The meeting was called to order at 7:00 PM by Board Vice Chair Mrs. Engelhardt.

**Roll Call:**

Present: Mrs. Engelhardt, Mr. Greiner, Mayor Edwards, Mrs. Pedrick, Mr. Wachter, Mr. Budney, Mr. Hain, Attorney Gianos, Planner McManus

Absent: Todd Cook, Ms. Melfi, Ms. Kenoyer

Professionals excused: Engineer Clerico, Traffic Engineer Rocciola

1. **Public comments** (7:00 – 7:15 PM) None
2. **Approval of minutes from the June 24, 2014**.

Motion to approve: Greiner; second: Wachter  
Ayes: Greiner, Edwards, Pedrick, Wachter, Budney  
Nays: (None)

Abstain: Engelhardt, Hain  
Motion passed 5-0-2

1. **Discussion: DiBianca Family Associates, LLC, Block 43, Lot 11**

Mayor Edwards & Councilman Greiner were recused from the application.

Mr. Gianos stated that the application which received preliminary and final approval in 2006 & 2008 fell under the Permit Extension Act (PEA) and that under the PEA the approvals granted by the Board would expire to December 31, 2014. Mr. Gianos stated that the applicant was going begin renovations to the existing Rita's building including the façade and was asking if those renovations were enough to have the application comply with the approvals. Mr. Gianos stated that agreeing that the renovations would put the application in compliance would be like granted the approvals forever with protection from any changes in the zoning ordinance. Mr. Gianos stated that in his opinion the renovations were not a substantial act to comply with the approval and suggested that the Board could instead grant an initial one year extension running from January 1, 2015 to December 31, 2015 and that the applicant could then request two more subsequent extensions if necessary.

Mrs. Engelhardt questioned the scope of the work being performed and stated that the application did not include changes to the Route 12 elevation of the existing 'Ritas' building as the letter from Mr. DiBianca stated. Mr. Gianos stated that the application was focused on the new building not renovations to the existing 'Ritas' building and added that it would not change the recommendation to grant a one year extension stating that there was case law that renovation had to be substantial in nature. Mrs. Engelhardt stated that renovations to the building on Route 12 was not tied to the application and asked if the applicant was doing anything that required Board approval. Mr. Gianos stated that the construction official would issue the permits and could refer the application back to the Board if necessary.

Motion to approve a one year extension from January 1, 2015 to December 31, 2014: Wachter; second: Hain  
Ayes: Engelhardt, Pedrick, Wachter, Budney, Hain  
Nays: (None)

Abstain:  
Motion passed 5-0-0

1. **Discussion: Proposed COAH rules and their impact**

Mr. Greiner stated that the new draft rules for COAH had been provided April 30, 2014 and that the period to provide public comment to recommend changes and/or comments on the new rules was coming end on August 1, 2014 and that he had asked Ms. McManus to provide comments for the Borough. Mr. Greiner stated that if the Board chooses they could recommend to Council that those comments then be submitted to the county and to the state.

Ms. McManus stated that the new rules were not written clearly and she anticipated new interpretations that may change the numbers she calculated and how the town can satisfy it's COAH obligations. Ms. McManus stated that there was already litigation going on for a lack of transparency from the housing department on the methodology of how they came up with the new rules and further stated that there would be hearings taking place which would cause some uncertainty going forward. Ms. McManus stated that since we do have rules and numbers for the Borough's obligation that a housing plan will need to be prepared and submitted by by May 15, 2015 to cover Flemington against any law suits and would also need to respond to the rules by November 15, 2014.

Ms. McManus stated that the housing obligation went down statewide by approximately

60,000 units and further that Flemington's numbers did go down overall noting that the Borough's rehabilitation share went up to 58 units where it used to be 10 for deficient household units below the income level. Ms. McManus stated that the Borough would need to create the opportunity to rehab the unit instead of actually renovating the unit adding that the Borough would have to make funding available and provide adequate marketing and prepare a report showing a good faith effort to create the opportunity for people to apply noting that the average cost per unit would be $8,000 and stated that a County program could help with this rehabilitation share obligation.

Ms. McManus defined a deficient unit as in need of a major building system (i.e. plumbing, roof, etc.) that needs repair that the owner cannot afford. Mr. Greiner stated that if an owner takes the money they have to put the house in COAH for 10 years noting that many owners do not want to restrict the house. Ms. McManus went over the income levels to qualify. Mr. Greiner stated that rentals could be counted but are not required in the new rules.

Ms. McManus stated that the Borough's prior and second round obligation was 0 noting that there was a vacant land adjustment and that Flemington has built a significant number of affordable units already and that the Borough's prospective 2014-2024 obligation was 5 units adding that the Borough could not use existing units but there are programs available where the current approvals could be leveraged to fulfill those units such as the Cut Glass project.

Mr. Greiner asked if credits could be banked in the fourth round, Ms. McManus stated that there was no provision in the new rules to bank unites. Ms. McManus stated that there were concerns that the new rules could be overruled and may change especially for Flemington and cautioned against lifted the 20% requirement for new applications stating that the units may be needed in the future. Ms. McManus stated that the requirement could be reduced to 10% or 5% to encourage developers to invest in Flemington. Mrs. Engelhardt asked if an applicant with prior approvals could get a reduction, Ms. McManus stated that the applicant would need to submit an amended plan. Mr. Wachter stated that allowing units to be banked should be included in the comments to the state. Mrs. Engelhardt agreed, noting that the Borough has lost units in the past. Mrs. Engelhardt asked if the goal was to put more COAH units in one location than another, Ms. McManus stated that there were very few location requirements and that the rules were silent on the issue of the location adding that previously there was a presumptive density of 6 units per acre and that there was no density requirement in the new rules but did include a requirement for an economic feasibility study with market analysis and assessment which costs about $2,000 to $10,000 to prepare which was intended to guide where to place the COAH units. Mr. Greiner asked who paid for the study, Ms. McManus stated that the town paid for the study, Mr. Greiner asked if the town could pay for the study with COAH funds, Ms. Manus - stated that yes administrative funds could be used. Mr. Greiner stated that it would be worth noting in the comments to the state that the economic feasibility study would be an undue burden on the town and added that the league of municipalities would also be submitting comments. Ms. McManus stated that the new rules were more beneficial to some towns than others where some towns would bear most of the obligation for certain regions and some towns would have a lighter burden.

Mrs. Engelhardt suggested that Ms. McManus prepare a brief summary of the Board's recommendations so that Counsel could take a look at them for the next council meeting on July 28 including the specific comments regarding the ability to bank of units and the economic feasibility study requirement.

Motion to authorize Planner McManus to prepare a summary of the Board comments as an attachment to the recommendations to Borough Council: Greiner; second: Hain  
Ayes: All were in favor on voice vote  
Nays: (None)

Abstain: (None)  
Motion passed 7-0-0

1. **HPC Application:**

* HPC 2014-13 accept July 15, 2014 recommendations for 3 Dewey Avenue, Matthew DiMaio

Mr. Greiner discussed the application for exterior improvement including iron railing, belgian block curb and a brick paver walkway noting that the applicant would follow up with the historic architect for recommendations on the railing. Mr. Greiner stated that the house was designated as encroaching on the historic district and that the plan was accepted by the HPC.

Motion to approve the resolution: Greiner; second: Wachter  
Ayes: Engelhardt, Greiner, Edwards, Pedrick, Budney, Wachter, Hain  
Nays: (None)

Abstain: (None)  
Motion passed 7-0-0

1. **Council Items:**  None
2. **Chair items:**

Mrs. Engelhardt stated that the master plan reexamination subcommittee including Mr. Cook, Mrs. Engelhardt, Ms. Melfi and Mr. Budney met on Friday to set up a schedule of meeting and that Mr. Cook had suggested that in addition to a member of the public being included in the subcommittee that a member of the BID should be included as well. The Board discussed and had no objections to the suggestion.

Ms. Engelhardt stated that the next regular meeting was August 4, 2014 and that presently there were no agenda items and that she would not be able to attend the August 26, 2014 meeting.

1. **Bills:**

Motion to approve: Hain ; second: Wachter  
Ayes: All were in favor  
Nays: (None)

Abstain: (None)  
Motion passed 7-0-0

1. **Adjourn**Motion to adjourn at 8:00 p.m.: Edwards; second: Greiner  
   Ayes: All were in favor  
   Nays: (None)  
   Motion passed 7-0-0

Respectfully submitted

Eileen Parks

Planning Board Secretary

These minutes were approved on August 26, 2014