

RIVERDALE PLANNING BOARD MINUTES
April 28, 2011

The Regular meeting of the Riverdale Planning Board opened on the above date at 7:30 p.m. Chairman Al Heimall read the sunshine law.

ROLL CALL: **Present:** Glenn Venza
 Vincent Pellegrini
 Bradley Clinton
 Michael Reilly
 Vice-Chairman Brendan Magennis
 Chairman Al Heimall

Absent: Mayor William Budesheim
 Councilman Joseph Falkoski
 George Lang
 Bobby Roberts
 Sal Poli

Also present is John Barbarula, Board Attorney, Paul Darmofalski P.E., Board Engineer and Donna Holmqvist, Board Planner.

APPROVAL OF MINUTES:

Thereupon Vice-Chairman Brendan Magennis set forth the motion seconded by Bradley Clinton to approve the minutes of the March 10, 2011 meeting as written and submitted.

ROLL CALL: **Ayes:** Magennis, Clinton, Pellegrini, Venza, Clinton, Reilly,
 Heimall
 Nays: None
 (7 Ayes – 0 Nays – Motion Carried)

Thereupon Bradley Clinton set forth the motion seconded by Glenn Venza to approve the minutes of the March 24, 2011 meeting as written and submitted.

ROLL CALL: **Ayes:** Clinton, Venza, Pellegrini, Reilly, Roberts, Magennis,
 Heimall
 Nays: None
 (7 Ayes – 0 Nays – Motion Carried)

APPROVAL OF BILLS:

There are five bills listed on the agenda and there is one additional bill to be added for Burgis Associates in the amount of \$960.00, which brings the total of the bills to \$5,100.00, stated Chairman Heimall. The board secretary stated the money is available. Thereupon Glenn Venza set forth the motion seconded by Bradley Clinton to approve payment of the bills as listed on the agenda.

ROLL CALL: **Ayes:** Venza, Clinton, Pellegrini, Reilly, Magennis, Heimall
 Nays: None
 (6 Ayes – 0 Nays – Motion Carried)

DECISION FOR KD, LLC:

Attorney Barbarula stated at the end of the March 24th, minutes at the bottom, thereupon Vice-Chairman Brendan Magennis set forth the motion to uphold the Planner's decision, the wording is incorrect and we need a motion to correctly state that the motion is to uphold the Zoning Officer's decision.

Thereupon Vice-Chairman Brendan Magennis stated he would like to re-adopt his motion substituting the Zoning Officer for the Planner with the remainder of the motion as originally stated. Bradley Clinton seconded the motion.

ROLL CALL: Ayes: Magennis (readopting the original motion with the correction stated above) Clinton (readopting his original motion with the correction), Pellegrini (readopting his original motion with the correction stated above), Venza (readopting his original motion with the correction stated above), Reilly ((readopting original motion with the correction as discussed), Heimall (readopting the original motion with the correction of Zoning Officer not Planner)

Nays: None

(6 Ayes – 0 Nays – Motion Carried)

RESOLUTIONS:

1. Application No. SPBOA01212011 / B&A Riverdale, Inc. / 36 Route 23 North / Block 32 Lot 5.04

Attorney Barbarula stated the Resolution will be read at the May 5, 2011 meeting.

2. Application No. BOA12202010 / KD, LLC / 83 Newark Pompton Turnpike / Block 26 Lot 21.03 / Professional Office Zone

Attorney Barbarula stated the Resolution will be read at the May 5, 2011 meeting.

BOARD OF ADJUSTMENT HEARINGS:

1. Application No. BOA03152011 / Melissa and Michael Bohan / 96 Newark Pompton Turnpike / Block 29.01 Lot 2 / Zone R-15

Melissa and Michael Bohan came forward and were sworn in by the board attorney. Mr. Bohan stated they were before the board to request a front yard variance to construct a front porch. The front yard setback will be 30.8' where 50' is required. The porch will be across the entire front of the house. The reason for the front porch is aesthetics and eventually they would like to add a level as their family grows. Mr. Darmofalski stated that if they are going to come back for a second level, they should actually ask for that at this time. Mr. Bohan stated he would like amend the application to include adding a level as well as the front porch.

Attorney Barbarula stated that the application states a variance for a front yard setback and the second floor will have to be specifically mentioned because of the bedrooms, and it does encroach beyond the standard 35', and so with those two variances in mind the application will be amended to include both.

Chairman Al Heimall opened this application to the public. No one from the public came forward; thereupon Glenn Venza set forth the motion seconded by Bradley Clinton to close the public portion of the application.

ALL IN FAVOR / Motion Carried

Thereupon Vincent Pellegrini set forth the motion seconded by Vice-Chairman Brendan Magennis to approve the variances as listed above, for the front yard setback and the second floor addition.

ROLL CALL: Ayes: Pellegrini, Magennis, Venza, Clinton, Reilly, Heimall

Nays: None

(6 Ayes – 0 Nays – Motion Carried)

2. Application No. BOA03102011 / RER Supply LLC / 4 South Corporate Drive / Block 30 Lot 1.03 / Industrial 3 Zone

Attorney for the applicant Steven Schepis came forward. Attorney Barbarula stated that in a prior discussion with Mr. Schepis, they spoke about the certifications. We have proof that the newspaper certification has been done, however; in order for the board to have jurisdiction, the original newspaper publication has to be submitted. Any action on this matter, will have to be postponed until after the certification of publication is

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produced. Mr. Schepis stated that he will produce the certification as soon as it is received from the newspaper.

Mr. Schepis stated in 2007 the board granted variances for a site plan approval for this property and in essence the applicant is now seeking an amended site plan approval deminuating the outdoor storage that was previously approved. It is actually less area proposed for outdoor storage than was previously approved, and what is proposed is to expand the storage building on the property and transfer what would otherwise have been storage of grass clippings from outside to inside the building. The property owner and applicant are seeking to attenuate some of the concerns about odor and it appears that of all the vegetative waste that would be brought up to the site, grass clippings is the most odorous. As a result he would agree not to have any outside storage of grass, but rather construct a bigger building and have the grass clippings stored exclusively inside the building. In addition in order to attenuate some of the concerns about site appearance and likewise the noise issues, there is also proposed to be constructed a screening wall around the operational area that was not part of the original site plan and approval. Mr. Schepis stated the applicant is looking to decrease the outdoor storage area, increase the size of the building, take what was to be stored outside and put it inside and from there add a screening wall in order to alleviate some of the noise issues.

Mr. Joseph Miannecki has appeared before this board a number of times and is recognized as an expert witness. Mr. Miannecki will be testifying as a planner and engineer. Mr. Miannecki stated he has reviewed the plans that were approved in 2007. Mr. Miannecki submitted a plan Sheet two of two, amended preliminary and final major site plan phase two and dated February 15, 2011 and revised April 18, 2011. Basically the area would remain the same, the drainage would remain the same, there is no change in the drainage pattern. The proposed building is located in the northerly side of the property, and was originally extended twenty-five feet in the westerly direction toward the railroad and also extends five feet in the southerly direction into the site. The original building size was 4,500 square feet and the proposed building is now 6,325 square feet. There is an office area 20' x 55', the building that will house the grass clippings will be retrofitted with all the air pollution equipment so there will be no odor. There would be no obnoxious odor at all from the grass clippings. There was previously a 5' planting strip along one of the buildings that has been eliminated now. In front we made minor changes to the parking lot and shifted the handicap space which was centered in the middle, closer to the front door. There are minor modifications to the parking area west of the building. There was an increase in parking spaces to make up for the front of the building. As a result of expanding that area we cut the outdoor storage area to 7,900 sq. ft.

Mr. Miannecki stated there was no increase in impervious coverage with the proposed changes. Mr. Miannecki stated there is an addition of a sound wall as shown on the plans. The wall is 12' high and drops down toward the detention basin. The screening wall is to protect the residents from the sound of the equipment. Mr. Miannecki stated the setback from the screening wall to the east will be approximately 25' off the property line and to the south (residential area) approximately 220' off the property line. A substantial portion of the area will remain in its natural state. The outdoor storage areas will be the same as the previously approved plans.

Mr. Darmofalski asked what the sound wall is made of. Mr. Miannecki stated the sound wall is made of wood. The supporting columns are also made of wood. Mr. Miannecki stated it has not been decided yet what type of wood will be used, but it will be natural wood. Mr. Miannecki stated he would give a brief overview of the phasing. Exhibit A-2 is sheet 2 of 2 titled Amended Preliminary Major Site Plan Phase 2 dated February 15, 2011, revision April 18, 2011.

Mr. Miannecki stated Exhibit A-1 is sheet one of two titled Amended Preliminary Major Site Plan Phase 1 dated February 15, 2011, last revision April 18, 2011. Basically everything is staying the same as he previously described. The only difference is the building pad for the future building and the 20' x 55' office.

There will be no outside storage of grass clippings and there would be no receipt of grass clippings until the building is ready. The proposed office area is 1,100 square feet and would be six parking spaces. Ms. Holmqvist asked if the office space is two levels. Mr. Miannecki stated the office space is one level. Mr. Flockhart stated there is a second level that would be a conference room. Mr. Miannecki stated if that is the case there would have to be twelve parking spaces.

Mr. Andrew Flockhart came forward and was sworn in by the board attorney. Mr. Flockhart is the principle owner of the company. Mr. Flockhart stated he bought the property a few years back and he needs to complete the site plan and start his operation. Mr. Flockhart stated the sound and screening wall and bringing the grass inside very costly. Mr. Flockhart stated he needs to do the plan in two phases due to he needs to start the operation and would need a little recovery time before he starts phase two of the project. He stated that it would take a year or two to be able to complete the back portion of the property. The barrier wall is included in phase one. It is a huge investment stated Mr. Flockhart. Mr. Flockhart stated he will not take in any grass clippings until the storage building is completed as well as all the internal air quality devices.

Mr. Miannecki stated the first floor is going to be 1,100 square feet and the second floor will be about 900 square feet and will require five parking spaces. Mr. Miannecki stated they would cut back the second floor to reduce the number of parking spaces required. Mr. Darmofalski asked about the number of employees. Mr. Flockhart stated it varies with the seasons, at times there would be one office employee and other times two or three office employees and two in the yard or up to seven employees. Mr. Darmofalski stated in his calculation the applicant requires 16 ½ parking spaces and is proposing 16. The applicant can request a variance for the parking or cut back on the office space reducing the amount of spaces required. The building shown on the site plan is larger than the testimony from Mr. Miannecki. Mr. Miannecki stated for the record the office space is 20' x 55' or 1,100 square feet and the warehouse area is going to be 115' x 55' or 5,255 square feet. The mezzanine for the office is going to be made to size depending on the amount of parking spaces. There should be 800 square feet in the mezzanine. The mechanical section on the second floor will be used for ventilation stated Mr. Flockhart. There will be a machine in the building housing the grass clippings to push the clippings against the concrete wall. Vice-Chairman Magennis asked about fire hazards in the building. Mr. Flockhart stated the building housing the grass clippings is three foot thick concrete, and he believes the building will have a sprinkler system as well. Mr. Flockhart stated with this phase one they are putting in a first push wall for phase two and it is a three foot thick wall. Chairman Heimall asked where the drainage is going. Mr. Miannecki stated that the drainage will remain the same as previously approved. The southwest corner of the building is connected to the detention basin. Chairman Heimall stated he was at the site today and that the drainage basin was clogged and overflowing. Mr. Miannecki stated the drainage will not be connected to the municipal system in any way. Vice-Chairman Magennis stated on the south side of the property; there was a statement made that you will not accept grass clippings until the building is installed, does that mean that the southern section will never have grass clippings there. Mr. Miannecki stated that is correct. There will be no grass clippings accepted until the building is installed and ready. Mr. Flockhart stated on the south side would be leaves, logs, brush, concrete, wood chips, etc. The misting system was one of the conditions in the original approval and is part of this application as well. Mr. Flockhart stated the misting system is not in place as yet but he is anxious to get it up and running.

Paul Darmofalski stated he has a letter that has engineering items about some of the drainage issues that can be addressed through the plans and also in the field, and there are stability calculations on the screening wall and the 12' high wall that will be necessary before a permit can be obtained and the only other question he has is for Mr. Flockhart about where the site is now in relation to the original approval. Mr. Flockhart stated it is very close to completion, we are waiting for the approval for the sound barrier wall, but we can finish the design on the detention basin wall. Mr. Darmofalski stated the drain by the street has to be cleaned out because it appears to be clogged and he is making that a recommendation to be done as soon as possible. The sound readings will be taken by an expert and additional measures may have to be taken if the sound readings are in excess.

Mr. Schleps stated that we can make this a condition that if modifications have to be made to the wall, they can do that out in the field, rather than have to come back to the board. The board asked Mr. Flockhart how he decided on a wooden wall. Mr. Flockhart stated that wood is as effective as concrete according to the sound expert. Mr. Darmofalski stated some states use wood for their sound barrier walls, and is actually a better material for the town. It is not as durable, however it is effective stated Mr. Darmofalski. Mr. Flockhart stated that the equipment would be parked in the storage area and in some of the driveways. The grass clippings will be loaded into the building through two overhead doors that are wide enough to dump the clippings. After the season for the grass clippings, there would be equipment stored in the building. There is no fire hazard with grass clippings. Mr. Darmofalski asked where Mr. Flockhart is with his State permits. Mr. Flockhart stated that he has a consultant working with DEP and the next step is the inclusion with the County, and they are waiting for this approval. Enclosing the grass clippings in a building; once we have that included in the plan then we will have everything we need for the State permit. Mr. Flockhart stated he is not changing any of the products that he originally came in for, the way DEP is set up a B permit is for logs and brush, a class C is for grass and leaves, but we are not looking to generalize it, we are sticking to what was asked for in the beginning. Mr. Darmofalski stated he would like the board to understand that the State has regulations on this facility and the first step that is needed is that Riverdale agree to this facility by the Mayor and Council. The Planning Board has to have it's jurisdiction on the plan itself, this is not the Mayor and Council's decision, and then it goes to the Morris County Solid Waste Authority and they include that in their County plan for this region and then they independently have to go to the State after that is all done and receive a permit for both Class (B) and (C) facility, that is regulated by the State of New Jersey. In addition to that because he is filtering air, he is going to fall in the jurisdiction having an air permit that is going to be regularly monitored and measured again through the State of New Jersey. All of these permits have to be obtained before he can operate this facility. Mr. Clinton asked what if he builds phase one and then for some reason either the State or DEP turns him down and he can't operate as a Class C for the grass clippings. Mr. Darmofalski stated he would not be able to operate and receive grass clippings. Mr. Flockhart stated that the permits will take a few months to obtain. Mr. Flockhart stated Phase one is the (B) classification and Phase two is the (C) classification.

Chairman Heimall opened this application to the public for questions of the owner and engineer. Mark Olynyk, 49 Harrison Road, came forward and was sworn in by the board attorney. Mr. Olynyk stated he is one of the two properties behind the property that RER is going to build on. Mr. Olynyk stated he has lived in Riverdale since 1987 and was very happy here until two years ago when RER started to build here. He stated that this business has completely ruined his ability to have any enjoyment at his house on all levels. Mr. Olynyk asked if there will be dump trucks at this facility. Mr. Flockhart stated there will be dump trucks and possibly a bull dozer. Mr. Olynyk asked the equipment that makes the loudest noise is the dump truck gate slamming and that his concern and will the wall screen that noise as well. Mr. Flockhart stated he had an acoustics person come and measure his whole operation and everything was in limits. Mr. Olynyk stated the view from his home and he would like to know if an acoustics expert would come to his home to certify that his elevation would be protected from the noise and the visual as well. Mr. Olynyk stated he does not know if a 12' wall is going to stop the noise or if the wall would be visibly a problem. Mr. Flockhart stated that there will be landscaping around the wall which will be visually attractive to the residents in the area, and the acoustics person had said he did not think there would be a problem. Chairman Heimall stated if Mr. Flockhart meets all the State standards there is nothing the board could do to order to solidify the operation. Mr. Clinton asked how Mr. Flockhart came to the 12' high wall. Mr. Flockhart stated that the acoustics expert recommended the sound wall be 12' high. Mr. Schepis stated that in an effort to try to appease the board and the residents, is that Mr. Doty (acoustics expert) will be on site after the initial construction of this wall is complete and then a sound test will be conducted to see if it complies or doesn't comply and if the wall does not comply and the noise levels are exceeded, then modifications will have to be made. If that means the wall has to be a little longer or the wall has to be a little higher or the internal workings of the

operation have to be slightly modified in order to accommodate the noise levels required, that is what we are committed to do. Mr. Venza asked if the board could have the applicant's assurance that Mr. Dotty will take readings of the noise levels at the resident's home. Mr. Schepis stated they would commit to that. One of the conditions of the previous plan was the plantings and they will remain the same. Mr. Olynyk asked if the trees could be planted sooner rather than later so they have a chance to grow. Mr. Flockhart stated that he would like to strategically plant the trees as soon as he can. Mr. Olynyk stated his other question is the odor from the facility; he feels fairly comfortable about the grass being inside, however; but what about the outside storage and is this going to be a problem. Mr. Flockhart stated the misting system will be installed and will be effective with the odor. Mr. Olynyk stated the bulldozer shakes his house and is there something that can be done about that. Mr. Flockhart stated there will be a bulldozer there at times, but there wouldn't be as much work as the last time. Maurice Gaynor came forward and is a representative of CID properties, 1 South Corporate and 8 North Corporate Drive. Mr. Gaynor stated they have a couple of concerns, the sound wall is to the south and we are an office building to the north. Noise, dust and smell are concerns to the north of the property as well. I don't hear anything that is going to address these concerns. Mr. Flockhart stated that the dust would be controlled because those areas will be macadam, blacktop, so there won't be any dust like there is now. Mr. Gaynor stated there will still be dirt and dirt always becomes airborne and how will that be controlled, and are we going to have dust all over our cars, our employees cars, the building, etc. The noise from the equipment is a problem with the tenants when they are on the phone, and the odor is another problem with the tenants in the building. Mr. Flockhart stated that the misting system should help with these concerns. Mr. Gaynor stated that he was waiting in traffic by the Armory and had to close his windows because of the dirt flying in his car. Mr. Gaynor asked how the street is going to be kept clean. Mr. Flockhart stated he has sweeper trucks, however; they create dust, but we will have a water truck that will alleviate the problem. Mr. Flockhart stated that this site would be for finished product. Mr. Gaynor stated his biggest problems are with the dust, dirt, and smell. Mr. Gaynor asked the board to please consider the office buildings on the northern side of the site when you make your decision and how it affects the tenants and owners of these buildings.

Mr. Olynyk stated the dust is a problem. The board members stated the whole town deals with dust problems from the quarry as well. Chairman Heimall stated that the construction site has not been operational and there is the original approval that was given. Mr. Olynyk stated nineteen trees doesn't sound like a lot of trees and is there a way of increasing the number of trees along the sound wall. Mr. Schepis stated that maybe Mr. Darmofalski could work with the resident and the applicant on the number of trees.

**CHAIRMAN HEIMALL CALLS A FIVE MINUTE RECESS 9:05 PM
BOARD RECONVENES AT 9:14 PM**

Mr. Norman Dotti came forward and was sworn in by the board attorney. Mr. Dotti is employed by Russell Acoustics. He has been an acoustical engineer for forty years and listed his qualifications. The board accepts Mr. Dotti as an expert witness. Mr. Dotti stated he conducted an investigation at RER and has been at the site several times. Mr. Dotti stated he has measured the proposed equipment at this site. Mr. Dotti stated if this was a compliance issue there would be something to measure, however; there is nothing to measure because the proposed use does not exist at this time. Mr. Dotti stated he took the site plan and took measurements on the equipment, the dump truck, the bucket loader, etc. All the information on the frequencies and all the calculations are loaded onto the computer model. Mr. Dotti stated this is how he was able to see the need for the sound barrier and thereupon his recommendation for a sound barrier 12' high with the net result of lowering the sound. The 12' high barrier positioned along the site by the detention basin and that brings the sound from the tub grinder which by far is the loudest piece of equipment on the site, well under the sound limit. If there was a problem with the building to the north there are steps that can be taken to lower the decibels in that

direction. Mr. Dotti stated he has tested this process and it does work and was actually measured by the actual equipment. Mr. Dotti stated he started at a 16' high wall, and that was too high, so he dropped it to 12' high which has a good 5 decibels extra. Mr. Dotti stated there are different standards daytime than nighttime. Mr. Dotti stated that the State Ordinance has currently printed about a limit from industrial to industrial sources that have been determined by the DEP's attorneys. They are looking at using a waiver of removing industrial to industrial. Exhibit A3 and A4 are submitted to the board. A3 is marked grinder and A4 is marked bucket loader operating throughout the site.

Chairman Heimall asked about the planting of evergreen trees. Mr. Dotti stated it takes two to three hundred feet of dense woods to give you an appreciable sound reduction. Mr. Dotti stated he normally does not include the trees in his calculations unless there are a lot of trees. In the default setting in the model is .05 decibels per meter. The plantings of evergreens would be more for aesthetics. Mr. Dotti stated planting three rows of dense evergreens would make no difference in the sound levels. Mr. Venza asked about the impulsive noise as the resident brought up with the slamming of the tailgate on the truck. Mr. Dotti stated that his calculations have taken that noise into consideration and the sound barrier would also help the impulsive noises, however; Mr. Dotti stated he would hope that no one would purposely stand there and wails on the sides or back of a truck. Mr. Clinton asked if Mr. Dotti had any idea of the decibels that noise would create. Mr. Dotti stated he would not like to answer that or guess at an answer.

Vice-Chairman Magennis asked Mr. Flockhart how many trucks come into his site per day. Mr. Flockhart stated the dump trucks that would be dumping would be his trucks, at the worst time maybe two an hour.

Chairman Heimall opened this application to the public. Mark Olynyk came forward and asked Mr. Dotti if he measured the sounds of the tailgate slamming. Mr. Dotti stated it did happen a few times, but he could not remember the numbers, and he was measuring all the equipment. Mr. Olynyk stated he would like the owner of the property to understand, just because the code is 65 decibels and the site measures 64 decibels, even though it's under the limit, it is still a nuisance and he wouldn't want that at his house. Mr. Olynyk and his neighbors live with this all the time. Mr. Olynyk stated he bought a sound meter and even though your under the code with 64 decibels, it is not pleasant to sit outside and he cannot enjoy his own home. Chairman Heimall stated we can only do what the State allows us to do. Mr. Olynyk stated he believes that the wall should be 14' high to be safe. If the wall was constructed at 14' it would save the problem of having to go back to add another 2' if the sound levels are elevated and the wall would have to be raised. Mr. Dotti stated that a 12' high wall is sufficient and should not be a problem with the sound levels.

Thereupon Glenn Venza set forth the motion seconded by Bradley Clinton to close the public portion of the application.

ALL IN FAVOR / Motion Carried

Mr. Schepis stated he has no further witnesses and would like to make a few closing statements. As I stated when we started I believe this is an amendment for the approved original plan. We eliminated one of the non-conforming uses, the outside storage of the grass clippings and we brought it in conformance with the ordinance, so it seems to me this is simply an amendment to the previously approved site plan. Ms. Holmqvist stated you were granted the use variance before and being that you are enlarging the building might be an addition use variance for that. Mr. Schepis stated that the use itself is permitted in that zone the office and warehouse, and we are decreasing the size of the building the board had already approved. Ms. Holmqvist stated that as a planner she would not agree with the warehouse use; there is vegetative waste with an odor and special treatment, ventilation, and that is not considered a typical warehouse use. Mr. Schepis stated that the term warehouse in the Borough Ordinance is not defined; however; there is a list of items specifically prohibited in the industrial zone and none of the prohibited uses lists vegetative waste as being prohibited. The fact that the ordinance does not specifically

define warehouse, basically it is where things are stored and materials are stored stated Mr. Schepis, and due to the fact that the Ordinance in the I-Zone does not specifically list the storage of vegetative waste as being prohibited. Since this is not specifically listed, stated Mr. Schepis, when you look at what is and is not prohibited, the board within it's jurisdiction could make a determination that what is proposed here is a warehouse being a permitted use and is simply looking for an amended site plan to we can get started with the sound barrier wall and the construction of the building.

Ms. Holmqvist stated there is one other clarification and she is quoting from the ordinance, under the I-Industrial District, where it states prohibited manufacturing and industrial uses. The following uses are expressly prohibited but are not exhaustive of the number of types of prohibited uses. There are about thirty-three uses listed and number 32 states, any other trade or use that is noxious or offensive by reason of emission of odor, dust, smoke or gas or is of an extremely hazardous nature by the judgment of the Planning Board. Ms. Holmqvist stated this is up to the board's discretion.

Mr. Barbarula reviewed the variances and the fact that a new member of the board will be at the next meeting and the applicant has the right to hold the decision until there is another member. Mr. Schepis asked if the board would be able to vote on the amended site plan but not the use variance if they feel that, what vote comes first. Mr. Barbarula stated the use variance vote has to come first because everything else depends on it. The C1 requires the majority of votes and there are six board members present. Chairman Heimall asked if the variance is based on Phase one and Phase two. Mr. Barbarula the board is looking at the presentation of the site plan that is being asked to be built in two phases. With the changes that you see here is the change in the use variance as Donna stated you would need five votes. If you feel that it is a bulk C1 variance a modification of the site plan and nothing to do with the use, then you say that and that only needs three out of five votes.

Thereupon Glenn Venza set forth the motion that the board treat this as a C1, Bradley Clinton seconded the motion.

ROLL CALL: Ayes: Venza, Clinton, Pellegrini, Reilly, Magennis, Heimall
Nays: None
(6 Ayes – 0 Nays – Motion Carried)

Mr. Barbarula stated the C1 Variance has been approved and now the board has to approve or disapprove the application as it was presented in two phases and with or without any conditions you wish to establish. Mr. Barbarula stated to recap, the building will be no bigger than what is on the site plan. There will be no grass clippings at the site until phase two is established. The site will be built in phase one, meaning everything that was originally approved will be installed, misters, landscaping, everything, the only thing that will not be installed is the extension of the building that will actually house the grass clippings. The cleanout of the municipal off-site as per the board engineer must be taken care of during this phase one of the approval. Phase one the drainage issues have to be completed. The sound barrier has to be built as submitted during phase one. We need documentation on the air flow cleaning system to be applied for before the resolution is read, and we need the actual affidavit from the newspaper. Vice-Chairman stated he would like to add that the grass clippings will not be stored outside at any time. The grass clippings will always be stored inside. Mr. Barbarula asked about the time on phase two. If phase two is not completed within two years or whatever the time limit the board agrees to, the applicant would have to come back to the board for an extension of time.

Thereupon Vice-Chairman Brendan Magennis set forth the motion that the board adopt what was presented with the qualifier that Mr. Barbarula stated that the building will be no bigger than the 25 'x 55' as shown on the site plan, no grass will be accepted on the site until the phase two is completed. Cleanout of the municipal storm drain system is taken care of during the initial stages of the construction, that the sound barriers be built to the specifications that were presented by the sound engineer and the documentation of the air flow cleaning systems be provided for evaluation and that there will be no grass

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storage outside of the building at any time. Within two years after the application is approved by the DEP, we expect that phase two will be completed or the applicant will have to reappear before this board with an explanation and the applicant would have to apply for an extension at that time. Vincent Pellegrini seconded the motion.

ROLL CALL: **Ayes: Magennis, Pellegrini, Venza, Clinton, Reilly**
 Nays: Heimall (because he does not like the two phase, The
 board has been burned too many times with that type of
 application)
 (5 Ayes – 0 Nays – Motion Carried)

ADJOURNMENT:

Thereupon Bradley Clinton set forth the motion seconded by Glenn Venza to adjourn the meeting.

ALL IN FAVOR / Motion Carried

Meeting Adjourned 10:20 PM

Respectfully Submitted By:

Amanda Colacios, Board Secretary

3. Application No. APBOA01212011 / B&A Riverdale, Inc. / 36 Route 23 North / Block 32 Lot 5.04 / Highway Business Zone

A copy of the Resolution was submitted to the board members. Vice-Chairman Brendan Magennis asked that there be an addition stating that the hours of operation shall be in accordance with the current zoning. Thereupon Vice-Chairman Brendan Magennis set forth the motion that the resolution be approved with the corrections as discussed, seconded by Bradley Clinton.

ROLL CALL: Ayes: Magennis, Clinton, Venza, Pellegrini, Roberts, Heimall
Nays: None
Abstain: Poli
(6 Ayes – 0 Nays – 1 Abstain – Motion Carried)

CANCELLATION OF MEETING FOR MAY 26, 2011:

The board secretary stated there is no agenda for the May 26, 2011 meeting. Thereupon Bradley Clinton set forth the motion seconded by Glenn Venza to cancel the May 26, 2011 meeting due to lack of agenda.

ROLL CALL: Ayes: Clinton, Venza, Pellegrini, Roberts, Poli, Magennis, Heimall
Nays: None
(7 Ayes – 0 Nays – Motion Carried)

ADJOURNMENT:

Thereupon Glenn Venza set forth the motion seconded by Bradley Clinton to adjourn the meeting.

ALL IN FAVOR / Motion Carried

Meeting adjourned at 7:54 p.m.

Respectfully submitted by,

Amanda Colacios, Acting Board Secretary