the world. This would mean MetaVs Gaming would be closing at 8:00 pm California time, which would not allow for participation in tournaments.

Ms. Beahm asked the applicant if he had any information for the Board on where the facilities in the other time zones are located with respect to homes. Mr. Sonnenblick explained that Ms. Coffin, the applicant's Planner may have information regarding the location. Mr. Sonnenblick stated all the applicant can do is ask for a 2:00 a.m. closing, the Board doesn't have to grant it.

Mr. Sonnenblick stated a question that came up at the last meeting was the average length of stay a customer would remain at MetaVs Gaming. He asked Mr. Garguilo what the average length of stay would be in his opinion. Mr. Garguilo stated the average stay is about 2 hours. Mr. Sonnenblick asked if the customer can purchase another hour and remain in the facility. Mr. Garguilo answered yes. Mr. Garguilo explained if the customer bought 3 hours, they are welcome to use it the day of purchase or when they come back. It is valid for 30 days and it can be broken up.

Mr. Sonnenblick and Mr. Garguilo explained that anyone that enters the facility 12 and under must be accompanied by a parent or guardian at all times. Customers of the ages 12-16 will require consent from a parent or guardian and will have to vacate the premises no later than 10:00 p.m. unless they are accompanied by an adult or legal guardian. Customers that are 17 years and older do not have any restrictions. Mr. Sonnenblick ask if identification will be checked. Mr. Garguilo explained every customer that comes in will interact with an employee to get assigned a station with an account name and user name. This information will be entered into the system so when they come back they can continue previous games and earning rewards. Anyone that appears to be under 17 would be asked to provide school identification. Ms. Beahm asked if it would be required to bring a school ID. Mr. Sonnenblick explained it will be required or the customer will not be allowed to gain access. Ms. Beahm asked Mr. Sonnenblick if he was aware that the Manalapan Township School District does not provide identification. Mr. Sonnenblick said he was not aware. Ms. Beahm explained that presents a problem being the facility is in Manalapan. Mr. Sonnenblick agrees and stated the customer will have to have some form of identification. Mr. Garguilo explained anyone 16 years old and younger will require consent from a parent to walk into the facility. By adopting the consent policy it covers a broad spectrum of concerns. Mr. Garguilo explained the waiver would cover a mature content game being viewed by a 13 year old customer. This policy is currently adopted by Game Stop.

Mr. Miller explained to Mr. Garguilo that he testified ages 13 through 16 would require consent from a parent or guardian but you also testified you require proof of age for under age 16; will the customer require school identification and the consent? Mr. Garguilo explained there are two separate issues. Anyone 16 years of age and under will require parent consent to come play video games. Ages 12 and under can not play without a parent or guardian within the facility. Mr. Miller asked where the proof of age comes in.

Ms. Beahm explained if the Manalapan School District doesn't provide school ID and a 15 year old doesn't have a driver's license, what constitutes proof of age? Mr. Garguilo states at that point proof of age would be waived but the parent would have consented for them to enter if they were 15 years old. The proof of age was thought of as a secondary means for the employees to monitor as the customers come into the facility. Ms. Beahm asked Mr. Garguilo if the two employees were monitoring what the customers are doing. Mr. Garguilo states he will have two employees at 3:00 pm in the afternoon. Mr. Beahm explained to Mr. Garguilo that the Board asked him to come back to this meeting with concrete answers to their previous asked questions on security of minors. Ms. Beahm and Mr. Garguilo discuss the consent form and security in more detail. Mr. Garguilo explained it is up to the parent if you want to take the risk of exposing your child to content in the games. Ms. Beahm explained he needed to prove there would be no negative impact associated with this use. Mr. Sonnenblick referenced the comparison to a rated "R" movie. He then asked Mr.

Garguilo if there was any sexual explicit content in the games. Mr. Garguilo responded by saying there is no sexual content. Ms. Beahm asked Mr. Garguilo if he can guarantee there is no sexual content in the games. Mr. Garguilo said he can not guarantee that.

Mr. Sonnenblick asked Mr. Garguilo to discuss the security aspect and explain where people would wait at the facility for their reservation. Mr. Garguilo explained everyone that enters the facility must be checked in by an employee and issued a headset and controller. When they leave they must return the headset and controller and exit through the same door. There will be a snack area for patrons to wait. Ms. Beahm reminded the applicant he testified previously the snack area can hold nine people. Mr. Garguilo explained any overflow of people waiting can access the party rooms.

Mr. Garguilo stated the customers will be monitored closely during a tournament. It will be a structured and planned setting. Mr. Garguilo explained the tournament situation in further detail for the Board and how it works.

Mr. Garguilo explained he wanted to address the security issue because he doesn't feel that he addressed the concerns of the Board completely. Mr. Sonnenblick asked how many employees he would staff. Mr. Garguilo said originally he testified that he would have between 2 and 5 employees. This number will vary throughout the day, day of the week and time of day. There can be 10, 12 or 15 employees depending on the needs of the business, day of the week and time of day.

Mr. Garguilo explained to the Board given the nature of his business he is going above and beyond by having the consent form signed. He states a child can hear foul language in a pizzeria.

Mr. Miller reminds Mr. Garguilo that he is before the Board to apply for a use variance. The use is not permitted in the zone. Mr. Miller explained to Mr. Garguilo that he was instructed at the last meeting to provide procedures for security. The Board will require more proof then you saying you will be training your employees on security. Mr. Miller explained to Mr. Garguilo you have to prove that the use does not have an adverse impact on the neighborhood and that it is not substantially a detriment to the zone plan.

Ms. Beahm reminds Mr. Sonnenblick it was asked what provisions are put in place to preclude a minor from viewing things that are inappropriate. At the last meeting Mr. Garguilo advised he would come back with answers. The Board wants to feel secure in stating that they evaluated the use. The negative and positive impact would include security.

Mr. Garguilo explained the change that was made from the previous presentation with regards to viewing mature content was implementing the waiver.

Ms. Strauss asked for confirmation on her understating of the waiver with Mr. Garguilo. She explained once the parent signed the waiver, that parent is then agreeing that their child may view mature and inappropriate content. This is a separate issue from security.

Mr. Lilien confirmed with Mr. Garguilo the waiver is like a hold harmless agreement that protects Mr. Garguilo if the child should have a traumatic experience from viewing mature content. Mr. Garguilo confirms same. Mr. Garguilo reminds the Board on busy nights he will have security. The security will consist of retired police officers or licensed security guards.

Mr. Sonnenblick asked Mr. Garguilo how you would know the amount of people that can show up at a particular time so there would be enough security in place. Mr. Garguilo states there would be a reservation required. Mr. Garguilo explained he would allow a reservation if 2 or 3 people wanted to reserve a seat

an hour prior on a Friday night. If there was a party of 15 people he would require probably 5 days advanced notice and a deposit would be required.

Mr. Sonnenblick and Mr. Garguilo discussed viewing sexually explicit content and how it can be viewed on the television or smart phone. Mr. Garguilo explained he will preview and filter the material that will be allowed to be played at the facility. Mr. Garguilo explained he has no intention to skate around liability or exposure responsibilities, but there is a limit to what he can do. Mr. Garguilo explained if a 13 year old wants to view Call of Duty on his smart phone he can. Mr. Miller reminds Mr. Garguilo the issue of smart phones is irrelevant to this use variance. The Board is looking for answers on what procedures will be in place to control inappropriate material viewed by children. Under the MLUL the Board does not have to consider irrelevant testimony. Ms. Beahm and Mr. Sonnenblick discuss equating movie theater rules with the rules of this application.

Mr. Sonnenblick asked Mr. Garguilo to explain the customer to employee ratio. Ms. Beahm asked for clarification being the previous testimony stated 2- 5 employees on site would be max. Mr. Garguilo said his testimony should be corrected to remove the word max. Ms. DeFalco gave an example of 6 kids making a reservation then they texted their friends and more patrons show instead of the 6 originally intended. Will you have staff in place? Mr. Garguilo explains for the first 6 months he is opened he intends to overstaff. This is a service based community center business that is based on socialization. Ms. DeFalco asked Mr. Garguilo with the max of 84 customer mix of teens, children and adults what prevents the 50 year old man to walk out with a child. Will there be a plan in place to keep track of who arrives with whom. Mr. Garguilo explained he doesn't have an answer for that question. Mr. Sonnenblick states he has nothing further for Mr. Garguilo.

Mr. Sonnenblick advised the Board Mr. Kennel is present should the Board or public have questions of the Mc Donough-Rea Associates-Rea testimony regarding parking or traffic.

Mr. Sonnenblick called Alison Coffin, Professional Planner she was sworn in by Mr. Miller and the Board accepted her credentials. Ms. Coffin stated the applicant proposes to lease space from a proposed 47,050 square foot facility, currently under construction, for a video gaming use. She added the gaming center will contain 64 gaming stations, 20 sofa seats, 40 table seats, 4 virtual reality stations and a snack counter with 2 to 5 employees on site at all times. This use will have 202 parking spaces. The hours of operation currently requested are Monday Thru Thursday from 2 p.m. to 11 p.m., Friday 2 p.m. to 2 a.m., Saturday from Noon to 2 a.m. and Sunday from noon to 11 p.m. or 2 a.m. if there is no work/school the following day. Ms. Coffin explained the C2 zone and the permitted uses. The applicant's use is not permitted anywhere in the Township. The Township defines this as an amusement arcade being the gaming stations meet the technical definition of an amusement device. Ms. Coffin reviews the definition of an amusement arcade and an amusement device as defined in the Township ordinance. Ms. Coffin explained how this use is not an arcade in the traditional sense and she goes on to define a traditional arcade. She explained the proposed use functions more like an internet café where all of the stations are dedicated to video gaming. Patrons register upon arrival, pay for a period of time and stay at an assigned gaming station for the allowed time. Games are played with headsets. The applicant proposes no exterior alterations to the site so no bulk variance relief is requested. The ordinance states no business within Manalapan shall operate from 11 p.m. to 6 a.m. without specific site plan approval. The applicant proposes to operate until 2 a.m. two days a week so gamers can interact with other gamers around the world. Ms. Coffin distributes a map showing the Ignite Gaming Lounge in Chicago. The Aerial Google Map photograph showing Ignite Gaming Lounge was marked as Exhibit A-2. Ms. Coffin explained it is hard to see from an aerial view if the area is commercial or industrial. It is in close proximity to a residential area. The

building backs up to homes closer than the proposed facility. Ms. Coffin explained she did not visit the location.

Mr. Sonnenblick asked Ms. Coffin in her opinion from a Planner's prospective with regards to the hours of operation. Ms. Coffin explained she feels the Board can grant relief for the hours of operations. The use is unusual and it involves connecting with players, around the globe and over the internet. Locals Bar located in the immediate area is open to 2 a.m. seven days a week serving food and alcohol. Ms. Coffin states it is not unusual for a business in the area to be open late.

Ms. Coffin explains while this is a unique use she has been seeing many more of them throughout the state. Mr. Sonnenblick and Ms. Coffin discuss the many trampolines, rock climbing and other creative uses being sought in retail locations.

Mr. Sonnenblick asked Ms. Coffin to explain the special reasons along with the positive and negative criteria of what is proposed. Ms. Coffin explained it is her opinion that special reasons exist for the granting of the requested use variance and the site is particularly suited to the proposed use and there is no significant detriment to the zone plan or surrounding residential properties. The special reasons concept in this instance is met in that the use promotes the general welfare and the site is particularly suited to the proposed use. The use would be appropriately located in the zone that permits a variety of commercial uses. Ms. Coffin reviewed other social uses permitted in the zone. She further explained in order for this use to function it would require sufficient space and access to high speed internet service which is available at this site. The use would require adequate parking. Ms. Coffin reviews other good site features for this use such as parking being well screened from residential areas. Ms. Coffin states she has read the parking report and there is more than adequate parking. The surrounding businesses operate at different peak hours so the shared parking will not be a problem.

Ms. Coffin explained the requested variance advances specific purposes of zoning as listed in the Municipal Land Use Law; Purpose A and Purpose G. Ms. Coffin explained it is her opinion that this use variance can be granted without detriment. The use does not require any alterations to the building or site plan to occupy the space beyond the interior modifications. The use does not generate noise, light or pollution. The greatest parking demand for this use would be during the late evening when the other businesses are closed. Ms. Coffin explained the greatest impact would be regarding the hours of operation that go beyond 11 p.m. on Friday and Saturday nights. The use is contained within the building and the building shelters the nearby homes from a majority of the parking field. Ms. Coffin states it is her opinion given the later hours two days a week, will not have a significant impact off site. It is also Ms. Coffin's opinion that there is no substantial detriment to the intent and purpose of the Master Plan.

Mr. Sonnenblick asked Ms. Coffin with regards to security and/or number of employees with a mixed age range, does she see this use to be different from other places for social activity. Ms. Coffin explained it is hard to compare this use to a Sky Zone. This use is on a much smaller scale and easier for the 2 to 5 employees to police what is going on in this center. Ms. Coffin explained the applicants will not allow and adult only rated games to be played in the facility. Mr. Sonnenblick asked Ms. Coffin if this particular use would be anymore intense than any of the permitted uses. Ms. Coffin explained there are other permitted uses in the zone that are more intense regarding the impact.

Mr. Miller referred to the Medici case when speaking to the negative and positive criteria for a use variance. The Medici case speaks to the uses that may not have been contemplated when the ordinance was adopted. Mr. Miller explained this use before the Board tonight was not contemplated when the ordinance was

adopted. Under the Medici case the applicant is still required to meet the negative criteria. Mr. Sonnenblick agreed with Mr. Miller.

Chair Leviton explained he still has reservations with regards to the safety. He finds it to be different than the trampoline parks. This industry attracts different age groups and cohorts that come together without the safety issue being thought through.

Ms. Beahm referred to Ms. Coffin's testimony that the site was particularly suited because high speed internet is available. Ms. Beahm asked Ms. Coffin if there are other sections of town where you are unable to get high speed internet. Ms. Coffin said she did not know the answer to that. Ms. Beahm explained the high speed internet is not unique. Ms. Beahm disagreed with Ms. Coffin's testimony on this use promoting health safety and general welfare. Ms. Beahm also referred to Ms. Coffin's testimony on appropriate use in the appropriate location (Purpose G). Ms. Beahm explained that some residents might disagree that the location is appropriate. Ms. Beahm refers to the Exhibit A2 the aerial photo. She explained when you zoom out of that aerial picture it would show the roadway is a highly industrialized corridor.

Ms. Beahm and Ms. Coffin discussed the location of Ignite Gaming Center in Chicago as used in Ms. Coffin's testimony. Ms. Beahm does not agree with the testimony regarding particular suitability. Ms. Beahm also explained she does not agree this use promotes the health safety and general welfare. Ms. Beahm feels there may be better locations in town that are not close to residences that would be more appropriate. Ms. Beahm states she has no issue with the parking and agrees with the parking reports provided. Ms. Beahm explains her concern on the hours of operations on the two days a week they will be open until 2 a.m. when the balance of the shopping center closes by 11 p.m. She reviewed the testimony given by Mr. Garguilo at the last hearing where he explained there was no reservation required. If the customer arrives without the reservation and there was not a gaming table available they would be able to wait with limited space at the snack table. So this would allow the overflow of people to wait outside in the parking lot adjacent to the residential area. Ms. Beahm explained the applicant has not met the burden under the Medici standard.

Mr. Schertz asked Mr. Garguilo if he had completed any research on demographics on the mix of people that will be at the facility in terms of age and sex. Mr. Garguilo explained the age breakdown as follows:

- 27% under 18 years old
- 29% are 18 to 35 years old
- 18% are 36-49 years old
- 26% are 50 years old and above

Mr. Schertz asked for clarification on security for a 17 year old female leaving with an older man. Mr. Garguilo explained he would have an employee ask the girl if she was ok to leave with the man.

Mr. Cooper asked if the building was being built to MetaVs Gaming specifications. Mr. Cooper stated there is a stairwell and door in the rear of the building. Mr. Garguilo explained that is an emergency exit and fire code requires a rear exit.

Mr. Weiss asked Mr. Garguilo if he was familiar with the ESRB (Entertainment Software Rating Board). Mr. Garguilo agreed he is familiar. Mr. Weiss confirmed with Mr. Garguilo the games that would be offered at MetaVs Gaming would be rated Mature 17 and they would include scenes of intense violence, blood and gore, sexual content and strong language. Mr. Weiss asked Mr. Garguilo if he had a plan in place to shield the 13 year old child from seeing the content as they walk by the screens. Mr. Garguilo stated he considered putting partitions in place. However a 13 year old can walk around the partition. Mr. Garguilo said he

would have to alert the parent that this could happen but other than that it is impossible. Mr. Weiss said you could offer Teen as the maximum explicit rating. Mr. Garguilo said he really hadn't considered it. Mr. Weiss and Mr. Garguilo discuss ways to limit the "trash talking" on the head sets. Mr. Lilien explained most games have the controllers that allow you to mute the microphone or mute player speak. Mr. Weiss explained he felt the parent waiver will protect Mr. Garguilo's interest rather than protect the kids.

Ms. Byan asked if the customers will have access to the internet. Mr. Garguilo explained there is no internet access.

Mr. Boccanfuso explained being this is a use variance application there isn't much to be addressed from an engineering standpoint other than the parking and traffic that was addressed at the last public hearing. Mr. Boccanfuso stated he is available for questions.

Chair Leviton put on the record the past Zoning Board Chairman Mr. Budai has entered in the meeting.

Chair Leviton opened the meeting to the public to ask questions of the witnesses that gave testimony this evening. Chair Leviton explained he will invite the public to address the Board with comments after.

Mr. Steven Meyer of 2 Timber Lane was sworn in by Mr. Miller at the last hearing and remains under. Mr. Meyer asked for clarification on the facility being opened until 2 a.m. on Sunday when there is no school on a Monday for the summer Mr. Sonnenblick and Ms. Coffin explained that would apply for the 7 National holidays only.

Mr. Sam Aponte of 6 Timber Lane was sworn in by Mr. Miller. He asked Mr. Garguilo if he was aware of the closing time for Control V in Howell. Mr. Garguilo said he was not aware of the closing time. Mr. Aponte stated it closed at 9:30 p.m. Mr. Garguilo explained Control V is a virtual reality center not a gaming center.

Mr. John Misyak of 35 Timber Lane asked how many other locations were checked out in Manalapan. He stated that this area is more of a residential neighborhood. Mr. Garguilo explained he checked out sites in 5 surrounding towns but chose 285 Gordons Corner Road because it is a community based location.

Ms. Marissa Sulsetti of 13 Thomas Drive expressed concern about security. She asked Mr. Garguilo if the staff will be teens and if they will be fingerprinted and background checked. Mr. Garguilo explained the staff will be a mix depending on the aspects of their job.

Ms. Nicole Aponte of 6 Timber Lane was sworn in at the previous hearing and remains under oath. She asked Mr. Garguilo if the staff will be monitoring security cameras on real time or are they play back. Mr. Garguilo explained the cameras would be playback.

Chair Leviton opened the meeting to the public for comments to the Board on the application.

Ms. Michele Frishberg of 4 Brookwood Lane was sworn in by Mr. Miller. She stated she is concerned about safety and security on the site. She also expressed concern about the bar across the street. She was also concerned about disturbances to the people on Timber lane. She doesn't feel this belongs in a residential community and parking is an issue.

Mr. Sam Aponte of 6 Timber Lane was sworn in by Mr. Miller. Mr. Aponte distributed 13 photographs marked as Exhibit O-1 taken from Mr. Aponte's home

and described the photos in more detail. Mr. AponTE explained in 2014 the Planning Board reduced the buffer zone where the building is being built as it relates to his property. He stated the building and parking lot are very close to his property, and noise will impact and interfere with the use of his property. He stated his property is within ear shot of the parking lot. He further stated that people currently access his property. His also concerned about drinking, drugs, fights and noise. Mr. AponTE stated he is very opposed to this application.

Ms. Concetta Pileto, of 12 Timber Lane was sworn in at the previous hearing and she remains under oath. She expressed her concerns about safety on the site and sexual predators.

Mr. Steven Meyer of 2 Timber Lane was sworn in at the previous hearing and he remains under oath. Mr. Meyer expressed concerns about patrons waiting outside the facility. He is confused by the conflicting testimony given by Mr. Garguilo.

Mr. Richard Coniglio of 1 Timber Lane was sworn in by Mr. Miller. Mr. Coniglio expressed he is strongly opposed this application. He explained the bar being opened until 2 a.m. is an issue and this application will add to it.

Mr. Joseph D'Agosta of 15 Manor Drive was sworn in by Mr. Miller is concerned kids loitering after school. He is concerned about drugs and illegal drinking. Mr. D'Agosta feels this will have a tremendous impact on the Manalapan Police Department.

Mr. Bruce Fishberg of 4 Timber Lane was sworn in by Mr. Miller. Mr. Fishberg explained he heard the testimony but it sounds like there is no business plan put in place. The parking lot is an existing issue. Mr. Fishberg stated he opposes this application.

Mr. John Misyak of 35 Timber Lane is sworn in by Mr. Miller. Mr. Misyak stated he has witnessed a lot of change in the 30 years he has been resident of Manalapan. He feels his development has paid enough of a price over the years with the changes made on Gordons Corner Road. He feels there could be a better location for this facility.

Chair Leviton asked if there were any other members of the public that wanted to address the Board. Seeing there were none, Chair Leviton closed the public portion of the meeting.

Chair Leviton asked Mr. Sonnenblick to present his closing. Mr. Sonnenblick asked for a moment to speak with his client.

Mr. Miller took the time to remind the Board this application was a use variance and under the MLUL 5 affirmative votes would be required for the application to be approved.

Mr. Sonnenblick stated at this point, having spoken to his client he requested the Board take a vote as to whether the application will be approved or not.

Chair Leviton asked the Board if they wanted to discuss the application prior to voting. There was no discussion.

Mr. Nelson made a motion to deny the application. Mr. Miller explained a yes vote would be to deny the application and a no vote would be to approve the application.

A Motion of Denial for application ZBE1749 was made by Mr. Nelson, and Seconded by Ms. Strauss.

Yes: Cooper, Nelson, Strauss, Lilien, Byan, Schertz, Leviton
No: None
Abstain: None
Absent: Kamen
Not Eligible: Rosenthal

Chair Leviton explained the relief sought has not been granted and he thanked the audience for their diligence and patience.

Mr. Sonnenblick and Mr. Miller discussed drawing up the resolution and the reasons for denial. Chair Leviton explained site suitability and safety were an issue for him on both positive criteria and negative criteria. The location is not particularly suited for the use.

Chair Leviton discussed administrative business with the Board. Chair Leviton and the Board discussed cancelling the July 5, 2018 Board meeting. All agreed and none were opposed.

Chair Leviton opened the floor to the public for any non-agenda items. Seeing there were none, he closed public.

ADJOURNMENT:

A Motion was offered by Mr. Schertz and agreed by all to adjourn the meeting at 10:20 pm.

Respectfully Submitted,


Janice Moench
Recording Secretary

RECORDED COMPACT DISCS OF THE ZONING BOARD OF ADJUSTMENT ARE AVAILABLE FOR REVIEW, IN THE PLANNING/ZONING BOARD OFFICE BY APPOINTMENT.