

Mr. Heymann then presented Exhibit A-11, four additional pages of hand-drawings by Mr. Danckwerth depicting the exterior, structural, and floor plan of the proposed, renovated boathouse. Exhibit A-12 consists of three pages of approved permit applications. Exhibit A-13 is a certificate of approval for the boathouse after renovations.

Ms. Danckwerth then proceeded to describe the renovations to the property in detail per Mr. Gregor's request.

Mr. Heymann asked how long Ms. Danckwerth has been operating the property the way it exists today.

Ms. Danckwerth stated it has been operating for approximately 10 years, and they have never had any complaints from anyone, including the neighboring properties.

Mr. Gregor asked for clarification on Item #4 of Mr. Heymann's letter of March 12, 2019. He asked if the Danckwerths did not put stone down on the property beyond what was already there.

Ms. Danckwerth stated that they did not put stone down beyond what was already there.

Chairman VanderPloeg opened the meeting to the public.

Mr. Molica asked for clarification on whether or not Ms. Danckwerth received approval for the properties existing use.

Ms. Danckwerth stated that she was given verbal approval by the Zoning Officer on two occasions.

The public portion was closed.

Mr. Anthony Marucci, the applicant's Engineer, came forward. He started by describing the parking area on the site and addressed Mr. Gregor's questions regarding same. He stated that the applicant would need to request a variance for the parking area. The thirteen spaces on the lot are 9' X 18' with an 18 foot wide driveway, where a 24' wide driveway is required. Based on Mr. Gregor's comments, he then presented Exhibit A-14, a proposed parking area that would meet the zoning requirements without the need for a variance. He argued that by proposing the conforming lot, it would appear to look more like a commercial parking lot instead of blending in with the surrounding properties like it does now. He would prefer to keep the parking area gravel instead of paving. A variance will be required if the applicant decides to keep the parking lot graveled.

Ms. Hartmann stated that the parking lot has been working the way exists today for quite some time, but that doesn't mean it will stay that way in the future when the Danckwerth's sell the property.

Mr. Gregor asked if the proposed conforming parking lot is now part of the applicant's application.

Mr. Marucci stated that he was asked to prepare the site plan with the conforming parking lot to show the Board that it can be done. It is his opinion, however, that making the site look like a commercial parking lot would not be advantageous for the neighboring properties.

Mr. Senesky asked what kind of buffer would be used to shield the neighboring property owners from noise and headlights from cars.

Mr. Marucci stated that there would be landscaping and a 6 foot, solid fence.

Ms. Hartmann asked Mr. Senesky what would happen if the property were sold.

Mr. Senesky stated that if the application is approved, there would need to be some sort of deed restriction put on the property.

Mr. Heymann stated that his client would be agreeable to that.

Ms. Hartmann argued that if residents of Halsey Island are out on the mainland and don't return until late at night, the neighboring properties will hear the cars pulling into the parking lot over the gravel whereas if the parking lot were paved, there would be less noise.

Mr. Galfo asked how keeping the 18 foot width driveway would affect emergency apparatus coming onto the property.

Mr. Gregor stated that no matter whether or not it's a commercial, residential, or private parking lot, a 24 foot width is required. His recommendation will be for the Board to insist upon the 24 foot width. If a fire truck were to have to enter the property, it would have to back out.

Mr. Senesky wanted to clarify the percentage of impervious coverage on the lot.

Mr. Marucci stated that with the 18 foot width driveway, gravel or paved, the impervious coverage would be 55.7%. If his client were required to have a 24 foot driveway, he would use the proposed conforming parking plan.

***Chairman VanderPloeg opened the meeting to the public.
The public portion was closed.***

Chairman VanderPloeg called a short recess.

Mr. Heymann stated that his client will still be pursuing the site plan as submitted, and does not intend to request approval for the proposed conforming parking area.

Ms. Jessica Caldwell, the applicant's Planner, came forward and was sworn in. She reiterated that they are proposing what has existed on the property for the last ten years without incident. There are no intentions to increase the use of the property in any way. Two of the boats on the property are owned by the applicant, and the other four slips are utilized by other residents of Halsey Island. She then discussed the positive criteria, which includes Purpose C, Purpose D, Purpose G, and Purpose M. With regard to the negative criteria, she does not believe there would be any detriment to the community. She then went through Ms. Hartmann's report. She feels that the positives outweigh the negatives, and that the current use is the best use for the property.

Mr. DiFrisco asked hypothetically what happens if the application is approved, the applicant sells the property, and it goes from a low-intensity use to a high-intensity use.

Ms. Caldwell stated that's not how a D-variance works. A marina is not a permitted use in the zone, so any approval would restrict what future owners would be able to do on the property.

Mr. Senesky asked if the applicant was proposing that the property be "married" to one of their lots on Halsey Island should the property be sold.

Mr. Heymann stated that is not the case.

Mr. Senesky then asked how both properties owned by the Danckwerths on Halsey Island are used. Are they just used for family, is one a rental property, etc.?

Ms. Danckwerth stated that the original purpose of purchasing the second house on the island was to allow her son and his family to grow up there. As her son was in the process of fixing up the home, he passed away. The house was then left vacant for three years until they figured out what to do with it. They have been renting the cottage to a friend for the last ten years until he died recently. The house now remains vacant.

Mr. Edward Danckwerth came forward and was sworn in. He explained that they bought two 50 foot lots from the same owner who insisted that the lots be sold together. Once the transfer of ownership took place, the lots were merged into one lot because they were pre-existing, non-conforming undersized lots.

Mr. Senesky asked Ms. Caldwell if she knew where the dividing line of the lots was located.

Ms. Caldwell stated that the property line went right down the middle of the property.

Mr. Senesky hypothetically asked the Planners if the Danckwerths, when they purchased the property, put one lot in their name and the other lot in the name of Danckwerth Incorporated, would these properties still be called a marina.

They all stated it would not be considered a marina.

Ms. Hartmann voiced her concerns about allowing this property to be used as a commercial use, and potential future owners turning it into an expanded use even with the deed restrictions put in place.

Mr. Heymann stated that if this application is not approved, then the residents of Halsey Island be forced to park on the streets, where there are already crowded streets.

Ms. Caldwell stated that the application is only asking for approval for the existing use, which has been operating for the last ten years.

Ms. Hartmann stated that there is no documentation supporting the claim that the residents of Halsey Island do not have the options for their needs at any of the marinas around the lake. She also feels that the neighboring properties should be heavily protected from this use.

Chairman VanderPloeg asked for clarification from Jill Hartmann on her opinion regarding the clear-cutting of the trees on the property, and creating a commercial parking lot.

Ms. Hartmann stated that if the application is approved, the parking lot would need to conform to Township Ordinances and provide proper buffering from any residential property, especially the neighboring property to the South. It is not her position that trees should be cut down, but that the parking lot should be re-designed with fewer parking spaces.

Mr. Gregor asked the applicant's Engineer if he had considered any alternate parking plans other than the one provided to the Board showing a centrally located parking layout.

Mr. Marucci stated he feels that parking space #4 could be eliminated and buffering could be provided to the South. He also feels that if they create angled parking, the impervious coverage on the lot would increase.

Mr. Gregor suggested that the applicant provide angled parking facing into the center of the property.

Mr. Marucci stated that he will work on a new design.

Chairman VanderPloeg opened the meeting to the public.

Mr. Molica asked Ms. Caldwell if her opinion of the site would change if there was availability at other local marinas to accommodate their needs.

Ms. Caldwell stated that her opinion would not change.

The public portion was closed.

Mr. Heymann stated that his testimony was complete.

Mr. Bernd Hefele, the Attorney representing objectors from Lakeview Marina, came forward. He stated that his client looked into purchasing the property now owned by the Danckwerths, but he was told by the Township that Lakeview Marina would not be able to expand their business if they were to purchase the property. He then introduced his witness, Mr. Joe Leifken, owner of several marinas on Lake Hopatcong.

Mr. Joe Leifken came forward and was sworn in. He stated that he owns four marinas on Lake Hopatcong, consisting of a total of 600 wet and dry boat slips (475 wet and 125 dry). There are approximately 1,000 marina boat slips around Lake Hopatcong. Even though he has the majority of the boat slips on Lake Hopatcong, he never has all of them rented. He does offer overnight/designated parking available. The rental fee for a boat slip is \$2,200 per season. The rental fee for a boat slip with parking for the season would cost \$2,500 per season. If he had six people call tomorrow, he would have availability. He stated that Ms. Danckwerth never called her to inquire about boat slip and parking rentals.

Mr. Senesky asked how many homes there are on Halsey Island.

Mr. Heymann responded 19.

Chairman VanderPloeg asked which one of his marinas is closest to Halsey Island.

Mr. Leifken stated that his location at 1 Brady Road is the closest to Halsey Island.

Chairman VanderPloeg asked how long the season is for his marinas.

Mr. Leifken stated that the season typically runs from May through September, but those dates may be extended based on weather conditions, etc.

Mr. DiFrisco asked if he has had overnight parking in the past.

Mr. Leifken stated that he has not been asked, but he has the capability.

Mr. Senesky asked how many parking spaces he has designated for overnight parking.

Mr. Leifken stated that he currently does not have parking spaces designated, but he could easily designate 19 parking spaces for the residents on Halsey Island.

Mr. Bakera asked for clarification on whether or not someone would be able to park their vehicle in his parking lot for two weeks without moving it while they were staying on the island.

Mr. Leifken confirmed that the residents of Halsey Island would be allowed to do that.

Mr. Heymann questioned the witness about the ratio of boat slips to parking spaces at each of Mr. Leifken's locations. He then asked if Mr. Leifken had site plan approval for each of his properties.

Mr. Leifken stated he did have site plan approval for each property.

Mr. Heymann asked Mr. Leifken if he remembers Ms. Danckwerth calling.

Mr. Leifken stated that he is not the person answering the phones, but he did ask his employee if they remembered her calling. The employee did not remember receiving a call from Ms. Danckwerth.

Chairman VanderPloeg opened the meeting to the public.

Mr. Heymann asked Mr. Leifken if his marina could accommodate a 24' boat.

Mr. Leifken stated he could accommodate a 24' boat.

The public portion was closed.

Chairman VanderPloeg called for a 5-minute recess.

Mr. Molica, Attorney for Mr. & Mrs. Steve Elman who are opposing the application, came forward. He then introduced his Planner, Mr. David Troast.

Mr. David Troast, Mr. & Mrs. Elman's Planner, came forward and was sworn in. He then presented Exhibit O-1, his Planning Report for the property in question, and Exhibit O-2, a series of photographs showing different areas of the property. He then provided a summary of

his findings referred to in his report. He believes there are two D-variances involved, the first of which is the property has been operating as an illegal commercial business for ten years, and the other being that the boathouse is an accessory structure existing on the property without a primary structure. He calculated that there would be a total of two, D-variances, and ten, C-variances. He then referenced some case law, and feels that the best use of the property would be to construct a new, single family home.

Mr. Molica then urged the Board to deny the application. His concern is that it is difficult to enforce any conditions or deed restrictions put on a property if the D variance is approved.

Mr. Senesky suggested that there be a condition of approval that would require the property owner to provide a list of names and addresses of the occupants of the boat slips every year to the Township. He then suggested that the applicant return with an alternate parking plan.

Chairman VanderPloeg made a motion to carry the application to Monday, April 8, 2019, with no further notice. **Vice-Chairwoman Galfo** seconded.

In Favor: **Chairman VanderPloeg, Vice-Chairwoman Galfo, Ms. Fallon, Mr. Jacoby, Mr. DiFrisco, Mr. Bakera, and Mr. Galfo.**

APPROVAL OF THE MINUTES DATED MARCH 11, 2019

Vice-Chairwoman Galfo made a motion to approve the minutes. **Mr. Bakera** seconded.

In Favor: **Vice-Chairwoman Galfo, Ms. Fallon, Mr. Jacoby, Mr. DiFrisco, Mr. Bakera, and Mr. Galfo.**

Abstained: **Chairman VanderPloeg.**

ADJOURNMENT:

Mr. Bakera moved to adjourn the meeting at 10:32 PM.
Ms. Fallon seconded the motion.

In Favor: **All.**

Respectfully submitted,

Stephanie McCormack, Board of Adjustment Secretary