

Florence, New Jersey 08518-2323
August 21, 2006

The regular meeting of the Florence Township Planning Board was held on the above date at the Municipal Complex, 711 Broad Street, Florence, NJ. Chairperson Hamilton-Wood called the meeting to order at 6:00 P.M. followed by a salute to the flag.

Chairperson Hamilton-Wood then read the following statement: " I would like to announce that this meeting is being held in accordance with the provisions of the Open Public Meetings Act. Adequate notice has been provided to the official newspapers and posted in the main hall of the Municipal Complex.

Upon roll call the following members were found to be present:

Councilman John Fratinardo	Philip F. Stockhaus, III
Mayor Michael J. Muchowski	Mildred Hamilton-Wood
Thomas Napolitan	Gene DeAngelis
Dennis A. O'Hara	
John T. Smith	

ABSENT: Sean Ryan

ALSO: PRESENT: Solicitor Nancy T. Abbott
Engineer Dante Guzzi
Planner Carl Hintz

Mayor Muchowski stated that at the last meeting the Board had appointed Dante Guzzi, of Dante Guzzi Engineering as Planning Board Engineer. Mayor Muchowski welcomed Engineer Guzzi as the new Board Engineer.

Member O'Hara asked Chairperson Hamilton-Wood to announce the schedule of application to the audience in case people in attendance for an application late in the agenda may want to go home and return later in the evening.

RESOLUTIONS

Resolution PB-2006-37

Granting a one year discretionary extension of Final Major Subdivision approval, pursuant to *N.J.S.A. 40:55d-52(a)*, to Quaker Group Burlington II (Crossroads) for Block 165.01, Lot 2.01, located in an R Low Density Residential District.

Motion of Fratinardo, seconded by O'Hara to approve Resolution PB-2006-37.

Upon roll call the Board voted as follows:

149.

YEAS: Fratinaro, Muchowski, Napolitan, O'Hara, Smith, DeAngelis
Hamilton-Wood
NOES: None
ABSENT: Ryan

Resolution PB-2006-38

Granting to Frank Scamporino Minor Subdivision approval and continuing the hearing of the application for Preliminary and Final Major Site Plan approval for Block 159, Lot 5.02, located in an HC Highway Commercial Zoning District.

Motion of Stockhaus, seconded by O'Hara to approve Resolution PB-2006-38

Upon roll call the Board voted as follows:

YEAS: Fratinaro, Muchowski, O'Hara, Napolitan, Smith, Stockhaus,
Hamilton-Wood
NOES: None
ABSENT: Ryan

Resolution PB#2006-39

Continuing the application of Fine Foods and Spirits, Inc. for amended Preliminary and Final Major Site plan approval for a restaurant and bar on Block 165.01, Lot 11.02, located in a HC Highway Commercial District.

Motion of O'Hara, seconded by Smith to approve Resolution PB-2006-39.

Upon roll call the Board voted as follows:

YEAS: Fratinaro, Muchowski, Napolitan, O'Hara, Smith, Stockhaus
Hamilton-Wood
NOES: None
ABSENT: Ryan

Resolution PB-2006-40

Continuing the application of Fine Foods and Spirits, Inc. for Final Major Site Plan approval for a restaurant and storage area on Block 165.01, Lot 11.02, located in an HC Highway Commercial District.

Motion of Fratinaro, seconded by Napolitan to approve Resolution PB-2006-40.

Upon roll call the Board voted as follows:

YEAS: Fratinaro, Muchowski, Napolitan, O'Hara, Smith, Stockhaus
Hamilton-Wood
NOES: None
ABSENT: Ryan

Resolution PB-2006-41
Authorizing appointment of Planning Board Engineer Dante Guzzi

Motion of Fratinardo, seconded by Smith to approve Resolution PB-2006-41.

Upon roll call the Board voted as follows:

YEAS: Fratinardo, Muchowski, Napolitan, O’Hara, Smith, Stockhaus,
 Hamilton-Wood
NOES: None
ABSENT: Ryan

MINUTES

Motion of Fratinardo, seconded by O’Hara to approve the Minutes of the regular meeting of July 17, 2006 as submitted. Motion unanimously approved by all members present.

CORRESPONDENCE

Motion of O’Hara, seconded by Stockhaus to receive and file correspondence A through T. Motion unanimously approved by all members present.

Chairperson Hamilton-Wood called for application PB#2006-18 for Whitesell Construction Co., Inc. Applicant is requesting Preliminary and Final Major Subdivision approval for property located at 270 Daniels Way, Block 158, Lots 1, 2, & 3.

Lynn McDougall, attorney for the applicant, stated that before the Board addressed the subdivision and site plan issue the Board needed to have a vote on completeness. She stated that since the testimony will overlap with respect to the completeness for subdivision and site plan she suggested that if it was acceptable to the Board and Solicitor Abbott that they hear the testimony together and then take a separate vote on completeness for the subdivision and a separate vote for completeness on the site plan. Chairperson Hamilton-Wood stated that this was acceptable to the Board.

Richard J. Cureton, President of Whitesell Construction Co. and Terrance J. Huettl, Vice President for Whitesell Construction Co. and licensed professional engineer in New Jersey were both sworn in by Solicitor Abbott.

Attorney McDougall stated that Mr. Cureton would be testifying as a planner during the site plan application. She asked Mr. Cureton to list his credentials. Mr. Cureton stated that he had received a BA from Brown University, and a Masters of Architecture from Harvard University. He stated that he was a licensed architect in 3 different states including New Jersey for over 20 years and a licensed planner in New Jersey for over 20 years. He stated that he has been doing site plan and real estate development for over 20 years. The Board accepted Mr. Cureton as an expert in the planning field and Mr. Huettl as a qualified engineer.

Mr. Huettl stated that there were several submission items that were for both the subdivision and the site plan applications. He stated that to avoid having a lot of extra paperwork they submitted everything for the site plan application and requested waivers for the duplicate information that would have been submitted for the subdivision application. There appear to be a lot of submission waiver requests for the subdivision application, but that is only because that information had been provided along with the parallel site plan application.

Mr. Huettl stated that submission waivers had been requested for the Environmental Impact Statement and the Municipal Utilities Impact Statement. These 2 reports had been prepared when Whitesell was before the Board in 2001 for the entire Haines Industrial Center. These reports were reviewed by the Board at that time. Whitesell did submit letter updates for both of those reports as part of the site plan application. Those reports indicated that the impact of this site and this application is consistent with the impact that was proposed at the time of the reports in 2000 and 2001.

The next submission waiver has to do with the scale of the proposed subdivision. The subdivision that accompanies the site plan application covers 3 different lots and although they are not creating any new lots they are proposing to re-arrange the existing lot lines. The area is quite large, approximately 160 acres. They had difficulty fitting this on one sheet of paper. The Florence Township ordinance requires that submission to be at a scale that 1" equals 100' or less. They couldn't fit this on one piece of paper so they changed the scale to 1" equals 120'. This no longer meets the Township ordinance.

Mr. Huettl stated that there are also requirements that the subdivision application include topographic contours of existing structures in wooded areas, drainage conditions, existing utilities, soil erosion sediment control structures and features, existing and proposed storm drainage systems, utility layouts, drainage maps, standard site plan details for stormwater management and curbs and roads, cross sections for water courses, test borings, lot grading, typical cross sections for sidewalks, profiles for proposed streets, utility and drainage plans, offsite improvement plans, recycle centers, measures for soil erosion and sediment control. These items were all submitted as part of the site plan application, but they are also technically required for the subdivision application. They did not want to submit these twice.

Mr. Huettl stated that it sounds like they are asking for a lot of thing to be waived, but they had already submitted these as part of the site plan and didn't want to duplicate.

Mr. Huettl stated that there was one item noted on Planner Hintz's letter that was an oversight on Whitesell's part. They omitted all lot lines of names and property owners within 200'. He stated that this would be added to the plan. All the property owners were noticed, but the list was not on the plan that was submitted.

Chairperson Hamilton-Wood asked for a clarification of exactly which waivers Whitesell was requesting tonight. Mr. Huettl stated that everything that is required for submission has been submitted for one of the two applications and almost everything has been

submitted for the site plan. Chairperson Hamilton-Wood asked what had not been submitted. Engineer Guzzi stated that the Environmental Impact Statement and the Municipal Utilities Impact Statement were submitted with a prior application. Engineer Guzzi stated that Whitesell had provided him with these reports and with the letter updates that analyze what is proposed now versus what was originally contemplated. He stated that he thinks that technically a submission waiver is required for those. Also the trees greater than 6" in diameter have not been supplied for either application.

Mr. Huettl stated that the ordinance requires the applicant to submit a tree survey identifying all the trees that are greater than 6" in diameter. This particular site is void of trees with the exception of one small area along the railroad tracks in the far northern extent of the property and they are not proposing to cut down any of those trees. So all of the trees that are there today will remain there after this project has been developed. Planner Hintz asked if they would be putting up a tree protection fence. Mr. Huettl stated that they would be installing silt fences. Planner Hintz stated that this would suffice.

Solicitor Abbott stated that anything that had not been submitted as part of this application would require a submission waiver.

Attorney McDougall stated that with respect to the subdivision and site plan waivers are required for the Environmental Impact Statement, Municipal Services Impact Statement and the Traffic Impact Study and the basis for the waiver would be that those items have been previously submitted in previous applications. With respect to the site plan all of the items that Mr. Huettl went through had been submitted except the scale issue, the tree issue and the landscaping plans being prepared by a landscape architect. With respect to the items the Mr. Huettl listed that had been provided in the site plan, these are the items that they are requesting submission waivers for in the subdivision plan.

Member O'Hara asked if there was documentation that the property owners within 200' had been notified. Solicitor Abbott stated that the notice had been given. Member O'Hara said that if the Board's professionals don't have a problem with the waivers the Board should move forward on the vote for completeness.

Mr. Huettl stated that there was one other item that was a submission waiver request for the site plan. There is a Township requirement that the landscape plan be prepared by a licensed landscape architect. Whitesell's landscape plan was prepared by the engineer of record for the project. Mr. Huettl stated that Whitesell doesn't feel that there needs to be a landscape architect involved because their previous applications have established a planting strategy in terms of the types and species and the density of the plantings for the park. It is Whitesell's intention to continue the same level of planting and the same species that has already been reviewed. This would provide consistency throughout the park. Planner Hintz is comfortable with this.

Member Napolitan asked if sidewalks would be installed along with the trees? Mr. Huettl stated that it was their intention to have sidewalks on one side of the road only.

Engineer Guzzi said that on the site plan on the Traffic Impact Study actually the letter report that was submitted to the Board referenced a traffic study that was never submitted to the Township. Mr. Huettl stated that when Whitesell had been before the Board in 2000 and 2001 for the Preliminary and Final Subdivision approval that started that development of the Haines Center they submitted a Traffic Impact report that included the traffic impact for the entire development of the center including the Florence and Burlington portion of the center. After that subdivision application there were additional submissions of the Traffic Impact report to the County because they had requested some changes to the report. This was after they had gotten the subdivision approval from the Township. There were a couple revisions to Traffic Impact reports that the Township hadn't seen. This was discovered when the traffic consultant wrote an update letter for this application that stated that the impact of the new facility would be consistent with the report that Whitesell had submitted previously to the Township. In this update he referenced the report that had been done in 2004 and never submitted to the Township. Engineer Guzzi picked up on this issue and Whitesell submitted the 2004 to Engineer Guzzi for his review.

Mr. Huettl stated that the trip generation at the Haines Center was estimated using historical traffic data from the portion of the park that had already been developed. When they wrote the 2000 report they had developed over a million square feet within the center and they used the traffic generation from that million square feet to predict what they would see from the next 6 million square feet. When they wrote the revised report in 2004 for the County they now had 2 million square feet done so they recalculated the estimated traffic generation and extrapolated that to the remaining 5 million square feet.

Chairperson Hamilton-Wood asked from a completeness standpoint does the Board have the Traffic Report or are they going to get the Traffic Report? Engineer Guzzi stated that his office has the updated Traffic Report and has analyzed it. Mr. Huettl stated that this had been sent to Engineer Guzzi only, but would be sent to the Board Clerk for the Land Use file.

Member Smith asked if the light rail was included. Mr. Huettl stated that they had anticipated what traffic would be generated by the light rail station for the 2004 report. The traffic consultant updated the report and the numbers are current based on the development and the light rail.

Member O'Hara asked what the impact the light rail has had on the site. Engineer Guzzi stated that the light rail is just listed as the background traffic. Mayor Muchowski stated that he had is comfortable with the traffic situation. Due to the intersection at Rt. 130 the traffic is constantly reviewed by the County and the State of New Jersey.

Chairperson Hamilton-Wood asked for a list of what submission waivers were required for completeness for the subdivision.

Engineer Guzzi stated that waivers were requested for the Environmental Impact Statement, Municipal Impact Statement, trees greater than 6", the landscape plan not being prepared by a licensed landscape architect, and the scale of the plan.

Attorney McDougall stated that submission waivers were also the items listed in Engineer Guzzi's report dated July 28, 2006 including the Environmental Impact Statement, plans drawn to a scale of not less than 1" equals 100 feet, contours at 2' intervals, all structures, wooded areas within the tract and adjacent tract, and all trees greater than or equal to 6" in diameter, all lot lines and names of owners within 200', location of all existing utilities, all existing and proposed storm sewer drainage systems, drainage area map and drainage calculations, test borings to the water table or 10', and soil boundaries.

Mayor Muchowski moved that the application for subdivision be deemed complete based on the advice of the professionals and the submissions that had been made on the site plan that would support the waivers at hand for the subdivision, seconded by O'Hara.

Upon roll call the Board voted as follows:

YEAS: Fratinaro, Muchowski, Napolitan, O'Hara, Smith, Stockhaus
Hamilton-Wood

NOES: None

ABSENT: None

Chairperson Hamilton-Wood stated that the Board now needed to vote on the completeness of the Site Plan.

Engineer Guzzi stated that the following submission waivers were requested: Environmental Impact Statement, Municipal Services Impact Statement, trees greater than 6" in diameter, lot lines and names of owners within 200', and location of the recycling center.

Mr. Huettl stated that the recycling center for the proposed building is actually inside. There is a baler for cardboard and this is completely contained inside the building. When the bales are tied up then they are loaded onto a truck and removed from the site. There are no exterior recycle centers proposed. None of the bales of cardboard would be stored outside at any time.

Motion of O'Hara, seconded by Stockhaus to grant the submission waivers as stated and deem the application complete.

Upon roll call the Board voted as follows:

YEAS: Fratinaro, Muchowski, Napolitan, O'Hara, Smith, Stockhaus,
Hamilton-Wood

NOES: None

ABSENT: Ryan

Chairperson Hamilton-Wood stated that at this time the Board is prepared to move forward with the substantive issues of the application.

Mr. Cureton gave the Board an overview of the Haines Center and the location of the proposed project. He said that most of the time Whitesell comes before the Board for approval of a speculative building and then when a tenant is identified comes back before the Board for the specifics of the site. This project is for a specific customer and has been designed to meet their needs. The project is for a distribution center for consumer needs, very similar in concept to the Home Depot, Sports Authority and BJ's Wholesale. He stated that this new warehouse would be a benefit to the town because of the excellent quality of the company.

Mr. Cureton stated that the market place has slowed down a little bit so some of the activity at the center may slow down a little as well. He stated that they have had inquiries for facilities that would be more high tech and back room office space. Some of this is driven by the light rail. Whitesell has set aside some land close to the light rail that can accommodate those kinds of uses if they come into being. Once there is further development then Whitesell will come back to the Board with convenience and retail uses right along Rt. 130 in compliance with the overlapping zoning.

Mr. Huettl said that this application requires a subdivision for the development because they are restructuring or reconfiguring some of the existing lot lines. When they did the initial subdivision they had anticipated 3 large facilities oriented east/west across this large tract of land that is approximately 160 acres. They did build the first building in that orientation but they have now changed their planning due to stormwater management and the size of this application so they have rotated these two buildings in order to fit them in. This necessitated a road going off between the existing buildings that were already approved and built and those that are in the future. So this application does not create any new lots, it just reconfigures 3 lots and creates the right of way for Daniels Way, which is a road that is already built, and the name was dedicated to a fallen veteran from Florence.

Mr. Huettl stated that there are only a couple items that require testimony. On Planner Hintz's letter, Mr. Huettl pointed out that there are no required DEP permits or applications associated with this site plan and subdivision application. Planner Hintz verified that for the subdivision plan there were no further items that required testimony.

Mr. Huettl stated that they had also received a review letter from Engineer Guzzi for the subdivision plan. There are some easement agreements that Whitesell will provide to Engineer Guzzi for review. Whitesell will sign a municipal water & sewer agreement with the Township associated with this development as a condition of approval.

Mr. Huettl stated that the flow allocations for this project have been approved by the Township and the State.

Engineer Guzzi stated that there were no further items to be discussed from his report.

Mayor Muchowski said that with a development of a site of this type that was done as a speculative nature, that the redrawing of lot lines would be anticipated. There would be realigning of lots to accommodate the development that they are looking for.

Chairperson Hamilton-Wood asked if the reconfiguring of the lots would leave a space that is unusable by this reconfiguration. Mr. Huettl stated that they actually had submitted an application for the remaining lot several months ago. Shortly after filing that application this new opportunity came to Whitesell and they asked the Township to put that application on hold. This current application takes up a little more ground than they had left for that site, so they have to redo the plans for the leftover site but it is still over a thousand feet wide. There is more than enough room for additional development. There are no wetlands on this site. All 3 lots meet all the zoning requirements for the General Manufacturing Zone.

Neither Planner Hintz nor Engineer Guzzi voiced any concerns with the reconfiguring of the lot lines.

Motion to approve by Fratinardo, seconded to Napolitan to approve application 2006-18 for subdivision subject to the conditions that were outlined by the Professional's.

Upon roll call the Board voted as follows:

YEAS: Fratinardo, Muchowski, Napolitan, O'Hara, Smith, Stockhaus,
Hamilton-Wood
NOES: None
ABSENT: Ryan

Chairperson Hamilton-Wood stated that at this time they would move on to the site plan application.

Attorney McDougall stated that the site plan application was for preliminary and final site plan approval for phase 1 and for preliminary site plan approval for phase 2 (the expansion of the warehouse). She said that if the applications are approved, Whitesell has requested that an extension of the period of protection be granted for 2 years for the Final approval for Phase 1 (this would extend the protection to 4 years) and for 4 years for the Preliminary approval for phase 2 (this would extend the approval to 7 years). This request was made by letter last week.

Chairperson Hamilton-Wood stated that the Board would need an education on the purpose of granting extensions before the time period expires.

Solicitor Abbott stated that this is unusual, but the Municipal Land Use Law does permit the Board grant an extension at the time an approval is granted. Basically prolonging the

period of protection. Solicitor Abbott stated that she had discussed this with Attorney McDougall and had discussed that Board's concern with the COAH requirements and the requirements that this Board has imposed whenever they have granted extensions. As with other requests for extensions testimony in support of the request will be required.

Mr. Cureton thanked the Board for starting the meeting early to accommodate this application. He said that he would give the Board a quick overview of the site plan. The site is 66 acres in size. The large building (Phase 1), which will be built immediately, is a little over 700,000 square feet in size. It has loading on both sides of the building so there is a cross dock. There will be a relatively small office in the front. The associated car parking will be separated from the truck activity, which takes place throughout the rest of the site. Phase 2 is an approximately 300,000 square foot expansion to the building.

The plan has a recharge detention basin in the front along Daniels Way and another storm water basin in the back of the property. There is a fair amount of green area on this project to accommodate the State stormwater management requirements. There is an area for truck trailer parking along either side of the property and then there is an area for overseas boxes to be delivered at the back of the property. This is very similar to other plans on the Haines Center site that the Board has approved. The difference for this project is that the height of the facility goes over 75' tall.

Mr. Cureton stated that this property abuts up to Burlington Township. The site plan requires 5 variances. The first variance is for 82.5' where 75' is permitted. This is less than a 10% increase in height. The reason for the height is to accommodate that unique and expansive racking system for storing merchandise that the occupant requires. Mr. Cureton stated that in order to be more competitive the businesses have to find taller buildings. There has been an increasing pattern in the change of distribution. This is definitely a state of the art facility built to the specifications of the proposed occupant of the site.

Mr. Cureton stated that this building fits in with the intent of the zoning of the Township, with the development of the overall industrial park, and with the New Jersey Smart Growth plan. He said that even though the building will be taller it would be built similarly to the other structures where there is masonry and metal panels. So this building will have the same visual characteristics and aesthetics and be consistent throughout the park.

This variance does create any detriment to the public good for the residents of Florence. This building is a great distance to the nearest residences. You will not be able to see this building from the residences.

Mr. Cureton submitted Exhibit A1 (Haines Industrial Center Master Plan – MP-1 dated 8-21-06), A2 (Major Site plan dated 8-4-06, and A3 that illustrates that the ordinance allows for a 75' high structure and can be built up to 75' from the roadway is being proposed is over 400' away from the line, so even though it is slightly taller than the

permitted height it seems that is less than half as tall from the roadway. All the surrounding facilities, including Burlington Township are all industrial in nature. This building will be located near the center of the park far away from Route 130. Mr. Cureton indicated that this building would not be seen from Route 130.

The second requested variance is that the ordinance requires a 75' adjacent property to be used for landscaping and ground cover from the street. There is some question as to whether or not the stormwater basin, which will be a grassed in area, is a structure and therefore too close to the street. He stated that there will be an area of approximately 35' from the street that will be heavily landscaped, then there is the basin that is another 80' in width, then there is another 20' to 25' of landscaping from the other side so there are really 2 landscaped areas in front of the building. Technically because the basin can be considered a structure the variance is required.

Mr. Cureton stated that on the side property there is 15' of landscaped property instead of the 20' required by ordinance. He said that in the front of the building there is a much greater landscaped area on the side where there is a much greater potential visual impact from the road. It is only when you get back into the property that they ask for the 5' waiver. It is Whitesell's experience that in 15' of landscaping you can accomplish the same thing that you would at 20' in terms of the density of material. There is also a large basin in the back that gives a larger green area to the project. They do not believe that there are any real negative detriments to the public good by asking for this waiver.

Mr. Cureton stated that part of that same ordinance requires that Belgian block be used for curbing. They think that concrete curb would be more appropriate for this heavy industrial development. Since this is not generally viewed by the public this shouldn't be a detriment.

The next variance is for the parking requirements. The designed parking is sufficient to take care of Phase 1 and there is phantom parking sufficient to take care of the known needs of Phase 2 as well. Together this is consistent with what Whitesell has seen in their industrial development throughout South Jersey, but this is much less than is required by ordinance. If this building were to meet the ordinance in terms of the parking requirement then this would not be a distribution center, it would be more of a manufacturing facility requiring less trucks. Whitesell always designs their trailer parking areas to double as car parking if and when necessary. You have one or the other. You have a lot of trucking activity or a lot of people. You don't have both especially with the new more mechanized distribution centers that you see now. This facility will have a tremendous investment on the interior through conveyor and racking systems. This is why they are asking for relief for the parking quantity. There is plenty of space on site, so there should be no need for people to park on the street.

The Township ordinance requires that loading dock area be 15' wide and 40' in depth. This makes sense if there is not enough room for trucks to maneuver on the site. This loading dock area has 130' of clear maneuvering area. The customer wants to have 12.5' lanes for truck parking for the docks. They have experience with this at their other

facilities and this is sufficient for them. Mayor Muchowski stated that he recalled with other Whitesell buildings the Board had approved 13' 4" because there was a 40' clear spot and they could get 3 bays in between. Mr. Cureton stated that this was true. When Whitesell builds on speculation they use 13' 4" as a standard. In this way they could maximize the number of doors. In this case the customer is comfortable with something slightly less in size. This would be controlled by security on site.

The last variance is for the monument sign. The variance permits a height of 6'. They would like a height of 7'. This would be consistent with the sign that has been installed on the Burlington side of the site.

Chairperson Hamilton-Wood asked whether the basin was or was not a structure and what would be the effect of using the basin as frontage. Engineer Guzzi said that this was going to be green space and Whitesell is proposing to landscape both ends of it. From his prospective even though it is a stormwater management basin it is green space. It will for the most part be a dry basin, but it will hold some water after a rainstorm. This basin will be grass and be maintained as a lawn area.

Planner Hintz stated that a waiver had been requested from ordinance section 91-117 that there be 2 trees for every 10 parking spaces. This is adjacent to the front yard area. Mr. Huettl stated that they have proposed the required number of shade trees. Most of them are on the perimeter of the parking lot as opposed to be in the parking lot on islands. Planner Hintz stated that the intent and purpose of the code is to provide shade within the parking lot and the plan only shows shading the perimeter of the parking lot to the south.

Member O'Hara asked where the stone ground cover was going to be. Mr. Huettl stated that the occupant of the building would have some food product in the building in the racking systems. They would like to minimize the potential exposure to bugs, rodents and pests so they are proposing a 10' stone strip around the building to keep pests away.

Engineer Guzzi stated that the other requested design waiver was for curbing around the entire parking lot. They have provided curbing in the front of the building, but they are proposing wheel stops around the perimeter of the balance of the parking lot in lieu of curbing. Mr. Huettl asked if the Board would prefer to go through the review letters to keep thing more organized. Solicitor Abbott stated that the Board was almost through the comments. The variances had been gone through and there were 3 design standard waivers.

Chairperson Hamilton-Wood asked if there was a lighting issue. Engineer Guzzi stated that there was a lighting issue. He had met with the applicant's engineer to discuss the lighting, but his office is not satisfied with the lighting plan as it does not meet with the ordinance standard. Whitesell has agreed to revise the lighting plan to meet the requirements.

Member Fratinardo stated that he would like the Township's Fire Official to comment on the height of the building. Mayor Muchowski read from the Fire Official's report. Fire

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Official Kevin Mullen stated that they had looked at the height of the building when they prepared their report. Mr. Huettl stated that they had to work out some details with the Fire Department, but they would comply with the recommendations in the report.

Chairperson Hamilton-Wood asked about the requested sign variance. Mr. Huettl stated that the sign would comply except for the height.

Mr. Huettl stated that he would refer to the letter dated August 15, 2006 from Engineer Guzzi. Engineer Guzzi said that this was his second review letter and many of the items had been satisfied.

Item 1 deals with the height variance and testimony has already been given.

Item 2 regarding the bulk table of the site plan has been satisfied.

Items 3 and 4 are changes to the plan regarding the contour elevations and the locator map. They will comply with these items.

Items 7 through 11 regards necessary modifications to the stormwater management plans and the minor clarifications that will be done as recommended by Engineer Guzzi.

Item 12 that the soil borings be inspected by the Board or Township Engineer. Mr. Huettl indicated that they would set up an appointment with Engineer Guzzi and have the borings repeated.

Item 13 the street Daniels Way has been labeled on the site plan.

Item 14 a minor change to the lighting plan that will be complied with.

Item 15 is the submission waiver for the licensed landscape architect. Testimony was already given in support of this.

Item 16 indicates that the Township's ordinance may require concrete curbing. Whitesell is proposing partial concrete curbs. The driveways into the facility from the road have curbs as well as the entire front parking lot. There is a small area of the driveway into the car parking lot where there are no curbs proposed now but when the future parking is built then it will be entirely curbed. It didn't make sense to put the parking in temporarily and then have to pull them out when the parking lot is expanded. The areas that do not have concrete curb are the trailer and container storage areas. These are the areas that they propose concrete wheel stops in lieu of curbs in order to direct the truck operators on the site and to prevent trailers being backed off onto the pavement. The lack of curbing is not an issue from a stormwater management standpoint because the curb is not necessary to convey stormwater to inlets. All the surface water flow is away from the pavement.

Item 17 pertains to the size of the proposed automobile parking stalls. The majority of the stalls are proposed to be 9' x 20'. The ordinance requires 10' x 20'. The stalls were

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slimmed down to 9' in this location to be consistent to what they have done in other projects in Florence. This was done to provide additional green space. The additional width in parking stalls are necessary in a retail center where cars are coming and going and there are shopping carts. In this location these are employees who are coming and staying for 8 hours at a time. Along the perimeter 18' length is proposed because the cars will hang over the curb. This will require less paving and provide more green space.

Item 18 requires the submission of a report of the subsurface soils. They will comply with this request.

Item 19 pertains to landscaping issues that have already been discussed in testimony earlier in the meeting. The stone strip along the outside of the building will not be used for storage.

Item 20 regarding the trash pickup location and item 21 regarding a recycling center have been satisfied with the most recent submission.

Item 22 regarding the pavement setback, Item 23 the parking setback, Item 24 the dock door dimensioning and Item 25 the signage variance was covered under testimony given earlier by Mr. Cureton.

Item 26 regarding the number of parking spots misidentified in one location. This will be corrected.

Item 27 regarding the parking lot striping material will be complied with.

Item 28 regarding the driveway that connects the front parking lot to the main truck entrance to the site. Mr. Huettl stated that there are proposed signs that would direct the cars to enter from the western most driveway. The truck will enter at the eastern most driveway. This will minimize any potential conflicts that might occur. Engineer Guzzi stated that he was satisfied with this. Chairperson Hamilton-Wood asked about FedEx trucks, etc. Mr. Huettl stated that these would typically use the truck entrance, but they would not be arriving at the same time as the employees.

Item 29 pertains to directional signage. They will not be illuminated but they will be reflective so that they are readable. This will be added to the plan.

Item 30 the monument signs will be lighted and the detail will be added to the plan.

Item 31 the details of the handicap accessible entrance will be added to the plan.

Item 32 the concrete sidewalk/curb detail has been satisfied on the latest submission.

Item 33 requesting additional details for sidewalks and widening the sidewalks the requested 6' will be complied with.

Item 34 regarding the pipe bollard and Item 35 regarding the curb detail were satisfied in the latest submission.

Items 36 through 38 requesting additional clarification on the plans will be provided.

Items 39 through 46 have been satisfied with the latest submission.

Item 47 is a request for the requirement of concrete pipe for stormwater. Whitesell is proposing high-density polyethylene pipe. This has been used extensively in the industry and has been proven as a sufficient and appropriate alternative to concrete pipe and does provide some benefits, the pipe is much lighter than concrete pipe and it is easier to move around the site. There is also less friction on the inside of the pipe, which allows them to use smaller pipes, and this makes a big difference on a large site like this. Engineer Guzzi stated that he did not have a problem with the H.D.P.E. pipe.

Item 48 regarding the traffic impact report that was discussed earlier in the meeting. Whitesell will supply the 2004 traffic report to the Township.

Item 49 for the Environmental Impact Statement and Item 50 for the Municipal Services Impact Report testimony has already been given for both of these.

Attorney McDougall said that she wanted to clarify some of the testimony that had been given regarding a structure (basin) within the 75' parking setback (ordinance 91-245b). She stated that the property and the site plan meets the ordinance. There is an 80' front setback and a 50' rear setback. The ordinance states that the setback can't have a building within it. The building is defined as something that has a roof and used for occupancy – not a structure. There is not a variance requested for that, only a variance for landscaping and no parking within 75'.

Mr. Huettl referred to Planner Hintz's letter revised on August 11, 2006. He said that there were many items in the Planner's report were also in Engineer Guzzi's report and had already been discussed.

Section 5 under Zoning Items 1 through 8 were already discussed. In section 6.1 Item 3 pertains to trash enclosures. Mr. Huettl stated that there were 2 trash compactors planned for the building. These trash compactors are completely enclosed. The trash is loaded in from the inside of the building. Trash cannot be added from the outside. The compactors are located approximately 1,000' away from the road and will not be visible.

In Section 6.2 on the landscape plan Item 1 was already satisfied with the recent submission. Item 2 the requested planting details will be added to the plan.

Item 3 was a recommendation that the parking lot up front be broken up to include trees within the pavement and they did add 5 islands with 2 trees each. 3 of the islands are in the car parking area and 2 are in the future parking area. The remaining required trees are dispersed around the building. Planner Hintz stated that the evergreens that run on the

north side of the detention basin won't have any affect as to shading the parking lot. If some of these were changed to shade trees this would make a difference.

Mr. Huettl stated that their intention in putting evergreen trees there was to increase screening of the building from the road, but he said they would change some of the trees to shade trees. Planner Hintz stated that would make a difference and then if Mr. Huettl wanted to he could pull some of the evergreen trees toward the street frontage. Mr. Huettl stated that they would intermix the evergreens within the 2 tree lines. Planner Hintz stated that there was a slight drafting error. The plans indicate a QCE landscape plan in front of the building, when you go to the plant legend it indicates a PCE. The plans and the plant legend do not jive. Mr. Huettl stated that this would be corrected in the next revision.

Mr. Huettl stated that Section 6.3 Item 4, points out that the lighting plan shows lights that are high pressure sodium and there is recommendation from the planner that they use metal halide lights in lieu of high pressure sodium. Mr. Huettl stated that they would prefer to use the proposed high pressure sodium lights because this is consistent with all the other projects that they have done at the Haines Center in both Florence and Burlington.

Section 6.3 Item 5 points out that there are some proposed lights in the front automobile parking area and the rear trailer parking area that are not in curbed islands. As a result of this concern, they did put some of the light poles in the front parking lot in the islands with the trees. There are 2 light poles in the front that are not in islands and a handful in the back lot that are not in islands. The lights will be in a 2' diameter concrete pier that will extend up the light poles for protection.

Section 6.4 Whitesell will comply with the affordable housing requirement.

Mr. Huettl stated that he had a review letter from David Lebak the director of Water and Sewer. Mr. Huettl stated that they would comply with this report and also will comply with the letter from the Township Fire Official.

Mr. Cureton added that he wanted to mention about the operation. The initial operation will be in 2 shifts an afternoon and evening shift. During certain times of the year they may have to run 3 shifts, 7 days a week.

Motion of Fratinardo, seconded by Stockhaus to open the meeting to the public. Hearing no one wishing to testify motion was made by Fratinardo, seconded by O'Hara to close the public portion. Motion unanimously approved by all members present.

Solicitor Abbott stated that the application was for Preliminary and Final Major Site Plan approval. The Board needs to determine whether both can be granted or if only Preliminary should be granted. She stated that there don't seem to be very many outstanding items in the reports except for plan revisions. Everything else has been or can easily be satisfied.

Solicitor Abbott listed the following conditions that are in addition to all of the items set forth in the reports including the reports of the Board Engineer, Board Planner, Township Director of Water & Sewer and Township Fire Marshall.

If it is determined by the Township Zoning Officer that it is necessary to use the banked parking spaces, then the applicant will immediately make application for amended site plan approval.

The stormwater basin will be grassed and maintained as lawn area. Evergreen and shade trees will be intermixed in the parking area as determined by the Board Planner.

The requested variances are for building height of 82.5' where 75' is permitted, buffering 30' from the street line where 75' is required, buffering 15' from the property line where 20' is required, 240 parking spaces plus 120 banked spaces where 761 spaces are required, size of the loading spaces, and the height of the free standing sign.

There is a design standard waiver requested for the size of the parking space. The applicant is requesting 9' x 18' around the perimeter of the site and 9' x 20' around the interior of the site. In regards to the requested waiver for the high pressure sodium lights rather than the metal halide lights. Planner Hintz stated that he would prefer the metal halide, but he agrees with the applicant that the site should be kept consistent and since the rest of the site uses the high pressure sodium lights this would be acceptable to him.

Attorney McDougall asked if there needed to be a waiver for the Belgian block curbing. Engineer Guzzi stated that the ordinance calls for Belgian block or concrete curb and they have provided concrete curb so no waiver is required.

Attorney McDougall clarified that all of the variances and waivers and the approval was just for Phase 1.

Chairperson Hamilton-Wood stated that typically this Board does not hear preliminary and final in one application. The Board has to decide if it is appropriate in this circumstance to grant both preliminary and final.

Mayor Muchowski stated that the list of conditions is not very extensive. He stated that the reviews were very thorough by the professionals and in his opinion it would not be a detriment to the Municipality to grant preliminary and final on Phase 1. Member O'Hara stated that he concurred with Mayor Muchowski.

Member Smith asked about a stream encroachment permit that had been submitted. Mr. Huettl stated that their original application required stream encroachment and general permit from the DEP. They revised the plans and resubmitted them with a different design that did not require that same permit.

Motion of O'Hara, seconded by Smith to grant Preliminary and Final approval with the variances and waivers that were requested and with the conditions previously set forth by Solicitor Abbott for Phase 1.

Upon roll call the Board voted as follows:

YEAS: Fratinaro, Muchowski, Napolitan, O'Hara, Smith,
 Stockhaus, Hamilton-Wood
NOES: None
ABSENT: Ryan

Chairperson Hamilton-Wood stated that the Board would now move to Phase 2. The applicant is requesting Preliminary approval for a 300,000 square foot extension of the building with a small office space at the front. The banked parking would be added at the time of construction of Phase 2. Attorney McDougall stated that they would need the same variances and design waivers with the exception of the sign variance.

Motion of Muchowski, seconded by Stockhaus to grant Preliminary approval and the associated waivers and variances.

Upon roll call the Board voted as follows:

YEAS: Fratinaro, Muchowski, Napolitan, O'Hara, Smith, Stockhaus,
 Hamilton-Wood
NOES: None
ABSENT: Ryan

Attorney McDougall again asked the Board about granting the extensions to the just approved Phase 1 and Phase 2 site plan applications.

Chairperson Hamilton-Wood said that she had concerns about granting these extensions. Mayor Muchowski stated that he would like to more thoroughly review this on a Municipal level. He said that he did not recall ever doing this. It may be quite appropriate, but he would still like to do a more thorough review of this. Mr. Cureton stated that Whitesell would be happy to come back and re-address this issue, but the concern over the extension is a concern to buy as much time as possible for the Phase 2 development. Phase 1 should be underway soon. The client would like some comfort level because of the huge investment they are putting into the property.

Solicitor Abbott stated that since a request for extension was made, she suggested that the request be denied without prejudice. This way the applicant could resurrect it with a letter and no public notice is required for extension.

Mayor Muchowski stated that he would deny it without prejudice but he wanted the Board to review this and become familiar with it soon. Chairperson Hamilton-Wood

asked the Board's professional staff to prepare some information for the Board to review as to what this type of extension might entail.

Member O'Hara stated that he could not remember ever granting Preliminary and Final and granting an extension in the same evening. Mayor Muchowski stated that there may be conditions placed on the extension that would give protection to the Township. Member Fratinardo stated that the Board had to protect the Township in light of the changing COAH requirements.

Attorney McDougall stated that they appreciate the Board's need to take a closer look at this issue, the MLUL provides for such an extension in the case of site plan approval where there is over 200,000 square feet of non-residential floor area involved. The Board would take this into consideration as well as the economic conditions and the comprehensiveness of developments.

Motion of O'Hara, seconded by Napolitan to deny the request for extension without prejudice.

YEAS: Fratinardo, Muchowski, Napolitan, O'Hara, Smith, Stockhaus
Hamilton-Wood
NOES: None
ABSENT: Ryan

Chairperson Hamilton-Wood called for application PB#2006-20. Applicant is requesting a one year extension from Final Approval for property located at 1000 John Galt Way, Block 158, Lot 8.

Attorney McDougall said that this request relates to resolution PB#2004-27 which was memorialized on August 16, 2004 so the period of protection is expiring.

Mr. Huettl stated that in 2004 Whitesell made site plan application for a building that was approximately 250,000 square feet. The building had been designed for a specific user, but was also designed to be flexible. The user indicated that they were not ready to expand so the deal was dropped. Whitesell proceeded with the application for the building as a speculative building. They received the approval, but have been busy with other projects and have not been able to construct that building yet. He stated that they would like to retain their rights to build that building by the Township extending the period of protection.

Mayor Muchowski stated that the only issue would be the COAH. Solicitor Abbott stated that there were no COAH requirements at the time of the approval, but she had spoken with Attorney McDougall and advised her of the Board's policy to address the COAH issue if an extension were requested.

Mr. Huettl stated that Whitesell would be agreeable to the COAH requirements.

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Solicitor Abbott stated that this would extend the protection to August 16, 2007 subject to the condition that the applicant comply with the COAH regulations that are currently in effect.

Motion of Muchowski, seconded by Fratinardo to grant the extension with the condition.

YEAS: Fratinardo, Muchowski, Napolitan, O'Hara, Smith, Stockhaus
Hamilton-Wood
NOES: None
ABSENT: Ryan

Chairperson Hamilton-Wood called for application PB#2005-13 for Cream-O-Land, Inc. Applicant is requesting amended Preliminary and Final Major Site Plan approval with bulk variances for property located at 529 Cedar Lane, Block 155.47, Lots 12.01 and 12.03.

Solicitor Abbott stated that a letter had been received from the applicant's attorney requesting a continuance until the October 16, 2006 meeting of the Board.

Chairperson Hamilton-Wood asked if additional notice would be required since this application was being postponed for 2 months.

Motion of Muchowski, seconded Fratinardo to grant the continuance with the condition that the applicant re-notice for the October 16, 2006 meeting.

Upon roll call the Board voted as follows:

YEAS: Fratinardo, Muchowski, Napolitan, O'Hara, Smith, Stockhaus
Hamilton-Wood
NOES: None
ABSENT: Ryan

The Board took a 5 minute break.

The Board returned to the regular order of business.

Chairperson Hamilton-Wood called for application PB#2006-16 for Joseph Gallina. Applicant is requesting Preliminary Major Site Plan approval with bulk variances for property located at 2107 Route 130 South, Block 110, Lots 3.01 and 8.01.

Attorney Jonas Singer stated that previously the applicant had been before the Board for an application to renovate the existing building. Since that time the applicant has acquired the adjacent property and has revised the site plan and this is a new application.

Chairperson Hamilton-Wood stated that it appeared that there was an outstanding balance for the water and sewer charges on the property. Solicitor Abbott stated that the Board

could hear the application, but any approval would be conditioned upon the payment of any past due charges.

Attorney Singer reference Planner Hintz's letter of July 12, 2006. In regards to the issue of completeness, they have asked for a waiver of the EIS Environmental Impact Statement.

Eric Evers was sworn in by Solicitor Abbott. Mr. Evers stated that he was a professional engineer and land surveyor. He stated that he was a graduate of Drexel University. He stated that he had appeared before this Board several years ago in the matter of a funeral home. Mayor Muchowski stated that he thought that Mr. Evers had appeared before the Florence Township Zoning Board. The Board accepted Mr. Evers as a qualified engineer.

Attorney Singer asked Mr. Evers to give a brief overview of the site, keeping in mind that this was for completeness only. Mr. Evers stated that the property is located on Route 130. The property is zoned as NC Neighborhood Commercial. There is an existing vacant building that the Gallina brothers have been reconstructing. The existing building will remain it will be used partially for retail and part will be a pizza shop. As part of the addition of Lot 8.01 to the property the applicant's have decided to construct a second building to be used for retail. There will be approximately 3 retail units. The plan proposes 40 parking spaces.

Mr. Evers stated that there is a 20' wide utility easement centered on the back property line. They are showing a 25' buffer easement which is incorporated into the landscaping plan. The water and sewer runs along the back portion of the property. The applicant is proposing a basin to the northeast corner of the property. This is a combined infiltration/detention basin.

Mr. Evers stated that other than the existing building, the remaining portion of the property is vacant. There is an old stone and blacktop parking area on the site. Mr. Evers said that they are proposing to install curbing around the site and to use the existing entrance, but plan to widen the entrance. Once the Board approves the plan the applicant will submit it to NJDOT for approval.

Mr. Evers stated that this plan calls for 2 phases. The first phase will focus on the existing building and the stormwater drainage system will be constructed. Phase 2 will be the construction of the proposed building, additional parking and driveway.

Mr. Evers stated that in his opinion an Environmental Impact Statement is not required for the site. He stated that there are no wetlands on the site and the lot is already partially developed.

Mayor Muchowski asked if any soil borings had been done on the site? Mr. Evers stated that 2 soil borings and a permeability test at the detention basin area and 2 additional borings were taken from a different area. He stated that since the site was never used for

an industrial use, he didn't think that there was the need for soil testing. Member Smith stated that this site had once housed a TV repair shop back when TV's had tubes. The site had also previously been used as a fish market and a Tee shirt screening shop. Attorney Singer said that he did not think that the ordinance required soil testing for retail uses.

Mayor Muchowski asked about the number of proposed parking spots. Member O'Hara asked Mr. Evers to go over the Phase 1 and Phase 2 again and denote the parking for Phase 1. Mr. Evers stated that Phase 1 provides for 20 spaces for the retail portion and 4 spaces for the apartment and the balance of the parking will be for the 28 seat restaurant. With 28 seats the required parking is 14 spaces. He stated that they are not including the parking for Phase 2 at this time.

Attorney Singer stated that the applicant understands that they will only be permitted to have 28 seats at the restaurant and will testify to this during the hearing on the application.

Mr. Evers stated that the proposed parking spaces are 9' x 20'. Mr. Evers said that they decided to reduce the width of the parking spaces to maximize the green area on the site.

Mayor Muchowski apologized for deviating from the completeness hearing.

Attorney Singer stated that he had submitted a report prepared by Habitat Management indicating that there were no wetlands on the site. Planner Hintz stated that the Board does not make the final determination as to whether there are wetlands on the site. He said that the determination of wetlands could be waived for the issue of completeness but the applicant will have to submit to DEP for wetlands presence/absence. Attorney Singer stated that the applicant does not have any objections to that.

Attorney Singer referred to Planner Hintz's July 12, 2006 report under Section 4.0 for completeness

Item 49E that the applicant is the owner of the property and this is certified in the application. Item 49H the plan will be revised to show the acreage to the nearest tenth.

Item 49J the key location map is shown on the cover sheet of the plan. They will add it to the site plan sheet. Item 49M lot lines within 200' is shown on the cover sheet. This will be added to the site plan sheet as well.

Item 49T the drainage conditions and direction of water flow is shown on the grading plan. Planner Hintz stated that this was okay.

Item 52C regarding the proposed signs and trees of 6" calipers. Attorney Singer stated that there is an existing sign on the site. They are not sure what they are going to do with it yet. The applicant requests that the issue of sign be reserved for Final so that they can receive input from the Board's Professionals. He indicated that they have located all of

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the trees on the survey and the remaining trees on the landscape plan that has been submitted. They haven't sized the trees, but they will be resubmitted on the next revision of the preliminary plan.

Item 52I the building coverage and impervious coverage will be provided in square feet.

Item 52M a full landscape plan has been submitted. All the items 1 through 5 have been shown on the landscape plan, planting schedule and the site plan.

Item 52O the freestanding sign, again Attorney Singer asked that this be reserved for Final.

Item 52 R they did submit a planting schedule on a landscape plan prepared by a landscape architect.

Solicitor Abbott said that the motion should be to grant the submission waivers as set forth in the report of the Board Planner and to deem the application complete. Engineer Guzzi stated that the tree survey would be required for Preliminary. Engineer Guzzi stated that the Environmental Impact Statement does not require testing for contaminants such as heavy metals. It does ask you to look at prior uses to the site that might lead to additional testing, but there is nothing specific that requires soil testing.

Mayor Muchowski asked the Board if they should look at the some of the ordinance requirements for soil testing, not necessarily for this application, but in an attempt to protect the buyers of property as well as Florence Township.

Chairperson Hamilton-Wood asked if there was a procedure in the Township that allows the Board to require the specific kind of testing that the Mayor is alluding to. Solicitor Abbott stated that this is something that bears looking into. Attorney Singer suggested that the Board take a look at Burlington Township's ordinance there are sections within the ordinance regarding soil testing.

Motion of Muchowski, seconded by Napolitan to deem the application complete and grant the submission waivers with the exception of section 4.0-1 Item 52C of the July 12th report of the Board Planner.

Upon roll call the Board voted as follows:

YEAS: Fratinaro, Muchowski, Napolitan, O'Hara, Smith, Stockhaus
Hamilton-Wood
NOES: None
ABSENT: Ryan

Attorney Singer stated that he had given notice for Preliminary and wondered if there was a chance of being heard for Preliminary. Engineer Guzzi said this would not be possible because the applicant needs to supply the 6" caliper tree survey. Chairperson Hamilton-

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Wood stated that the application for Joseph Gallina will be heard for Preliminary at the September 18, 2006 with no additional notice required.

Mayor Muchowski asked Attorney Singer if the applicant was aware of the COAH obligation that will be required with the construction of the new retail building.

Alternate Member DeAngelis left the meeting at this time.

Chairperson Hamilton-Wood called for application PB#2006-06 for Frank Scamporino. The applicant is requesting Minor Subdivision and Preliminary and Final Major Site Plan approval for construction of a 15,500 square foot retail center and a 2,000 square foot financial institution on property located at Route 130 and Harkins Drive, Block 159, Lot 5.02.

Attorney David Frank will be substituting for Solicitor Abbott on this application. Solicitor Abbott has a conflict with this applicant. It had previously been determined that Alaimo Engineer Associates would retain the hearing of the application for Mr. Scamporino since the hearing process is nearing the end. Engineer Guzzi stepped down and Solicitor Frank stated that Engineer Doug Traver from Alaimo Associates would be sitting in for Engineer Jim McKelvie who is on vacation.

Attorney Robert L. Sexton stated that the applicant had appeared before the Board at the regular meeting of July 17, 2006. At that time the application was deemed complete and the Board took testimony. Also at that time the Board approved the subdivision that was requested by the applicant and further testimony regarding the site plan with the understanding that the Preliminary and Final Site plan applications hopefully would be heard together this evening.

Chairperson Hamilton-Wood stated that the Board would consider hearing both Preliminary and Final but had made no promises to the applicant to do so.

Attorney Sexton stated that in looking at the reports from the Board's professional staff it appears that the applicant has satisfied or will comply with all the outstanding issues. The only matters that need to be addressed was the variance for the size of the parking spaces and waivers for certified landscape architect as opposed to an engineer, the average lighting intensity and the requirement to show all off site lighting within 100'.

Planner Hintz stated his agreement with Attorney Sexton's overview. He stated that on the lighting, some of the lights have the sharp cutoff luminaries, but some do not.

Attorney Sexton stated that he would begin the review with the Alaimo Engineering report. On page 3 Item 2 the subdivision will be filed by deed. Item 4 the deed will be submitted to Solicitor Frank for review.

On page 4 Item 2 a variance is requested to allow 9' x 18' parking spaces and testimony was provided at the previous hearing to support this request.

On page 5 Item 4 regarding soil samples. Attorney Sexton read from a letter from Brinkerhoff Environmental Services dated August 17, 2006 indicating that the contaminants found are at concentrations below the applicable NJDEP criteria.

On page 5 Item 8 the applicant agrees to have the calculations for the retaining wall reviewed prior to the issuance of the building permit.

On page 6 item 13 the as-built drawings and the AutoCAD CD will be provided as requested.

On page 7 Item 14 regarding the other agency approvals. The Fire Official has submitted a report the applicant agrees with their findings. The Water and Sewer Department has submitted a report and the applicant agrees with their findings. If the Board grants approval then the applicant will submit applications to the Burlington County Planning Board, Burlington County Soil Conservation District and New Jersey Department of Transportation. The application has been submitted to the NJDEP Land Use Regulation Program.

Attorney Sexton moved on to Planner Hintz's report. On page 3 Item 47E the Wetlands Delineation letter. The application has been submitted to DEP.

On page 4 Section 6.1 Item 2 the applicant will comply with the request to label the plantings that are being proposed around the dumpster area. Item 5 Attorney Sexton stated that with revised plan no variance would be required for the side yard parking. With regard to the lot numbers. The large lot is 5.02. The smaller lot is 5.06. These lot numbers are according to the Township tax assessor.

Mayor Muchowski stated that the significant issue at the last meeting was the lighting intensity. Attorney Sexton stated that they know that they need a waiver for the lighting intensity and they are prepared to give additional testimony support this request. Member O'Hara said that Planner Hintz indicated that the lighting was too intense. Planner Hintz stated that it didn't meet the ordinance. Member O'Hara asked if the ordinance took into account the lighting requirements for an ATM area. Member O'Hara stated that this was a State regulation. Planner Hintz stated that there needed to be some testimony on this.

On page 5 Section 6.3, Item 1 a waiver is requested for the requirement that the landscape plan be prepared by a licensed landscape architect. Attorney Sexton stated that at the last meeting they looked up a New Jersey statute that indicated that either an engineer or a landscape architect could sign the plan. If this is a waiver requirement they would request the waiver.

On page 6 Section 6.4 Item 2, the applicant will modify the architectural plan as requested.

On page 7 Section 6.5 Item 1, regarding the lighting intensity when they came before the Board last month testimony was given that directly under the light it would be more intense and further away from the light it would be less bright. Last month the proposed average was 45 to 1. The Township requirement is 10 to 1. The applicant tried to comply, but could not comply completely. They got the ration down to 12.5 to 1. Mr. Rauch will give testimony as to why they are requesting the waiver for this.

Section 6.5 Item 3, the requested additional sharp cut-off luminaries will be added. Item 5 the applicant would like a waiver of the requirement that they show lighting within 100' of the site.

Chairperson Hamilton-Wood asked Planner Hintz what his opinion was on the lighting intensity ration as 12.5 to 1. Planner Hintz said that this was fairly close to the ration that the Township is looking for at 10 to 1.

Jeffrey Rausch, Feist Engineering, was reminded that he was still under oath from the previous hearing. Attorney Sexton asked Mr. Rausch to address the issue of the lighting waiver that is requested.

Mr. Rausch stated that in regards to the lighting intensity ratio they had met with the lighting manufacturer that will be supplying the lights. He said that the lighting manufacturer has a program that can calculate what the lighting intensity is at any place in the parking lot. The lighting manufacturer did an analysis and they could get the ratio down to 12.5 to 1. The ratio is the maximum light level divided by the minimum light level. What is skewing things a little bit is at the base of the light pole the light level is the greatest. Right at the base of the pole the average is 9 or 10. This is the max. This quickly dissipates as you go away from the pole. This value divided by the minimum keeps the ratio up high. They were able to get it down to 12.5 to 1, which is close to the ordinance requirement.

Mr. Rausch said that another thing was having the average foot candle at 1. The applicant has it at 2.76. This is mainly at the parking area. He said that the lighting manufacturer had supplied him standards from the Illuminating Engineers National Society. The basic security standard is 15 to 1 for parking lots. The average value used is .2 foot candle maintained. Mr. Rausch said that the lighting manufacturer told him that to maintain the minimum of a .8 foot candle and to get the 1 foot average is very difficult. The lighting manufacturer tried and came as close as he could. The area where the 2.76 foot candle is in the parking spaces and the drive aisle. If you look on the lighting plan the point values drop really quickly and become basically zero at the property line. For a parking lot with a bank they like it brighter so that customers can see who is around.

Mr. Rausch stated that the lighting plan was prepared by ILA (Independent Lighting Associates). This plan was prepared under Mr. Rausch's direction and control. Mr. Rausch stated that ILA was aware of the use of the site and the Township ordinance.

Member Smith asked what kind of light fixture was proposed. Chairperson Hamilton-Wood advised Attorney Sexton that typically this was not an issue. Most applicants have no problem meeting the intensity ratio. She said that she needed to be educated as to why the applicant can't reach the intensity that has been achieved by many other applicants. Attorney Sexton responded that they are trying to keep the light sufficient around the parking area for security concerns and yet not allow it to spill over off site.

Member Smith asked if there were any existing streetlights on Harkins Drive? Mr. Rausch answered that there were. Member O'Hara asked if the lighting ordinance dealt with these strip centers backing up to residential. Planner Hintz stated that this is why there is the requirement for the sharp cutoff luminaries and have the footcandles reach zero at the property line.

Mr. Rausch directed the Board's attention to page 15 of 18. This shows the cut sheets for the luminaries. In the parking lot there are fixtures that are like a cobra head. Mr. Rausch stated that the lights would be on 18' poles. Planner Hintz stated that this is part of the problem that the poles are up high. There is a high footcandle power to light that area. The Board has seen other application in the 14' to 15' range. Residential is typically 12'. Chairperson Hamilton-Wood asked why the poles were so high? Mr. Rausch stated that the lower you go with the poles the brighter the light is, the higher the intensity is. The higher you go it is spread out more the minimum lighting levels get smaller and smaller. Mr. Rausch said that they were trying to find the right balance of the pole height so the light meets the standard.

Mayor Muchowski asked if they lowered the pole height would this resolve the issue? Chairperson Hamilton-Wood stated that this would make the light more intensive. Mayor Muchowski said that you would have to change the luminaries. Mr. Rausch said that in order to reduce it the minimum value would get higher and the uniformity ratio would get higher because the maximum at the base of the pole would be greater. Planner Hintz stated that he disagreed with this. If you went with a shorter pole you would just require more lights, but you wouldn't need them to be more intense.

Chairperson Hamilton-Wood said that in other areas where they have come up with satisfactory lighting intensity they have seen shorter poles with a different fixture. Mayor Muchowski said that maybe the Township ordinance is wrong. 12.5 might be more appropriate, but more testimony in support of this is needed from the applicant. Member O'Hara said that this is Highway Commercial it is adjacent to a gas station. It doesn't bother him that they are at 12.5 versus 10. He said that he doesn't like the fixture. There is a very attractive storefront and then a light fixture that doesn't blend in.

Attorney Sexton addressed the question of Mayor Muchowski in regards to the ordinance. He stated that the local ordinance is very good. It is a studied set of guidelines. There are other guidelines for example the IESNA lighting handbook. The report that was submitted, that Planner Hintz has not yet had the opportunity to review, indicates that those standards show basic security should be 15 to 1 average. Attorney Sexton stated that he would make this information available to Planner Hintz.

Planner Hintz stated that he was not bothered by the 12.5 to 1 ratio, but he was concerned with the height and the style of the light. Mr. Rausch stated that they could easily change the style of the light fixture. Attorney Sexton stated that Mr. Scamporino is agreeable to changing the architectural design of the light to whatever Planner Hintz suggests.

The Board agreed that 12.5 to 1 was acceptable for this application, but the style of lights need to be revised.

Mayor Muchowski asked for the elevations on the back of the building. There is a future developable sub-divided lot behind the building. Is the roof open? Are the mechanicals visible?

Mr. Rausch said that he did not do the architectural plans, but the finish will be the same there will be individual doorways. Chairperson Hamilton-Wood said the Mayor was more concerned with the roofline and all the mechanicals that are on the roof. Are they going to be visible from the roof?

Mr. Scamporino who was still under oath stated that the way the roof line goes up the units are moved forward so that they are protected from weather. Chairperson Hamilton-Wood asked if there would be a peaked roof in the back. Mr. Scamporino stated that the roof would be flat. Mr. Scamporino stated that he would agree to a decorative roofline to hide the mechanicals on the roof. The decorative roofline will cover all sides of the building.

Member O'Hara said that on the sign plan it has a note for all exterior surface mounted backlit tenant signs. On the elevations that have a peak it shows gooseneck lighting above that. He said that it doesn't make sense to have an internally illuminated sign with goosenecks shining on it. Attorney Sexton stated that the gooseneck lights could be removed from the plan.

Member O'Hara asked Mr. Scamporino what if an applicant comes in and wants 2 storefronts. Mr. Scamporino stated that he would prefer the larger stores. There would only be one sign per store.

Mayor Muchowski stated that in regards to circulation and parking he could see that there were some modifications and changes made. He said that he was a little confused on the traffic flow coming off of Route 130. Mr. Rausch stated that there is a sign to direct traffic to the right. This signage is shown on the plan. Chairperson Hamilton-Wood asked if there would be a "do not enter sign" to keep cars coming off Route 130 from accidentally heading into the bank drive thru lane. Mr. Rausch said that he could add a "do not enter sign".

Member O'Hara stated that he was concerned with the 3 parking spaces for the bank that are close to the entrance from Route 130. Mr. Rausch stated that these spaces could be angled so that those cars would be forced to drive toward the shopping center. Member

O'Hara asked if those spaces were needed. Mr. Rausch stated that they are 2 over on the parking space requirement. Planner Hintz stated that you could eliminate the 2 spaces and extend the area that is directly in front of the bank you could eliminate these 3 spots and still meet the requirement. Chairperson Hamilton-Wood stated that she would like those space eliminated because it is dangerous to have cars backing out into the entrance drive from Route 130.

Planner Hintz asked about the pork chop. Mr. Rausch stated that this was a concrete island. At the widest part it is 6' wide. Planner Hintz stated that some kind of greenery should be added to the island, possibly shore juniper.

Member O'Hara asked Engineer Traver if he was concerned with the turning radius for trucks coming off of Route 130. Engineer Traver stated that this radius looked pretty tight. Mr. Rausch stated that they could widen the radius if they did away with the 3 spaces at the bank. Mayor Muchowski stated that trucks are already directed to Harkins and this might be a better entrance for trucks. Mr. Rausch stated that they could limit all truck traffic to enter through Harkins. Mayor Muchowski stated that you needed to be able to have a fire truck access the site. Mr. Rausch stated that he would revise the entrance from Route 130 and he will add the turning radius from Route 130 and from Harkins.

Mayor Muchowski asked about designating the parking lot behind the building as employee parking only. Chairperson Hamilton-Wood stated that she did not think that this was necessary.

Motion of Fratinardo, seconded by O'Hara to open the meeting to the public. Hearing no one wishing to speak motion was made by Fratinardo, seconded by O'Hara to close the public portion of the hearing. Motion unanimously approved by all members present.

Member O'Hara said that the bank is a pad site. Most banks have their own sign criteria. If a bank comes in and wants to change as the signs are shown on the elevation will this be a sign permit or will this be an amendment to the site plan? Mayor Muchowski asked about making sure that the architectural of the sign for the pad site match the main site.

Solicitor Frank stated that an amended site plan would be required if the sign for the pad site were to differ from the approved sign on the site plan.

Chairperson Hamilton-Wood asked for a motion to grant Preliminary Site Plan approval to Block 159, Lot 5.02.

Solicitor Frank stated that variances are requested for the size of the parking spaces – 9' x 18' requested, design waivers for lighting – proposed intensity ratio of 12.5 to 1 and as a condition of this the architectural design of the pole fixtures is to be reviewed and approved by the Board Planner to insure a better aesthetic match with site architecture, a design waiver is requested for the average number of footcandles – 2.76 proposed, also a waiver for showing all existing and proposed lighting within 100' of the site.

Other conditions include a NJDEP Wetlands LOI or presence/absence letter, trash enclosures are to be properly labeled, the detail of the proposed façade is to be revised to show that the façade signs are not to exceed 5% of the façade areas, all streetlights are to be sharp cut-off luminaries, footcandles should be low at the property line, the gooseneck lights shown on the architectural plans should be removed from the architectural plans, structural calculations for the retaining wall should be signed and sealed prior to issue of a building permit for that, as built plans per the engineer's requirements, outside agency approvals including Florence Township Water and Sewer and Fire Official, revise the parking to eliminate 3 spaces in the drive aisle of the Route 130 entrance side of the bank and extend the main parking by one space. This will provide a wider turn for better truck access. Also add landscaping to the pork chop (shore junipers or something similar). Limit all truck traffic to Harkins entrance with signage; show truck turning radii for both entrances – Harkins and Rt. 130- on the plan, decorative mansard to wrap around the entire building to shield all the mechanicals, limit the restaurant seats to total of 40 seats, any signage changes including the pad site will require revised site plan review, show more detailed signage for the traffic on site, the existing billboard to be removed, one free standing tenant sign 7' x 14' and 21' tall with a maximum of 4 tenant names and the name of the center, one free standing directional sign 2' x 4' at the south entrance with the plaza name and a directional arrow, and there will be façade signs for each tenant per ordinance – 5%.

Mayor Muchowski asked if they needed the Title 39 enforcement on site to give the police department the ability to enforce the traffic signage on private property.

Solicitor Frank added the Title 39 enforcement as a condition to the approval.

Motion of Stockhaus, seconded by Napolitan to approve PB#2006-05 with variances, waivers, and conditions as previously stated.

Upon roll call the Board voted as follows:

YEAS: Fratinaro, Muchowski, Napolitan, O'Hara, Smith, Stockhaus
Hamilton-Wood
NOES: None
ABSENT: Ryan

Attorney Sexton stated that at the last meeting the applicant had requested that the Board hear the application for Preliminary and Final. The Board indicated that they would try to accommodate the applicant because the application had been before the Board so many times and the experts were present who would have to be carried over. Chairperson Hamilton-Wood stated that she doesn't speak for the Board but there are some revisions required that the Board would need to look at again. She stated that she felt with the changes that are required it would be more appropriate to grant Preliminary only. Attorney Sexton stated that in his opinions the required revisions could be handled through the experts and signed off on the final plans. Mayor Muchowski stated that he

agreed with the Chairperson that because of the changes to the parking spots and traffic considerations internally the Board would want to look at these revisions to be sure that they match the concerns that the Board has.

Attorney Sexton stated that he thinks that the revisions could be made in a timely fashion and if Mr. Scamporino wants to proceed with the application for Final at the next meeting they could accommodate the Board.

Mayor Muchowski asked if the Board wanted to start the September meeting early? Chairperson Hamilton-Wood stated that the Board would wait and see if the September agenda was too heavy they could possibly start the meeting early. If the meeting was to start early the applicant will be notified.

Solicitor Frank stepped down.

The Board took a 5 minute break. The Board returned to the regular order of business.

Solicitor Abbott returned to the dais.

Chairperson Hamilton-Wood called for application PB#2006-14 for Fine Foods and Spirits, Inc. Applicant is requesting amended Preliminary and Final Major Site plan approval for property located at 2120 Route 130 North, Block 165.01, Lot 11.02.

Solicitor Abbott recapped that this application was heard at the June 19, 2006 meeting. There had been very thorough testimony given on the application. At that time the application was continued so that the applicant could address 2 issues that were raised by neighboring property owners. One was the existence of an under-ground fuel storage tank and the other on was the abandoned septic tank. The application was then withdrawn. At last months meeting the application was re-instated and additional testimony was given on the application. At the end of the testimony it was determined that a fence variance was required and the applicant had not given notice for the fence variance and the notice that was given did not include the catchall phrase of "any other variances or waivers". The applicant re-noticed to include the fence. Solicitor Abbott indicated that she had reviewed the notice and found it to be acceptable.

Mayor Muchowski stated that the application was for a bar and a restaurant. He asked if the bar was a service bar for the restaurant. Attorney Edward Petkevis stated that this is a bar. There will be no sale of package goods, but it is a bar. The liquor license is Class C. This is an on-site consumption license that allows for off-site consumption if the packaged goods are sold from the main bar facility and only from the exterior walls. However, there is no sale of package goods proposed. This will only be a restaurant section and a bar section.

Mayor Muchowski asked if once the approval is given and the applicant wants to turn this into a night club and eliminate the restaurant area and make this a full bar would this require site plan review. Solicitor Abbott said that the Board could require that.

Attorney Petkevis stated that this would be like “Charlie Brown’s” where there is a bar area that also serves food and the restaurant area that is serviced by the bar. He stated that the applicant has no problem with coming back to the board if he wanted to change the interior configuration of the site.

Attorney Petkevis stated that where they were at the end of the last meeting was the issue of the fence. The fence will go up to 35’ from the property line to protect the adjacent property owner from lighting going onto his property. A variance is required for fencing going closer than 75’ from the roadway.

Chairperson Hamilton-Wood stated that there had been some confusion as to exactly where the fence was going to be located.

The applicant’s engineer, Patrick Ennis, Lord, Worrell and Richter was reminded that he was still under oath. Mr. Ennis testified that the fence starts at 35’ from the property line and extends to the edge of the first parking spot. This fence will not interfere with any sight triangle.

Member Smith asked if the sight triangle was even a consideration because the traffic is only one way on Route 130. Chairperson Hamilton-Wood stated that this would be a consideration for someone pulling out of the property to the right of the site.

Mayor Muchowski stated that there was a report from Alaimo. He asked Planner Hintz if there was a new report from his office. Planner Hintz stated that the applicant had agreed to everything on his July 11, 2006 report so he did not prepare another report. Planner Hintz stated that he was completely satisfied with the plan.

Member O’Hara said that he thought that there had been testimony regarding the oil tank. Solicitor Abbott stated that she was reading the minutes from last month regarding the under ground oil tank and report from the health department inspector. She asked Attorney Petkevis to offer testimony on these items.

Attorney Petkevis said that Arecon was brought out to inspect the site for 2 reasons. One there was a previous above ground oil tank that had been in the back of the property. Mr. Boghean indicated that he was unsure if there had been any leakage of that tank. This raised a concern with the Board. Also there was a question from an adjacent property owner about a possible underground oil tank. Arecon visited the site and investigated. They found no evidence of oil contamination that would require any type of remediation. They did tests for an underground oil tank in the area that was addressed; they probed underground and looked for any inlets or outlets. They concluded in the report that there were no underground oil tanks existing on the site and indicated that there was no remediation necessary.

In regards to the septic tanks, Mr. Boghean had testified that he had gotten the demolition permit for the destruction of the building. There was some concern as to whether or not the permit that Mr. Boghean had allowed for the filling in of the septic tank. Following

the concerns that were brought up at the meeting the Burlington County Health Inspector was contacted. He went out on site, looked at the septic tanks, saw that they were filled properly and then contacted Mr. Petkevis' office and indicated that if there were any concerns anyone was free to contact him. Mayor Muchowski asked if Attorney Petkevis could get the Health Inspector to provide a letter confirming his visit. Attorney Petkevis stated that he had been unable to reach the Inspector by phone, so he had sent a confirming letter to the Inspector and copied this to the Board.

Mayor Muchowski asked if Mr. Boghean had gotten the proper permit. Attorney Petkevis stated that Mr. Boghean had gotten the proper permit. Mayor Muchowski asked if Attorney Petkevis could supply a copy of the permit. Attorney Petkevis stated that he could supply it. Solicitor Abbott asked Attorney Petkevis to provide the name and phone number for the person at the County Health Department. Mr. Petkevis stated that he would call Solicitor Abbott with that information.

Chairperson Hamilton-Wood asked Engineer Traver to go over his review letter dated August 16, 2006. Engineer Traver stated on page 3 regarding sight triangles a note needs to be put on the plan and the legal description needs to be submitted for review. The ordinance requires curbing along the parking lot. There is curbing on the one side, but there is no curbing along the area where the basin is going to be so a waiver would be required. Outside approvals must be submitted. As-Built plans must be supplied. All other items have been satisfied.

Chairperson Hamilton-Wood asked Attorney Petkevis to explain one more time about the situation with the septic tanks to refresh the Board on this issue. Attorney Petkevis stated that Mr. Boghean did obtain the necessary demolition permits. There was an issue as to if what was done was properly done. Attorney Petkevis apologized for not bringing this part of the file with him. He stated that he did not think it was necessary. The individual looked at the site, he saw that the septic tank had been filled properly, he contacted Attorney Petkevis' office and Attorney Petkevis wrote the confirming letter. Chairperson Hamilton-Wood asked if Attorney Petkevis would get a letter from the County Health Inspector for the file. She also asked Solicitor Abbott to contact the County and attempt to get a confirmation also. Member O'Hara asked this to be a condition of approval. Mayor Muchowski said that the condition should be that this is confirmed to Solicitor Abbott's satisfaction. He said that procedurally the County would have to have a closing record on a septic decommissioning.

Chairperson Hamilton-Wood asked if the fence goes to the back property line. Attorney Petkevis stated that the plan illustrates that the fence ends with the parking lot near the trash enclosure. The applicant will put the fence wherever the Board requires it to be. The applicant agreed to extend the fence to the rear property line.

Mayor Muchowski asked if the applicant had the architecturals or the floor plan. Planner Hintz indicated that he was satisfied with the architecturals.

Mayor Muchowski stated that the floor plan that the Board is approving is the plan prepared by Richard J. Finch, 3rd revision, dated 5-30-06. This is the floor plan that the Board is approving. If there is a change to the interior of the site the applicant has to come back before the Board for an amended site plan.

Member O'Hara stated that he believed that the applicant had demonstrated that he had met all the concerns that the Board had. Solicitor Abbott asked to clarify the delivery hours. Attorney Petkevis stated that there had been a discussion of the size of the delivery trucks. Mayor Muchowski stated that the beer delivery trucks and the food delivery trucks were as large as tractor-trailer. The Board had a discussion about the size of the delivery truck would be. Chairperson Hamilton-Wood stated that the Board couldn't control the size of the delivery trucks. Mayor Muchowski stated that the applicant has to demonstrate that he has the space on site to accommodate the delivery trucks. Planner Hintz stated that there is enough space at the loading zone for the delivery trucks. The plan shows a 30' truck. The Board asked if the applicant wanted to limit the size of the delivery truck. Attorney Petkevis stated that the applicant has agreed to no tractor trailers for deliveries.

Motion of O'Hara , seconded by Fratinardo to open the hearing to the public. Motion unanimously approved by all members present.

John Drager, 2122 Route 130, was sworn in by Solicitor Abbott. Mr. Drager asked if the Board had received a letter from Richard Brook dated July 17, 2006 regarding the drainage. Mayor Muchowski stated that this was regarding the on site conditions during the course of construction. Mr. Drager then asked if the Board had received the February 21, 2006 letter to Frank Morris regarding the water drainage. Mr. Drager wanted to know if this letter was received because he had never gotten a reply to this letter. Member O'Hara stated that there had been discussion about the drainage issues and the engineers have reviewed this. Mr. Drager stated that he had not gotten any response to his concerns and he had requested a response. Chairperson Hamilton-Wood stated that her understanding is that there will be curbing along that side of the property to deter the water from going off site.

Mr. Drager then stated that to pull a septic tank you need to be a licensed contractor to do septic remediation. You can't do your own. If there is paperwork on this Mr. Drager would like a copy of this.

Mr. Drager said that he wanted to clarify that at the last meeting he had said that there was an oil tank in the ground. He said that the oil tank was removed. They would never have been able to find it. Mayor Muchowski said that the applicant had made testimony that he had not removed an oil tank from the ground.

Sophie Sklodowski, 2118 Route 130, was sworn in by Solicitor Abbott. Ms. Sklowdowski stated that she had just put a fence in and the contractor can't finish her fence because the applicant's property drops off. She asked if Mr. Boghean was going to

put in a fence on her side. Chairperson Hamilton-Wood stated that there would not be a fence installed on that side of the site. Ms. Sklodowski asked if Mr. Boghean was going to fill in at the back of his property. She stated that she is 6" in on her property and she can't put the footings in because the property drops off. Member Fratinardo asked if the drop-off was just created or if it had always been like that. Ms. Sklodowski stated that it had always been like that. Ms. Sklodowski stated that she is concerned that when the business opens people will park back there and go onto her property. She said that she needs to finish the fence, but it can't be finished since the property drops off.

Mayor Muchowski asked Mr. Ennis to explain what was happening on the back corner of the property on the building time. Mr. Ennis stated that the drainage basin is proposed for that area. The grade at the property line will remain the same as it is now. Mr. Ennis stated that there is a 3-4' drop in grade between the 2 properties. Member Fratinardo asked if there would be erosion from Ms. Sklodowski's property. Mr. Ennis stated that the applicant is responsible during construction to stabilize that ground. He said that there would be some plantings there. Mr. Ennis stated that they did not have to do anything to create the basin. Mayor Muchowski said that a basin has to have walls. What is going to keep the water in the basin? Mr. Ennis said there is a little fill on one slope to make it more gentle. Mr. Ennis said that the grading changes starting at the property line. They are going to elevation 41 at the bottom of the basin. Currently the basin is at 40, they will actually have to build it up a bit.

Mayor Muchowski asked if there was anything being done that would give Ms. Sklodowski relief at the property line. Engineer Traver stated that they are not changing the grades along the property line. The land naturally falls away from the Sklodowski property.

Mr. Smith asked if any excavation would be necessary to make this a basin. Mr. Ennis stated that there would be some earthwork involved.

Mayor Muchowski asked why the fence isn't changing with the contour of the land? Member O'Hara stated that Ms. Sklodowski's concern is that when they put the post in for the fence there is nothing on the restaurant side to grab into. There is no dirt. Member Napolitan stated that you have to dig a deeper footing.

Member Stockhaus said that the action of the applicant is not causing the hazard to Ms. Sklodowski's property. This hazard already exists.

Ms. Sklodowski stated that she was already digging the footings deep. Member O'Hara asked Mrs. Sklodowski why she couldn't bring her fence into the yard by 12" or so. Mayor Muchowski said that unfortunately you couldn't require your neighbor to fill in his property.

Ms. Sklodowski said her concern was people parking at the back of the restaurant and coming on to her property. The Board pointed out that cars would not be able to park in this area due to the fact that the basin is located there.

Motion of O'Hara, seconded by Stockhaus to close the public portion of the hearing. Motion unanimously approved by all members present.

Mayor Muchowski stated that there was the member of the public making an allegation saying he has documentation and proof. If the Board should approve the site plan and there was an underground tank what effect would this have on the approval? Solicitor Abbott stated that if the Board grants approval, they have granted the approval on the sworn testimony of the applicant and the applicant's engineer and the representations of the applicant's attorney. The Board had continued the application to obtain documentation regarding the underground tank. The applicant testified and brought documentation that there was no underground tank. If a member of the public wanted to appeal this it would be a private matter between the interested party and the applicant. Chairperson Hamilton-Wood stated that she thought the Board had shown due diligence in the concerns of the neighbors by requesting additional documentation repeatedly. At this juncture the opportunity had been given on more than one occasion to produce whatever documentation was there and holding up this application to allow more documentation seems inappropriate at this time.

Solicitor Abbott stated that the Board would be granting either amended Preliminary or amended Preliminary and Final approval with a variance for the fence. Conditioned that there will be no tractor trailer deliveries, the fence will be extended to the rear property line on the easterly side, change in the use to increase the area of the bar would require site plan approval, the applicant will obtain a letter from the County confirming that the proper permits were obtained for removal of the septic system, deliveries between the hours of 8:00 P.M. and 6:00 P.M., the lights will be turned off a maximum of 1 hour after closing time, conformance with all conditions stated at the July meeting as well as conformance with the reports of the Board Planner and Board Engineer.

Member Smith asked about the proposed well. Mr. Ennis stated that this was for drinking water. Member Smith asked if the Fire Official had reviewed this? Solicitor Abbott stated that the date of the Fire Official's report was May 12, 2006 and the applicant had agreed to comply with all items in the report. Member Smith stated that the fire connection is shown at the rear of the building. Mr. Ennis stated that they had relocated the connection to the Route 130 side of the building. Attorney Petkevis said that the revised plans submitted as a condition of approval will comply with the requirements of the fire department.

Member Smith asked if there would be capacity to sprinkler the building. Mayor Muchowski stated that this might be a construction code issue. Chairperson Hamilton-Wood stated that if the applicant can't meet the requirements of the fire official they would not be able to get their certificate of occupancy.

Solicitor Abbott stated that she would add a condition that the well capacity shall meet the provisions of the fire official.

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Motion of O'Hara, seconded by Napolitan to grant Preliminary and Final approval of application PB#2006-14 with the conditions set forth by Solicitor Abbott.

On the Question:

Member Napolitan asked if the applicant was not able to meet the requirements of the fire department to provide enough water to that building, does that stop the process. Solicitor Abbott stated that they would have to find another water source if they could not meet the requirements.

Upon roll call the Board voted as follows:

YEAS: Fratinaro, Muchowski, Napolitan, O'Hara, Smith, Stockhaus,
Hamilton-Wood
NOES: None
ABSENT: Ryan

Chairperson Hamilton-Wood called for application PB#2006-17 for Fine Foods and Spirits. Applicant is requesting Final Major Site Plan approval for property located at 2120 Route 130 North, Block 165.01, Lot 11.02.

Motion of O'Hara, seconded by Stockhaus to deny without prejudice.

Upon roll call the Board voted as follows:

YEAS: Fratinaro, Muchowski, Napolitan, O'Hara, Smith, Stockhaus
Hamilton-Wood
NOES: None
ABSENT: Ryan

OTHER BUSINESS

The Board received a letter from Robert Foulks requesting the withdrawal of application PB#2006-02 requesting Minor Subdivision approval.

Motion of Napolitan, seconded by Fratinaro to dismiss the application without prejudice. Motion unanimously approved by all members present.

There were no members of the public in attendance to offer comment.

The Board discussed that height issue for commercial buildings.

Member O'Hara asked if Boston Properties had filed the application for the proposed office site. Boston had a staff meeting with the Board staff and then appeared before the Board for an Informal Review. A meeting is scheduled in September regarding the

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pending lawsuit. Solicitor Abbott to call Attorney Singer regarding the meeting and the pending application.

Motion to adjourn 11:22 P.M.

John T. Smith, Secretary

JTS/ne