

**BOROUGH OF RIVER EDGE
LAND USE BOARD
MEETING MINUTES
ZOOM MEETING
December 10, 2025**

NOTE – Public meetings of the Municipal Land Use Board of the Borough of River Edge will be held in person in the Council Chambers on the second floor of Borough Hall, 705 Kinderkamack Road, River Edge, NJ 07661 unless further notice is provided. Meetings will be held concurrently via ZOOM (Hybrid). Members of the public may attend meetings in person or via ZOOM. To join the ZOOM meeting via smart phone, computer or tablet. The log in information and a link to the meeting will be posted on the Borough’s website at <https://www.riveredgenj.org/landuse>.

Chairman Caslin calls the Meeting to order at 7:30 p.m.

Roll call:

Mayor Papaleo – Excused; Chairman Caslin – Present; Ryan Gibbons – Present;
Councilman Glass – Excused; Eileen Boland – Present; Mr. Chinigo – Present; Bruce Feffer – Present;
Mr. Gautier – Present; Michael Krey – Present; Mr. Salva – Present; Ms. Levine – Present

ALSO PRESENT: Marina Stinely, Esq., Mr. Behrens and Lisa Ciavarella and Marc Leibman, Esq.
Special Counsel for IAAT application.

APPROVAL OF MINUTES – Approval 11/19/25 minutes – Motion made for approval – So Made- Mr. Gautier; Second – Mr. Gibbons. Everyone is eligible to vote except Ms. Boland and Mr. Salvo. Motion passes.

DISCUSSION

Calendar for 2026 MLUB meetings. The calendar was circulated to the Board prior to tonight’s meeting. Motion to approve – Mr. Krey; Second – Mr. Chinigo. Voice vote was taken and schedule was approved.

MEMORIALIZATIONS

Cardenas, B & M
241 Berkely Road
Block 906, Lot 7

Bulk variance relief for Addition/Alteration/Renovations

A draft of the Resolution was circulated to the Board prior to this evening’s meeting. There being no comments from the Board Chairman Caslin looks for a motion to approve. So Made – Mr. Gautier; Second – Mr. Gibbons. Only those eligible to vote – Chairman Caslin – yes; Mr. Krey – yes; Mr. Gibbons – yes; Mr. Chinigo – yes; Mr. Feffer – yes; Mr. Gautier – yes; Ms. Levine – yes. The motion passes.

Old Business

IAAT Services (*Carried from 9/24/25. Re-noticed for Hybrid Meeting 11/3/25*)
41 Grand Avenue
Lot 1405, Block 4

Preliminary and Final Site Plan Approval with Use, Height and Bulk Variance relief to construct and operate a double-faced “static” Billboard sign on a Single Monopole.

Mr. Leibman introduces all attorneys in attendance representing objectors to this application.

Christopher Kinzel Esq., of Peckar & Abramson appearing on behalf of Robert Peckar, Esq., this evening. They represent Grand Four Associates, 70 Grand Avenue, River Edge. Charles Sarlo, Esq., representing Dark Star Development, LLC and Let It Grow, 41 Grand Avenue, River Edge. Jeffrey Chaney, Esq., Connell Foley, on behalf of Rt.4, LLC., (Estate of E. Tamburelli) and 41 Grand Avenue, LLC. Robert Falkenstein, Esq. from Mr. Sinisi’s office gives the Board a brief procedural summary of the application. The application was deemed complete on May 28, 2025, and this Board has since conducted multiple hearings during which the applicant has presented its engineer, Mr. William Vogt who was accepted by the Board as an expert in civil engineering. He previously reviewed the survey, site plan and sign elevation. He has described the application as a double-faced billboard measuring 14 x 48 feet reaching a height of 60 feet, illuminated by LED lighting. The applicant outlined all the bulk variances front, side rear yard setback, height variance distance, maximum setbacks etc. The Board professionals have provided written reports. They are in receipt of the Board’s Planners memorandum of May 22, 2025, identifying the specific variances and confirmed that the applicant requires a D6 height variance as well as several C variances. Since the last meeting, updated site materials have been provided by the applicant at the continued hearing of September 24, 2025. The applicant has their three professionals here tonight – Mr. Hal Simoff traffic engineer, William Vogt civil engineer and John McDonough professional planner.

Mr. Vogt is sworn in again. He is from L2L Lighting Design and they created the site plan for the applicant. He shows the Board Exhibit A5 an aerial that was presented at the last meeting. He describes and goes through the Exhibit to refresh the Board’s memory from the previous hearing. The site is L shaped, slightly under a half-acre, there is an existing two-story office building that is above parking. Mr. Vogt now shows Exhibit 8A a color rendering of the site plan being submitted as part of the updated drawings (drawing C-02 dated 9/2/25). Mr. Vogt described the drawing for the Board. Access to the site is off of Johnson Avenue. The applicant is proposing a 60-foot-tall double sided static billboard 14 feet in height and 48 feet in length, 672 square foot per side and has a V shape configuration so that the messaging on the sign is directed toward the traveling public along Route 4. It is a static sign so it has exterior lighting that projects lighting onto the face of the sign so it can be read in the evening hours and during the day the lights are off. What the applicant updated since the last meeting they are showing some addition NJ DOT right of way information. The frontage along the Route 4 DOT right of way is on the curvature which totals 27.27 linear feet. That is the biggest update to the plans. Mr. Vogt shows Exhibit A9 same image as the 14 x 48 static sign but they expanded (inaudible) the left, the right, above and below. This illustrates the light spillage from those four exterior LED lights to the side of the billboard. They are in about 17 ½ feet is offset to the neighboring parcel behind the applicant. The distance between each of the (inaudible) marks is five feet so it represents 30 feet all the way out to the right to the left. Mr. Vogt goes on to explain the dimensions of the panels of the billboard. (Very difficult to hear the testimony being given). They expect that the amount of spillage at the property line would be

to .7 to .9 (? inaudible). They can reduce the lighting output by 60%. So, they can reduce that output to a 40% output. In addition to that lighting reduction the manufacturer makes shielding - side shields on either side. This would help reduce the amount of light spillage off of the sides.

Mr. Behrens states that the applicant went over the variance relief that is required but he did not hear Mr. Vogt mention that they needed a D1 use variance. He wanted to know if the applicant still is under the impression that they did to which Mr. Vogt responded – yes. Mr. Behrens spoke about the light spillage issue and reducing it to zero footcandles at the property line but at the current proposed level it's similar between 0.7 to 0.9 footcandles. Mr. Behrens wanted to know how the spillage gets enforced. Mr. Vogt stated that on other applications they agree to a six-month look back. Mr. Behrens states that with regard to variance relief there is section 416-48B which pertains to lighting states that all business signs and all spotlights and flood lights used to illuminate any sign shall be extinguished by 11:00 p.m. or upon close of business. Mr. Behrens asked if they intend to illuminate the sign 24/7. Mr. Vogt stated he did not believe it to be 24/7 but overnight yes. Mr. Behrens speaks regarding the renderings showing the vantage points from the highway but there is a question of visual impact to other parts of the community and are they ready to prepare other renderings from other vantage points around the site. Mr. Vogt states other testimony from other professionals should have those renderings. Mr. Behrens asked about the road classification, they are calling it Rt. 4 based on the DOT classification Mr. Behrens stated that when he looked up this issue using the state's own GIS website and DOT information, it did not classify it as Rt. 4. Depending on the source they either classified it as Johnson Avenue or Grand Avenue he could not find it anywhere it was classified as Rt. 4. Mr. Behrens wanted to know what source they used to verify that marginal road/off ramp is in fact classified by DOT as Rt. 4. Mr. Vogt states that these plans are from the DOT, the survey was verified through the DOT mapping. His mapping goes out to the blue lines on the plan that is the extent of the DOT right of way. Anything to the east of the blue line is a peninsula and anything to the east is the DOT right of way. Mr. Behrens states that right of way and road classification can mean two different things. He stated he did not have a definitive answer, but when he reviewed the state's own DOT online GIS source, they called it something different. Mr. Behrens asked if there was a distinction between the right of way and road classification in this case. Mr. Vogt stated that was something the surveyor can answer. Mr. Behrens asked about the speed limit on that stretch of road to which Mr. Vogt stated the traffic professional would testify to those questions.

Mr. Krey – (he cannot be heard at all- he needs to speak clearly into the microphone) He is asking about minimum lot area and lot width, something regarding the variances they are requesting. I believe he is now asking a question regarding the static sign and its messaging. Mr. Vogt states that it is on weather resistant vinyl and they submitted a link to a video about how it is installed and taken down. Mr. Gibbons said that part of what Mr. Behrens brought up was half of the sign being on Rt. 4 and he is not exactly sure what the town's ordinance allows in terms of billboards, but he believes that they have to be on the frontage of a highway. Mr. Behrens states that one of the thresholds at hand is that the Borough prohibits billboards/off premises signs, there are no conditions in which they are permitted. Mr. Behrens does not know the answer to the road classification issue. Mr. Gibbons asked if there was a state or county that states a billboard has to be on a highway if one is to be allowed. Mr. Behrens stated none that he is aware of. Mr. Vogt states that they did testify to that and that they have a DOT active permit for this location. Mr. Behrens stated that it is conditioned on municipal approval. Mr. Vogt states that the first step is to actively get that DOT permit and then the DOT vets the site after it's shown by the applicant or the owner, they go through their criteria and if it met all of the conditions then they issue the permit. Mr. Gibbons states that it is hard to state whether it's an on ramp or a road in River Edge or it's an actual highway. Mr. Vogt states that it is why they have been asked to clarify the exact frontage and it is 27.27 linear feet and they did pass the test with the DOT. Mr. Gibbons further spoke of accessibility to the site.

Mr. Vogt stated that he met with the driller at the site, they looked at the site and they had no issue accessing Grand Avenue right of way. They will probably have to ask the municipality for a temporary road closure just to get their equipment in for the drilling itself only takes about two days, they will probably drill and set the concrete in one day but the largest equipment is the drill rig and they can access the site through a partial roadway closure off of the Grand Avenue right of way and then once the concrete sets then they will crane in from the Grand Avenue right of way the structure. Mr. Gibbons asked what do they do when they have to change the sign. Mr. Vogt stated that they show up in a regular vehicle, access into the site, a two-man crew hops out, they have harness equipment, small tools, they have the vinyl folded up, and extension ladder, they climb up, they access to the catwalk, they harness in and then change the sign out.

Mr. Feffer asks what the procedure is for monitoring the structure for damage. Mr. Vogt stated that the messaging gets changed and someone will be out there every month. He states that there is a beeper that is located below the sign and it holds the owner's name and the permit number. So, when the DOT passes by, if there is anything wrong with the sign it gets recorded and then it gets fixed immediately. Mr. Feffer asked if there were any plans to eventually convert this from a static sign to an LED sign. Mr. Vogt stated that it's not possible. This permit can never be transferred to a digital sign. Mr. Feffer asked how frequently the static sign needs to be repaired. Mr. Vogt stated that he knows of very few instances where something has happened where repairs were needed and he has no paperwork regarding that.

Ms. Boland asked something regarding the least amount of light spillage possible (very difficult to hear her). Mr. Vogt responded that they did what the Board had asked of them and made some modification to that and he feels they were successful in doing so. Ms. Boland stated they wanted it minimized as possible. Mr. Vogt feels that they can achieve that. Ms. Boland asked if they did any type of shade study to see what type of impact there would be on neighboring businesses and homes. Mr. Vogt stated that he did not. He further stated that residential homes are further to the north. Ms. Boland states that one of the businesses has a rooftop patio area that she feels will be affected by this sign.

Mr. Gautier asked what they considered a standard vehicle coming onto the site to make changes to the sign periodically. Mr. Vogt stated that it any vehicle that would fit into the standard parking spaces on the site. Typically, they come in a small pick-up.

Mr. Chinigo asked how tall was the tallest structure in River Edge. Mr. Vogt responded that the zone that they are in is 2 ½ stories/35feet. Most of the structures in the applicant's zone at the 35 feet. Mr. Chinigo wanted to know if he knew of any structure in River Edge that was over 35 feet. Mr. Vogt stated that off hand in the area he did not know. Mr. Chinigo asks that if the sign is built and it falls, does it fall on its own property. Mr. Vogt stated that the sign is not designed to fall. Mr. Chinigo countered that if it does fall due to a hurricane or some bad weather situation – does it fall on its own property. Mr. Vogt could not answer. Mr. Chinigo asked what were the considerations for the height of the sign. Mr. Vogt responded that they are cantilevering the existing building. The existing two-story building is at the 35-foot mark. The applicants' sign, the top of it measures 60 feet above grade so that leaves a 3-foot cap off leaving approximately 9 feet of clearance between the bottom of the structure and the top part of it. Mr. Chinigo asks -why double sided? Mr. Vogt responded to present the advertisement to both the traveling public going east and west. Mr. Chinigo asked if the applicant had pictures showing the northern and eastern sides that will be looked at. Mr. Vogt stated he did not have that but he believed the other professionals will have that information. Mr. Chinigo asked if the foundation met the requirements of the storm water management here in town. Mr. Vogt stated yes – because it doesn't require any storm water management -its 30 square feet. Mr. Chinigo would argue that the property would require storm

water management because it is pretty much all concrete and covered. Mr. Vogt states – pre-existing yes. Mr. Chinigo states – that now they are asking to expand on the pre-existing. Mr. Vogt responded -for 30 square feet yes. Mr. Chinigo asks if they considered that they are adding 30 square feet to any area that already is totally covered and therefore there should be some storm water management consideration given. Mr. Vogt stated that they reviewed that with the Board Engineer and they did not receive any storm water comments. Mr. Chinigo asked that if there is a requirement for road closures and there is a requirement for the town to hire police officers to man those road closures are the owners willing to pay for the hours that they need to put in. Mr. Vogt responded of course. Mr. Chinigo continued – that goes for any time in the future. Mr. Vogt responded yes. Mr. Chinigo asked how often the sign is changed to which Mr. Vogt responded typically once a month. Mr. Chinigo asked if there was any state regulation that prohibits these types of billboards within a certain distance of an on ramp or off ramp in the highway. Mr. Vogt stated that is part of the DOT criteria and the applicant met all of the criteria. Mr. Chinigo asked what are those criteria? Mr. Vogt responded that they are listed in the DOT manual which he did not have in front of him. He can direct him to the section, and he can get the Board the criteria. Mr. Chinigo asked if it was possible to drop a sign and make fit with the 35-foot-high restriction in River Edge. Mr. Vogt stated not with the current configuration of the existing building. Mr. Chinigo countered with – why not. Mr. Vogt testified that the building is in the area where the sign is permitted by the DOT. He further states that he is cantilevering over the three-story building and he is going to leave nine feet of clearance between the bottom structure and the top of the roof. Mr. Chinigo asked if nine feet is required by statute and what is the reason for nine feet. Mr. Vogt responded that he just tries to keep it off the roof as much as he can. He goes into further detail explaining to Mr. Chinigo.

Chairman Caslin asked about the vinyl panel, to which Mr. Vogt states that it's a piece of vinyl. Chairman Caslin asks what happens should that piece of vinyl catch a strong wind and come off of the sign, does it fall straight down, does it blow with the wind what would happen in that scenario. Mr. Vogt stated that there are several straps on the top, the bottom and multiple sides with gromets securing the sign. In his twenty years of doing this he does not know of one billboard that has gotten blown down or away. Chairman Caslin asks, suppose there was a catastrophic failure what would happen to that sign is it designed to fall straight down, is there a possibility that it gets blown onto the highway or onto the roof of the building, Mr. Vogt stated most likely not, it would fall straight down. Chairman Caslin asked if it is unique that they have this type of a sign, where there is a billboard situated over a building, to which Mr. Vogt responded no. Mr. Behrens asked him to name another location where that this type of billboard exists. Mr. Vogt stated there were 2 others that are to the east of this sign, there is one in Paramus. I believe Mr. Krey asked something about a permit run, to which Mr. Vogt stated there's runs through to 2026.

Mr. Feffer asked if any arrangements or agreements have been entered into with the building owner whether the applicant is obtaining any rights over that building, an easement of some type or any kind of rights that would preclude the building owner in the future from potentially raising the height of its own building if they wanted to add a structure to the height of the building and then there is their sign hanging over their roof. He thinks potentially that would infringe on that building owner's right to increase the height of their building. Mr. Vogt states that he believes there is a lease. Mr. Feffer asked if he knew how long the lease was for and Mr. Vogt stated that they are generally thirty years.

Objector attorneys - Christopher Kinzel Esq., of Peckar & Abramson, they represent Grand Four Associates, LLC in opposition to this variance. He proceeds to read Mr. Peckar's statement as he is out of state at the moment. Charle Sarlo, Esq., on behalf of Dark Star Development, LLC and Let It Grow – they are the property owners of 335 Johnson Avenue, River Edge. He speaks regarding the rooftop

amenity at 335 Johnson Avenue. Mr. Sarlo brings up the fact that Mr. Vogt was unaware of the rooftop amenity until Ms. Boland brought it up while questioning Mr. Vogt earlier. Mr. Sarlo states that Mr. Vogt's placement of the billboard did not consider its impact on the adjoining properties. Mr. Vogt stated the building behind them is set to the same criteria 35 so it would be no taller than the applicant's existing building. Mr. Sarlo stated that this is a yes or no answer. Mr. Vogt stated that he does not believe they are impacting any adjoining properties. Mr. Sarlo asks again if Mr. Vogt's the situating of the billboard take into consideration the impact to the neighboring properties as to what is there now or what could be there. Mr. Vogt states that he believes he has as he is following the DOT's permit. Mr. Sarlo states that the DOT is on the south side. Mr. Sarlo asks – what about the north side. Mr. Sarlo states that he has not seen the video that Mr. Vogt has referred to several times introduced into evidence. Mr. Liebman states that it was distributed to the Board. (sound is going in and out) Mr. Sarlo states that he has not seen the video. Mr. Leibman asks if everyone on the Board had a chance to review the video. Ms. Stinely is trying to pull up the video. Mr. Sarlo asks if they will watch this before it's put into evidence. Mr. Leibman tells Mr. Sarlo to put his objection onto the record and yes that it is going into evidence. Ms. Stinely is searching for the video link. (There is a long silence on the video at this point). Mr. Sarlo continues regarding the potential lease; he respectfully suggests that the Board ask the applicant to produce that lease for review as he thinks it will be relevant to this matter. Mr. Sarlo rests.

Jeffrey Chaney, Connel Foley, attorneys for Rt.4 Main Street, LLC temporary trustee. He asks what is the difference between the applicant's property and Lot 6. He states that they share the western most property line. They are the property between a portion of the Rt. 4 DOT right of way and the applicant's property. Mr. Chaney asks if there is sufficient room between the billboard overhang and the roof of the building. To which Mr. Vogt stated yes. Mr. Chaney asked if it is sufficient to access any rooftop equipment to which Mr. Vogt stated yes. Mr. Chaney asks Mr. Vogt if he is aware of the rooftop equipment, to which Mr. Vogt stated he hasn't been on the rooftop but he can certainly look into that information for him. Mr. Chaney asked how they arrived at the measurements for the sign. Mr. Vogt stated that as part of the DOT that stipulates what the maximum sign size is and then they go to the site, they identify the height and different sign dimensions and they chose a 14x48 which is the standard size. He believes their permit is for a larger size, but they went with the 14 x 48. Mr. Chaney asks how is a double-sided sign different then two sides. Mr. Vogt stated double sided meaning that there are two faces facing the west or east bound traffic. Mr. Chaney asks what is the definition of this sign. Mr. Vogt stated he did not have that information in front of him at the moment. Mr. Chaney asks if there are any other billboards in the borough. Mr. Vogt does not know offhand in River Edge in other municipalities – yes. Mr. Chaney asks if the design of the sign was taken into consideration of the nearby properties. Mr. Vogt states that they will hear testimony from their planner later. Mr. Chaney asks if the DOT is concerned of the impact beyond Rt 4. Mr. Vogt responded – this is a better question for the traffic engineer but they look at the site as a whole within their corridor, it has to be in a commercial zoned property. Mr. Chinigo asks when the building that is currently there was built. Mr. Vogt did not know; he would have to check the tax records. Mr. Chinigo asks Mr. Vogt if he knew if any variance was granted for coverage for that property before they came before the board with this application. Mr. Vogt stated that he did not know. Mr. Chinigo wanted to know when the last time the parking lot was repaved. Mr. Chinigo asks if any consideration has been given to fires and how fire fighters will deal or respond to fires especially since there is going to be lights, electricity and vinyl. Mr. Vogt stated that they did not get any comments from police and fire services from River Edge to his knowledge, so he doesn't have any comments from them. Mr. Chinigo asks if all of this was submitted to them. Mr. Vogt responded as part of the application – yes. Mr. Chinigo asks if there is verification that they have chimed in. Ms. Stinely stated that she believed so, and she would check to see everything that was sent but usually for commercial applications Ed would forward them to the departments.

Traffic Engineer – Mr. Simoff is sworn in by Mr. Liebman. He has been a traffic engineer since the middle 80's. He gives his credentials to the Board. (Ms. Stinely asks them to speak close to the microphones) Mr. Simoff was hired to look at the safety and practicality of this application as it relates to traffic safety. Mr. Simoff reviewed the DOT permit; he was familiar with the DOT criteria. He also reviewed the site plan. He also reviewed a study done by the FHWA – Federal Highway Administration as to the safety of billboards. He has physically surveyed the property during the summer of this year. He is familiar with the surrounding area and properties. He looked at the traffic safety aspects of the billboard. Mr. Simoff prepared the safety and traffic analysis report dated June 5, 2025. Mr. Simoff describes the findings and conclusion of the report. Mr. Simoff begins with the global aspect. He states that the Federal Highway Administration regulates billboards under the Highway Beautification Act. The federal government has standards for billboard placement and locations and then they leave it to the states to make them tougher and New Jersey has toughened up its standards above the Federal Highway Administration. Back in 2012 a study was performed regarding the placement of billboards and this has been in place since 2012. In his traffic analysis he included the executive summary of that Federal Highway Administration report in this submission. The findings of that study were that the glances of the static and digital billboards were about the same. It was .3 seconds. So, if you are traveling at 50 mph is about 75 feet per second so when you travel a certain distance, he evaluated the viewing angles from those distances and in his report, he presented a graphic that shows you can see the billboard for about 700 feet. The eastbound direction is 740 feet and that visibility is 10 seconds and in the westbound direction is 825 feet and that is 12 seconds. So, you have 10 to 12 seconds to view these signs. The standard for viewing these signs pursuant to the federal government is .3 seconds. It is clear that there is plenty of time to view the sign and it is not a hazard. He states that the sign has been properly located. He further states that the DOT goes out to look at the sign and they will reject the sign if it is not in a proper location. Mr. Simoff continues speaking regarding viewing the sign. Mr. Simoff testified that he signed and sealed the report. They marked the report Exhibit (inaudible). Ms. Stinely states that the video was marked Exhibit A10 and A11 was marked NJDOT Flood Hazard Applicability Determination and A12 was marked Traffic Report. The attorney for the applicant speaks about the outdoor advertising permit – he asks if the state has an obligation to review billboard applications. Mr. Simoff states – yes and it is not only on state highways but on local highways as well. Mr. Simoff testifies regarding the regulations and procedures in the scope of the state's investigation. The applicant's attorney speaks regarding Costa Engineering's review correspondence revised July 3, 2025. He asks Mr. Simoff about item 13 on page 5 he asks for clarification. Mr. Simoff states he is not before the Board to discuss visual clutter that would be for the planner. Mr. Simoff states regarding the issue of distraction – it is clear that this billboard is not a distraction. Mr. Simoff is asked about the Planner's review to which he responded yes. He was asked regarding item 5 for clarification as to adverse impacts to the surrounding roadway of the billboard was approved. Mr. Simoff states absolutely no negative impact. Mr. Simoff was asked if he had an opinion that if the application were approved if the billboard would cause a substantial adverse impact on traffic operation to the adjacent roadways. He testifies – absolutely none. He further stated that the DOT would not have issued a permit if there was an adverse impact. Mr. Simoff further states that it is his opinion that the surrounding properties will not be affected by the billboard.

Mr. Behrens asked Mr. Simoff why the DOT regulates billboards. Mr. Simoff stated that the Highway Beautification Act requires that billboards be regulated. Such as the distance between billboards, the square footage and now the state regulates the spacing of digital billboards. Mr. Behrens asks if this exit or off ramp would that be considered a ramp according to DOT terminology. Mr. Simoff started - it is not because the DOT issued the permit. Mr. Behrens asked what Mr. Simoff would classify that the part of the road that goes from the highway to River Edge. Mr. Simoff stated – a service road because it has

access, a ramp does not have access. Mr. Behrens asked if the DOT considers the Municipal Land Use law criteria as far as when variance relief might be required. Mr. Simoff stated – that they require it be in a commercial zone, it can be a residential zone. That is why they require every application come before the local Board. Mr. Behrens asked if the DOT considers any other impacts i.e. public impacts or impacts to adjacent privately owned property. Mr. Simoff stated he did not think so. Mr. Behrens asked if the DOT conducts an analysis of other signage in proximity to the site. Mr. Simoff stated that you are not allowed to have a sign within 300 feet. If it impacts a highway sign, they will not issue a permit. Mr. Behrens believes that there was testimony stating that there were six billboards within a half mile to this site – traveling at 50 mph how long does it take to travel a half mile. Mr. Behrens asks Mr. Simoff if he has considered other billboards in this vicinity that might compete for attention. Mr. Behrens stated there were two. Mr. Behrens and Mr. Simoff are discussing glances to the billboards. Mr. Behrens asks if 2 seconds is the safety threshold to glance at the billboard. Mr. Behrens asked if Mr. Simoff knew what this exit/service road qualifies as. Mr. Simoff responded that he would think it is a service road, because if it were a ramp, you are not allowed to have driveways on a ramp. Mr. Behrens asks Mr. Simoff if he has looked at any accident data to which Mr. Simoff responded – no. Mr. Behrens asks – as far as the glance issue, are billboards created differently as far as the messages could be longer than others. Mr. Simoff responded – of course. Mr. Behrens then asks is it possible that it could take longer to digest one sign of a certain length versus another, just from a time perspective. Mr. Simoff responded that what the study found was that if a copy was too much, they just looked at it for .3 seconds and then travelled on. Mr. Behrens asked Mr. Simoff if he was aware of any billboard industry advertising information that indicates that they prefer you to look at their signs more than .335 seconds. Mr. Simoff stated he is not aware.

Mr. Gautier stated that the DOT permit states that the location is 30 feet west of Grand Avenue, whereas in that picture it looks like it would be north of Grand. Mr. Simoff states that sometimes they are not the best at distinguishing east, west etc. Mr. Gautier states if that is incorrect and it wasn't 30 feet west of Grand Avenue would that not invalidate the DOT permit? Mr. Simoff states that the plan is also submitted to the DOT. The attorney for the applicant states that the confusion seems to be Grand Avenue has two rights and then a left south (very hard to hear) which makes it very confusing. There is some back and forth as to what was testified to earlier regarding Grand Avenue to which Mr. Chinigo stated was not the testimony given earlier. The attorney for Mr. Sinisi's office states that a location map is submitted as part of the DOT application. Mr. Gautier stated that even if it was like that, the one side would be north and the other side would be east, no. Mr. Gautier repeats the thought about the DOT permit being invalid and Mr. Simoff states that as long as you do not violate any of the other criteria. As an example, if a Board says they will give you the approval but you have to move it ten feet in the other direction, you resubmit the DOT and they will reissue the permit. Mr. Chinigo responds that the Board is going to need clarification on that. The attorney for Mr. Sinisi states that the DOT permit 30 feet west of Grand Avenue. The DOT is not considering the service road. The applicant's sign is located 30 feet west of Grand Avenue. Grand Avenue is the municipal right of way. This is the service road of Rt. 4. The DOT is not recognizing anything within the right of way of Grand Avenue, this is a municipal roadway. It is 30 feet west of Grand Avenue as it intersects the state highway.

Mr. Gibbons has the same concern as Mr. Krey. You're coming off of a highway, you have Grand Avenue coming from your right, you have a new sign that you probably haven't seen because you're getting off of the highway and you're not doing 50 mph and there is also a bus stop directly pass the sign. There is a lot of traffic there. He is concerned about people coming off of the highway, having the bus stop right in front of them and having the door open. Mr. Simoff stated that the drivers are going 15 to 20 mph. The bottom line is the DOT will not let a billboard impede on the visibility of an overhead sign. They look at

the other regulation signs that they control on the ingress and egress of the highway. If it conflicts with the safety of the ramp the DOT won't approve it. Mr. Gibbons doesn't think there is an issue in seeing the exit sign but there is a lot going on there. Mr. Gibbons is concerned about driver distractions and more accidents happening. Mr. Feffer asks what consideration, if any was given to the effect of shadows created by the sign on traffic safety. Mr. Simoff testified that he doesn't think there has been any. A question was asked if there was any thought taken into the traffic coming off of Johnson Avenue onto Rt. 4 and the impact at that location. It was asked if there was an impact of traffic trying to navigate onto the service road. The response was no because it is beyond the view of the sign. A question was asked if their report took into account the east bound flow of Grand Avenue over by the Total Wine building. It was stated by someone that the drivers will not be distracted by the sun. It was asked if their study took into account the acceleration/deceleration aspects of the exit ramp before the Grand Avenue and Hackensack Avenue access Rt. 4 west. It was stated that east if 9 there is traffic coming on from Hackensack Avenue by Riverside Mall that's trying to get onto west bound Rt. 4 – that's acceleration. Then there is traffic traveling west bound on Rt 4 trying to exit at Grand Avenue, that's deceleration. It's asked if their study took into account that conflict and the safety of that area people being distracted by a billboard. The answer was no because it falls out of visibility. Chairman Caslin asked if that is his testimony - that the billboard sign does not conflict with roadway sign number 6. The response was yes – the DOT permit confirmed that. If this billboard conflicted with that sign they would not have approved it.

Objectors Questions & Comments

Charles Sarlo, Esq. – He states the USDOT report made reference to your executive report dated September 2012. He asked if there have been any amendments to that report. Mr. Simoff states that it was written in 2012, but it was peer reviewed around four or five years ago. He is not aware of any other studies. There were many studies done - Virginia Tech did a study, there was an anti-billboard group that did some studies and this report considers all of those previous studies and critiques them and gives them credit with what they agree with, then they issue this and then they open it for peer review. Mr. Sarlo asked if there are any peer reviews out there that are critical of the findings in this report. Mr. Simoff stated that the anti-billboard people still think that billboards are unsafe. Mr. Sarlo asked if the USDOT report considers the criteria or variables such as intensity of the billboard. Mr. Simoff stated yes. Mr. Sarlo – billboard size – Mr. Simoff – yes – Mr. Sarlo – billboard proximity to the travel land – Mr. Simoff – yes – Mr. Sarlo – length of the message – Mr. Simoff – no, Mr. Sarlo – complexity of the message – Mr. Simoff – no, Mr. Sarlo – size and font of the message characters – Mr. Simoff – no, proximity to the traffic control devices – Mr. Simoff – yes, Mr. Sarlo – proximity to roadway geometric design features – Mr. Simoff – yes, Mr. Sarlo – proximity to other billboards – Mr. Simoff – yes, Mr. Sarlo – complexity of the environment in which the billboard is located – Mr. Simoff – yes, Mr. Sarlo – traffic and speed – Mr. Simoff testified that they broke it down into arterial and freeways but they did not differentiate the space of distance like NJDOT does, Mr. Sarlo – and traffic density – Mr. Simoff – yes, they looked at level of service. Mr. Sarlo states, so you answered some to the criteria and no to the criteria. How does that relate to the study that was done in Virginia he believes Mr. Simoff mentioned Mr. Simoff stated that it was done in Reading Pennsylvania and Richmond Virginia. Mr. Sarlo asked how those highways relate to the Rt. 4 highway. Mr. Simoff stated that the studies were done to evaluate the glance time and then they were using that glance time as the basis for their study. Mr. Sarlo states that they went through a number of criteria and variables and he said Mr. Simoff stated that the study did not take into account some of them and some of them are relevant to the subject area that is being spoken about. (the video recording skips in places so words are missed) Mr. Simoff stated that there is known one that is going to tell you can put on that billboard. Mr. Sarlo speaks about a report dated June 5, 2025,

and he points to page 4, last sentence, he asks Mr. Simoff to read the last sentence which reads ...the goal of the placement of both signs is to provide a safe time for optimum visibility, to maximize the time the driver will be able to view the billboard. Mr. Sarlo states that based on that statement, that was the entire goal of Mr. Simoff's that study was to maximize the visibility and the time someone can look at the billboard and not take into consideration any other factors. Mr. Simoff answered no – he believes he stated in his direct testimony that if you place the billboard where there is not adequate sign to see it that creates a safety hazard. Mr. Sarlo states that in reading Mr. Simoff's report he states a single goal of this report is for the benefit of the building to maximize the visibility and the time a driver would look at it. Mr. Sarlo asked if that is what his last sentence states. Mr. Simoff said yes. Mr. Sarlo asked if there were any other goals in Mr. Simoff's report. He further states that Mr. Simoff's master plan lists a bunch of goals and objectives, 1,2,3,5,6,7,10 sometimes. Mr. Simoff stated that this analysis was to evaluate whether the placement of the sign was safe and in conformance with the accepted engineering criteria. Mr. Sarlo states that is not what the report says. He says it states that the goal was for the benefit of the billboard, to maximize visibility and optimum (inaudible). Mr. Simoff asked if he could correct the wording to say ...to evaluate so there is optimum visibility and to maximize the sign visibility to create a safe environment. Mr. Sarlo stated that Mr. Simoff did not correct his report on direct testimony. Mr. Simoff testified that he thinks he did – he talked about the availability and visibility of the sign and to whether placement is in conformance with the federal highway study. Mr. Sarlo had no further questions.

Mr. Chaney asked Mr. Simoff if he testified that he signed the report, to which Mr. Simoff responded – yes. He asked if he could identify if that was his signature on the report to which Mr. Simoff stated yes. Mr. Chaney stated that Mr. Simoff testified that .335 seconds per sign – correct. Mr. Simoff stated that is the average glance. Mr. Chaney asked if the presence of local signs impact that time. Mr. Simoff responded no. Mr. Chaney asked if the .335 also apply in parking lots. Mr. Simoff stated that if you have a billboard in a parking lot, they are visible. Mr. Chaney asked what his answer was. Mr. Simoff answered he did not know. Mr. Chaney asks if the distraction is higher in parking lots than highways. Mr. Simoff responded he would think highways have a higher distraction. Mr. Chaney said, so the sign would not interfere with the operation of traffic within the nearby commercial plaza. Mr. Simoff responded correct. Mr. Chaney asked not with people backing out if they glance at .335 seconds, to which Mr. Simoff states if you are going 5 mph you have a lot of time. Mr. Chaney asks if the sign is lit at night are drivers more likely to be distracted. Mr. Simoff responded no, the study found that the glance time was less at night. Mr. Chaney states that Mr. Simoff mentioned height as a factor reducing the glancing visibility angle at night as well. Mr. Simoff responded yes. Mr. Chaney states that at night then it makes drivers less likely to look up at the billboard. Mr. Simoff responded – correct. Mr. Chaney asked if the peer review would not change the underlying data – correct? Mr. Simoff states that he cannot tell him what happened before 2012, but he does know that this report was not released to the public until 2020. It took all that time to gather information and to see if it was legitimate or not. The glance angle will be same whether you are doing 2010 or today. Mr. Chaney said is that not true as there are more SUVs on the road more than ever. Mr. Simoff responded they did it in a Jeep. Mr. Chaney asks so that is based on one vehicle. Mr. Simoff stated no, the angle was based on the sun. Mr. Chaney continued regarding the different types of cars on the road today. Mr. Simoff does not believe it affects the glance angle. Mr. Chaney asks Mr. Sion to read the final paragraph of the executive summary of the DOT site. Mr. Simoff reads...it should also be noted that like other studies in the available literature, the study has the knowledge base (inaudible) it does present definitive answers to research questions and investigate... Mr. Chaney has no further questions.

Planner – John McDonough. He goes through his credentials with the Board. He is sworn in. Mr. McDonough testifies that his firm was to conduct a standard planning analysis in connection with this application. To review existing proposed conditions, reviewed the relief the applicant is requesting,

reviewed applied statutory criteria for the relief that the applicant is requesting. They went through Master Plan documents, underlying policy documents etc. Mr. McDonough testifies this is a billboard application on a developed piece of property a single tax block, 18, 596 sf. He goes through all the statistics testified to previously regarding measurements and placement of the billboard. He has physically examined the area, and he is familiar with the area. He points out that in River Edge if they look beyond the subject site, if you go north, you are essentially looking at an ocean of homes. The Master Plan describes it as a residential community so locating this land use on a non-residential parcel in the borough has limited location – located along an arterial roadway or main roadway in a non-residential area is what this land use establishment does. The applicants are seeking two D1 variances, the first a use variance for billboards not permitted in any zone district in the community, relief for a number of principal uses on a single lot, two, proposed office component and billboard component – one is what is allowed on the property and there is no interference with either use on this particular piece of property. There is also D6 height relief 60 feet where 35 is the maximum allowed which is inherent to the use for visibility and readability purposes again the 416-18 ordinance would allow buildings this tall 12 stories and if you read it right if you aggregate the semblance of land there. He testified that he could not find where that could happen with the regulations set. Lastly, there is C relief for the lot coverage 95.5% versus 80% which is a slight uptick over existing 95.4% is what exists. Relief on three sides the three setbacks – front setback 10.78 where 30 is the minimum that’s required, he continues this is not building, it doesn’t have any sides, it is elevated, it fits within the context of the site, there is relief of side setback at 10 feet where 15 would be the minimum required, similar relief as requested for the front setback and then the rear setback at 17.86 where 20 feet would be the minimum required. Mr. Chinigo states an applicant seeking variance relief is required to demonstrate positive and negative criteria. Mr. McDonough states that is correct. Mr. Chinigo asks what the positive criteria is. Mr. McDonough responds usually the positive criteria you look at the public benefits. The way the statute reads you look at the site suitability and that it is particularly suited for this. Mr. Chinigo asks what constitutes the negative criteria. Mr. McDonough responds that the negative criteria is the flip side of that. They typically look for absence of negative impacts and that relief will be granted without substantial impact to the public without substantial detriment to the public or without substantial impairment to the intent and purpose of the zone plan. It is asked – when seeking variance relief what’s the standard for D1. Mr. McDonough responds – for the D1 that is the highest order approved and that is looking at the site suitability aspect and the promotion of special reasons which were tied to our land use law for purposes of zoning at the preamble of the statute. It is asked about the C1 variance requirements, to which Mr. McDonough responded that there are two options, one is called the C1 hardship which is the older standard where it is the applicant’s burden to show that there is some hardship or practical difficulty related to the physical character of the land, the size, the shape, the typography or some other unusual feature that creates a practical difficulty for an otherwise ordinary structure in the landscape. There is the C2 balancing criteria which they typically do not see when you go outside New Jersey. He goes back to the pros and cons where you look at the benefits of the application as a whole, you balance them and see if they substantially outweigh those negative impacts. Are the (inaudible) special reasons defined in the MLUL. Mr. McDonough states that it is not defined in the MLUL per say. It was asked – what are some examples of special reasons. Mr. McDonough states that special reasons can be found in N.J.S.A 40:55-2 and there are about 18 purposes of zoning going from A down to (inaudible). It is asked based on the *Medici* decision how did that (inaudible) burden of proof. Mr. McDonough responds that the burden of proof on an applicant is to show (inaudible) the general welfare this site is particularly suitable for the use. The applicant can also demonstrate that one or more other purposes of zoning are advanced as well. There is discussion regarding the case of *Pulieo v. North Brunswick* case based on the holding in that case is typically a C variance (inaudible). Mr. McDonough states that the Board is faced with 6 variances here you have the three D including the use variance, there are three C’s and basically what the *Pulieo*

case said was to consider the application as one package or one bucket of relief here in other words the Board may find that the use is appropriate but the setback is not. But here since they are all really tied together one goes with the other. There was a question asked regarding the positive and negative criteria (which was totally inaudible). Mr. McDonough responded in terms of the positive and special reasons it's a message board that promotes the general welfare of a form of communication. The report has made clear that this is a form of constitutional free speech the way we talk to each other and communicate with each other. He states that there is some case law out there the Bell v. Stafford case which talks about commercial or constitutional free speech. He thinks it's self-evident that the use promotes business and advertising tool. It's a way that businesses get the word out. The use also goes outside of business and my also promote institutional type pieces which may be considered inherently beneficial uses. He stated that when he usually says that, people say that he is not promoting this as an inherently beneficial use, which he states he is not. But hospitals, churches, schools, colleges etc. may be considered inherently beneficial uses where you see their branding or their utilization of this as a tool as well to speak to the public. The use can also provide public service announcements. So in terms of special reasons all of those purposes that we just given would certainly promote purpose A - promotion to the general welfare and promoting business which actually comes from the New Jersey Outdoor Advertising regulations which recognizes the need to strike a balance here stimulating economic development. In addition to purpose A you look at purpose G the provision for a variety of uses in appropriate locations according to the needs of all New Jersey citizens. This goes back to site suitability. The highway is there; the applicant did not put it there. The applicant has to under the New Jersey Outdoor Advertising Permits, be within a certain proximity of the highway and he thinks the applicant has a good location with minimal impact on the surrounding properties. His conclusion is based on the orientation of the billboards he states that the neighboring land use is the back of the board not the advertisement and those across the street will see the nose of the sign. The panels face out to the highway towards the motoring public and that's where it's intended to be. This will not create a negative traffic distraction. There is nothing about this location that is going to interfere with the circulation on site or circulation on the roadway as well again using that traffic testimony as the predicate for Mr. McDonough's testimony. Lastly, they have a planning goal to use land efficiently – purpose M of the land use law. Here there is a site that is developed. There is a pocket on the site so they are confident that they can put this sign up without interfering with anything that is happening on the ground. They do not have to take down any trees. They don't have to clear cut a site. So again, that is efficient use of land. These are strict rules by the DEP. These permits are not handed out willy nilly. There are a lot of special controls here. That said DOT has found that this particular location is what is defined in the regulation as a permitted location as defined by the rules and it has issued a permit in that regard. He cites the regulations again as they go towards the negative criteria. They speak of special needs again. He speaks about N.J.S.A. 40:55B-2. Mr. Chinigo asks where it states there can be a 12-story building. Mr. McDonough said in Borough Code 416-19. Someone asked if they meet this criteria and Mr. McDonough stated not on this lot. Mr. McDonough stated that the added height will not block scenic views, the added height will not create population density, the added height will not give this site an unfair advantage causing direct run-off on adjacent lands and in his view will not create an obtrusive structure in context with the landscape. Those are the purposes of *Grasso*. He thinks this can also justify the D6 height relief that the applicant is seeking. With regard to the C relief he will just bundle them up under the flexible C balancing test for effectiveness of the application as whole which substantially outweigh the detriments. He states the *Pullen* case. In terms of the positives he will take them all and carry them down – the setback relief, that uptick of impervious coverage is necessary to effectuate the benefits that he has given the Board. In terms of detriments he believes setbacks and coverage relief can be granted without any substantially adverse impacts. The pole is relatively slender compared to a building. The sign panel is elevated. The setbacks do not interfere with site circulation and safe lines of sight. Mr. McDonough testified that he has reviewed the review correspondence provided

and he agrees with the zoning chart and proposed variance relief also cited in the report. He testified that in his professional opinion the proposed site is suitable for this location. He testified that in his professional opinion that the applicant has satisfied their burden of proof for this application. He was asked that if the application is granted will it cause a substantial impact on the traffic on the existing roadway to which Mr. McDonough responded – no. Again, relying on expert uncontroverted traffic testimony, he believes the application can be granted without any significantly adverse traffic effects. He was asked if he believed that if the application is granted it will not have any substantial detriment to the public good within the design plan and zoning ordinance, to which Mr. McDonough responded – yes for all the reasons he stated above. Mr. McDonough feels this is a good use of land, that this is a good fit on this particular site. Land use is a balancing and he thinks there are positives here and certainly considerations of potential negative impacts, but they always look for the absence of negative criteria it doesn't have to be a complete zero, it just can't be a substantial impact.

Mr. Chinigo asked for clarification with regard to the ordinance he cited earlier for the 12-story proposition hearing here in town, he asked if Mr. McDonough could read the title of that ordinance. Mr. McDonough responded in Article Six, Supplemental Use Regulations Section 416-18 it states – floor area ratios (FAR) in height limitations for offices (his internet went down). Mr. Chinigo stated that this is not an office building or a hotel. Mr. Chinigo asked if he would agree to that. Mr. McDonough responded that the only reason he brought that up was because someone asked what the tallest building was in River Edge and he was pointing out that when you do a land use analysis do you consider what could go on this property. Mr. Chinigo stated that they are here to talk about the applicant's sign application, so we are not talking about hotels and office buildings but certainly this doesn't even have the size requirement and Mr. McDonough brought it up so Mr. Chinigo wanted to take it out of the equation because this doesn't really apply to this application – correct. Mr. McDonough testified that he is not taking it out of the equation. Mr. McDonough stated that there is an allowance in the borough's C2 zone district that allows for 12 story buildings. It's a fact. Someone asked what the lot size is. The whole 60,000 sf.

At this time Mr. Leibman is ending the meeting. Ms. Stinely states that the next meeting is January 14, 2026 and there are no other applications pending at the moment. Everyone is checking their calendars. The next meeting is January 14, 2026, at 7:30 p.m. and there will be no further notice.

Motion to adjourn Chairman Caslin; second – Mr. Krey. Meeting adjourned at 10:40 p.m.

