

Union Township Planning Board/Board of Adjustment

Minutes of the Regular Meeting

September 12, 2019

The meeting was called to order by the Chairman Ford at 7pm:

Notice of this meeting was given pursuant to the Open Public Meeting Act Law by the Planning Board/Board of Adjustment Secretary as:

1. Published in the January 17, 2019 issue of the Hunterdon County Democrat
2. Published in the January 16, 2019 issue of the Courier News
3. Posted such notice on the Township Website
4. Posted such notice on the bulletin board at the Municipal Building.
5. Filed with the Municipal Clerk.

Flag Salute

Chairman Ford asked all to stand for the Pledge of Allegiance

Identification of those at the podium

Present: Daniel Dix, James Escbach, Alan Ford, Christian Kastrud (arrived 7:13 pm), Brian Kirkpatrick, Frank Mazza, Robert Nace, Charles Neary (arrived 7:02), Daniel Petitt, Justine Maglio Wardell, Mark Anderson, Esq, Robert Clerico, Engineer, Andrea Malcolm, Planner and Maria Elena Jennette Kozak for Grace Kocher, Secretary.

Excused Absent: David Stohoff.

Let the record show there is a quorum.

Minutes

There were no minutes available for review.

Old Business:

There was no Old Business to discuss at this time.

New Business:

There was no New Business to discuss at this time.

Completeness Review:

There were no Completeness Reviews to discuss at this time.

Resolution

There is no Resolution to discuss at this time.

Public Hearings

1. Perryville Center LLC: Block 12 Lot 9, 78 173 West – Amended Site Plan

Applicant's attorney Joseph Novak was present. Property Owner Brian Plushanski and Engineer Theodore Bayer was also present

Let the record show that Mayor Frank Mazza recused himself from this hearing by stepping down from the dais and sitting in the audience. Attorney Anderson reminded everyone that the applicant is before the board seeking one or more "D" Variances (use) which requires the Township representatives to the board to step down.

Exhibits presented:

Exhibit A1 – The Application

Exhibit A2 – Updated Tax certification to third quarter

Exhibit A3 – Proof of Publication

Exhibit A4 – Original affidavit, notice and mailings

Exhibit A5 – HCPB Letter

Exhibit A6 – Plans submitted June 3, 2019

Completeness - - For consistency, all present agreed to re-address completes in order to move to the public hearing. The applicant was present at the May 23, 2019 meeting for completeness. Board Engineer Robert Clerico prepared a review letter dated May 18, 2019. Applicant's Engineer Theodore Bayer prepared a response letter dated September 12, 2019. The response letter has been received but not reviewed. Chairman Ford suggests that the board discusses the letter and if an item is unsatisfied and remains open that it would become a condition of approval. All present were in agreement. A motion was made by Brian Kirkpatrick and seconded by Robert Nace to deem this application complete and to begin the public hearing. All present were in favor of the motion. Motion carried.

Witness #1 – Engineer, Theodore Bayer. Theodore Bayer stated that he is a Rutgers graduate and earned his license in 1988. He further stated that he has appeared before many boards in New Jersey and Pennsylvania and has been accepted as an expert by other boards. All in favor of accepting Theodore Bayer as an expert witness and was sworn in by Attorney Anderson,

Witness #2 – Owner/Manager Member Perryville LLC, Brian Plushanski was also sworn in by Attorney Anderson.

Theodore Bayer explained that the Site Plan application was approved in 2012 with variances which included flex office space in the front and storage shed. The original site is circular and the shed was to be built to the rear of the flex building. The size of the shed was to be 2000 square feet (40x50). The applicant is requesting to just move the shed that was never built but approved. He proposes to move it to the east approximately 80 to 100 feet from the main building in the rear. The shed is to be just for storage. There will be no other changes to the existing impervious lot coverage.

Exhibit A7 – Engineer Theodore Bayer letter dated September 12, 2019 – itemized response letter to Engineer Clerico's letter dated May 18, 2019.

Chairman Ford stated that there was not a need to discuss each item separately. Theodore Bayer stated that this proposal will not change the traffic flow. It will change some parking in the existing lot but will not affect the overall parking.

Attorney Anderson asked for the last revision date of the plans with the applicant responding June 3, 2019 and that the plans consist of 5 pages. Attorney Anderson had a question about the utility service to the proposed new shed and was told that the utility service is underground and shown on the plan.

Witness #2 – Brian Plushanski explained that the purpose of the shed has always been for storage. The original purpose was for the Machine Shop to store materials but the tenant ended up not needing the

shed as they used their existing space. Brian Plushanski is looking to use the shed for himself. He will have electric service to the shed but not sewage and water. He would use it in addition to the space he occupies in the actual building.

Board discussion:

Brian Kirkpatrick asked about the height of the shed and Brian Plushanski responded that it will be like the original one proposed with about a 14' bay door but will not exceed 35' in height.

Engineer Clerico discussed existing conditions of the prior 2012 approval and stated that the applicant has addressed some of the outstanding conditions. A condition remaining open is with the Highlands Council and NJDEP permits. Joseph Novak stated that the applicant's attorney from the prior submittal is no longer with us and her records are difficult to locate. Brian Plushanski has to look into his files as well. Theodore Bayer also stated that his partner, now retired was the Engineer at the time and he has been contacted to review some of the information.

The site started to be developed in 2004(pre Highlands Council) but it appears that a Highlands Council exemption was issued in 2014 reacting to the 2012 amended site plan application. The township would like a copy of the exemption letter issued to Brian Plushanski for the file.

The applicant and the engineer will address the issue and provide the township with something pertaining to the Highlands Council exemption. Additional discussion took place regarding the Highlands Council exemption and all agreed to keep the condition as part of the resolution. Brian Plushanski stated that construction actually started in 2005 and that he had to remove the gravel area to the rear of the property as per Highlands Council.

Planner Malcolm stated that there is not a planning review for this project.

Attorney Anderson explained that the conditions of the 2012 approval were to be satisfied within one year however, conditions 1c, 1d and 1g are still unsatisfied and Planner Malcolm will need to be involved with reviewing the landscape as outlined in the condition.

No other questions or comments were made by the board. The meeting was opened for public comment and let it be noted that no one in the public had a comment, question or concern. The public comment portion of the public hearing was closed.

A motion was made by Brian Kirkpatrick and seconded by James Escbach to approve the application as submitted with conditions that include what was outlined during the meeting as well as standard conditions such as outside agency approval. At a roll call vote, all present were in favor of the motion with the exception of Christian Kastrud who abstained. Motion carried.

2. Quick Chek Corporation: Block 22, Lots 39, 40, & 41, 170 & 172 Perryville Road: Preliminary & Final Major Site Plan, Minor Subdivision: Use & Bulk Variance

Let the record show that Mayor Frank Mazza recused himself from this hearing by stepping down from the dais and sitting in the audience. Attorney Anderson reminded everyone that the applicant is before the board seeking one or more "D" Variances (use) which requires the Township representatives to the board to step down.

This is a continuation of the public hearing from June 27, 2019:

Attorney William G. Mennen is present. Engineer Matthew Seckler was also present.

Exhibit A27 – Colorized Plan Submitted August 5, 2019

Attorney Mennen stated that he reviewed the transcripts of prior meetings and confirmed that testimony is completed, and that Mr. Seckler would present a response to prior discussion and present a modification to the plans.

Engineer Seckler, previously sworn in, explained Exhibit A27 as being a response to comments about the property line of Lot 39 and lot 41 and the lack of public street access for Lot 39. The revision eliminates this issue by leaving the residential drive within Lot 39. The lot area remains the same but the asphalt is shifted so .36 net impervious coverage is now on lot 41 and .09 net is on lot 39.

No other questions or comments were made by the board pertaining to Exhibit A27. The meeting was opened for public comment and let it be noted that no one in the public had a comment, question or concern pertaining to Exhibit A27.

Attorney Mennen stated he was done with his presentation.

Chairman Ford opened the meeting to the Public for comment.

Stephen Perdue – 5 Deer Run – Union Township resident and Owner of Exxon Gas Station on Route 173 Hampton NJ (the opposite side of Route 78 from the proposed development). Attorney Anderson swore in Stephen Perdue.

Stephen Perdue read into record his multi page letter opposing the potential development. It reads as follows: (Slightly modified in the conversion for the minutes)

Good evening, my name is Steve Perdue and my address is 6 Deer Run in Union Township. As previously mentioned at these proceedings I also own the Exxon on the opposite side of Route 78 from this proposed development. While it's obvious I would be a competitor to this project, I want the Board to know I am here opposing this as a resident of this community. My family and I reside here, my kids are in school here and my wife teaches in this district. I don't go around opposing land use applications just because it has the potential to impact a business of mine. I have not objected to any application ever before. I did not object to the Pilot nor the Lehigh Shell applications in this Town, both of which would have an impact on my business. I object to this application because I believe it will be detrimental to our Town and the record does not support the burden of proof required for approval.

Before I get to my counters to some of their proofs, I would quickly like to address two general items I do not agree with. First, I believe this a 3 use project not the dual use they noticed for. In my view, having seating areas for on-site consumption turns this into an Eating Place. For support I point to the definition of a convenience retail store in The Complete Illustrated Book of Development Definitions 4th Edition, Moskowitz. It states the definition as "A retail establishment of up to five thousand square feet selling primarily food products, beverages, newspapers, and magazines, candy, cigarettes, household items, and a limited amount of freshly prepared foods such as sandwiches and salads for off-premises consumption(pg 442)." It goes on to say "If on-site food consumption is allowed, it should be specified in the regulations....(pg 442)." Considering the Uses by Right in this zone specifically have E-4 Eating Place and E-11 Convenience Shopping, I feel the presence of on-site consumption adds a third principal use.

The next matter pertains to the septic. I have requested at more than one hearing to ask questions concerning the septic. I was told it is an outside approval and that I should talk to Hunterdon County concerning the septic plans. While I understand the septic is an outside approval, I believe as part of these hearings the public should have a right to ask questions regarding the sizing, design and any other parts of the plan that have been submitted as part of this application.

Moving on to the inadequacy of proofs for this project I would like to start with the back lot 39 where the residential is proposed to remain. This application is asking for a substantial impervious waiver. They are eliminating the other non-conforming residence in the project. There is no reason this project should not eliminate both nonconformities and reduce the impervious waiver. Even Ms. Malcolm, the Town planner, stated in her March 22, 2019 report "More generally, the number and extent of the proposed variances and exceptions required from the ordinance standards may indicate that the site is not particularly suited for the proposed development of a combined convenience store/fuel sales use together with the retention of an existing residential use."

There is also question regarding the actual operations at this site as noted by the Board at a previous hearing. Up until a couple weeks ago there was a sign advertising storage on that lot. Considering the unknown and possible commercial activity and given there has been no testimony concerning that lot I do not see how it has met the proof warranted for an intensification of a non-conforming use. If the idea is to wait in fervent hope for non conforming uses to wither and die this is the time to eliminate the residential. *Grundlehner v. Dangler*, 148 A.2d 806 (N.J. 1959)

I also have objections with the D variance for the prohibited use of fuel sales. This zone allows for convenience store sales. Fuel sales are a prohibited use. This applicant stated they have 159 locations, 74 of which have fuel. Less than half their locations have fuel. This applicant could very easily submit a conforming application by eliminating the fuel sales component. The fuel component is not needed at this location. Fuel sales are available as a preexisting non-conforming use across the street at the Shell.

There has been no testimony alleging the current supply of fuel at this intersection is not meeting demand. Another Fuel sales use is not a use fulfilling a need at this location or in our community. In the *Price vs Himeji* Supreme Court decision the court states "Detailed factual findings that distinguish the property from surrounding sites and demonstrate a need for the proposed use may help to establish that the property is "particularly suitable" for the proposed use and a lack of such findings may be fatal when tested on review".

Moving on, In support of the application their planner maintains the project satisfies special reasons A,I,G,H&M as listed in MLUL 40:55D2. I would like to quickly touch on those.

Purpose A is to encourage municipal action to guide the appropriate use or development of all lands in this State in a manner which will promote the public health, safety, morals and general welfare. The applicant's planning report states the project will promote the general welfare.. "with a modern service facility that benefits the public with convenient access to fuel and basic goods and the added consumer benefit of choice". These alleged benefits already exist at this highway interchange. There are 3 gas stations and 3 convenience stores occupying the four corners of this exit. If you want a Snickers bar you have three choices of facilities to visit, and if you need gas you have three different brands to choose from. This project does not provide anything not already conveniently available in ample supply at this location.

Purpose I relates to the promotion of a desirable visual environment. While I agree the current uses at the existing properties need some freshening up, I do not see why that can only be accomplished with use variances. The Bagelsmith is a conforming use. There is nothing stopping the current property owner from refurbishing his existing business. He could pave his lot or fix up his building. He could also make cosmetic improvements to his residential properties. It is a choice the landowner has made to allow the properties to appear the way they do. It seems like a dangerous precedent to set if we allow landowners to let their properties become rundown in order to skirt our zoning regulations under the guise of improving the unsightly visual environment they themselves created. Furthermore, as noted in the Township's planners report, the degree to which the visual environment will be enhanced is questionable given the extent of clearing, grading, signage and lighting proposed.

The applicant also states the project will advance Purpose G. The planning report refers to Purpose G as the provision for a variety of uses in appropriate locations. As stated previously, this application does not provide for a variety of uses. The uses it is proposing already exist at this intersection.

During the testimony the applicant's planner referenced the project will advance purpose H with the free flow of traffic. Considering the level of service degradation shown in the traffic report between the no build and build condition it appears the project will decrease the free flow of traffic, not promote it.

The last purpose they state the project will advance is M, the efficient use of land. According to the planning report our Town allows for 10% disturbance of slopes greater than 20%. This project would disturb 50.7%. Our Town allows for 20% disturbance on slopes 15% to 20% while this project would disturb 74.6%. From their testimony it was estimated approximately 1000 dump trucks of soil would need to be removed for this project and there was a chance they would need to resort to blasting during their excavation. Even the applicants engineer testified the project required "significant grading" and had "significant design constraints." Not only does that not sound like efficient use of land to me, it also does not sound like a property that is particularly suitable for this development.

Another prong I feel they have not met I do not believe there is proof that this project would be more beneficial than the 24 uses permitted by right in this zone. Again citing *Price Himeji*, the court states "

We have held that particularly suitable means that "the general welfare is served because the use is peculiarly fitted to the particular location for which the variance is sought." *Kohl, supra*, 50 N.J. at 279. We have observed that, in the context of the specific parcel, it means that strict adherence to the established zoning requirements would be less beneficial to the general welfare

Moving on to the negative criteria of the application I would put forth three main negatives to this project. First is traffic. This application is projecting it will create more trips per day than the Exxon and Pilot combined. Knowing what us residents know about the traffic on the Pilot side, why would we ever approve a use on the other side that will create more trips by itself than both the Exxon and Pilot

together? It seems like a recipe for disaster to me.

I also think safety is a concern since this project is almost directly across the street from our schools. As a proprietor of this use I know firsthand how much security is a concern. Last November we had two guys in our Exxon parking lot with a loaded weapon about to rob us. Something spooked them so they went to the Bloomsbury Citgo and committed armed robbery there instead. Why would we ever put the chance of that across the street from our schools?

The last negative I would like to address is the impairment to the zone plan. Since the original 1984 Master Plan this very intersection has been a focal point. The 1984 Master Plan stated the Perryville Area would permit medium density residential development and some limited community shopping at the intersection of CR 625 and 1-78. The 1999 Comprehensive Master Plan provided four goals for a future land use plan. Number two states "A community center in the Perryville Area. Instead of a mixed-use town center, as was originally proposed in the Master Plan of 1994." Currently the intersection lies in the VC zone *where: The intent is to provide for a small neighborhood commercial use on approximately fifty-seven (57) acres along the 1-78 corridor and on twelve (12) acres in the Village of Pattenburg, creating a community focal point for local services. Signage shall be minimized to preserve and protect the rural and agricultural environment of the Township as well as its scenic vistas.*

Instead of A small neighborhood commercial use with minimized signage like the intent states, this application is proposing multiple large highway commercial uses while asking to substantially increase the number and size of signs allowed for in the district. They are requesting wall signs 5 times the size of what is permitted and monument signs 8 times the permitted size. They are also requesting use variances for non-permitted canopy signs. That is not minimizing signage. This project is the polar opposite of the zones intent.

Their planning report also claims the project satisfies the requirement to reconcile the uses omission from the zone plan under the Medici standard that the use of gas/convenience is gaining currency. It goes on to say the modern food store with fuel sales is a use that was not common at the time of the last reexam. Let's be clear with vernacular. As per the public notice this is a convenience store with associated fueling stations. Gas station and convenience store. This is not a use gaining currency. The example in Medici referred to a health club. In the 1980s a health club was not ubiquitous and thus could explain its omission as a permitted use. Gas stations and convenience stores are not a new use that evolved since the last reexam in 2013. The combined uses have existed at the Busy Bee, Exxon and Pilot since before the last Comprehensive Master Plan in 1999. Any claim that it's a use gaining currency is not plausible. In addition, this Board had a use variance proceeding for these very two combined uses in this same VC zone in 2011 with the Lehigh Gas Shell. They requested to turn their building into a convenience store while keeping their fueling component. Again, another example of the combined uses. The importance of this is that since the Town was fully aware of this combined use through both existing sites in other zones and a use variance proceeding in this same VC zone, the inaction of the Town to permit the fueling component must be viewed as purposeful. The Town was fully aware of this combined use but decided to keep fuel sales as prohibited. Drawing from the Funeral Home Management vs Basralian appellate division case law, I believe the inaction to permit fuel sales anywhere in our Township is expressive of a determination that what we have is enough. Funeral Home Management v. Basralian, 319 N.J. Super. 200, 208 (App. Div. 1999)

Lastly, I would like to touch on one thing has not been mentioned once during all these hearings and that is the Highlands. The properties all lie in the Highlands Planning Area. The State has developed a Regional Master Plan to carry out the acts goals of protecting resources in the Highlands Region. The RMP has development guidelines for the Planning Area that the State is encouraging Towns to comply with. Our Town memorialized its intent to conform to the Planning Area but at this time has not completed the process. Regardless, the State has guidelines for how it would like to see these exact properties developed. In the Planning Area the RMP prohibits steep slope disturbance as proposed in this project. This project is inconsistent with the Highlands.

If the State is trying to curb this exact type of development at this specific location to protect Natural Resources, how can the applicant say the project promotes the general welfare by being particularly suitable for the use? The State's desire to promote the general welfare through these guidelines protecting water and natural resources should override any promotion of general welfare a commercial endeavor may try to assert.

Based on all this evidence I do not believe the record is sufficient to warrant an approval and should be denied.

Attorney Mennen did not have questions for Stephen Perdue.

At this time, no additional members of the public came forward to discuss the application. The Public portion of the Public Hearing was closed.

Attorney Mennen thanked everyone for their time and consideration during this lengthy process. There have been 8 (eight) public hearings and many informal discussions included with notice for public response. There are over 600 pages of public hearing transcripts including testimony by 7 (seven) witnesses. The applicant has been more than cooperative and has revised the plans 11 (eleven) times to further demonstrate their commitment to working with the board, the professionals and the public. The most recent revision was the lot line. There have been significant changes over the nearly one year process and such changes included the addition of sidewalks, modifications and the removal of the looped road, bike parking, landscape buffering, lighting, exterior building design, impervious coverage and modifications of such, reduced building resulting in the removal of variance relief, moved garbage, backup generator, outdoor seating, delivery truck pattern changed, lot line adjustment, removed left lane turn, residential drive moved, right turn on Frontage, all brick with decorative elements, more aesthetically appealing and more like the area, signs reduced, the reduction of the south elevation, added additional landscape on the south side and will continue to work with the board's professionals to satisfy specific requests. Quick Chek is an experienced operation and they know what works best. They do not own the property but are willing to work with the board to the best of their ability. They are partnering with the township. They are a Hunterdon County based business and believe in their community. They have provided testimony for all concerns. In regards to traffic, they exceeded in addressing concerns brought up. They went to great lengths to address computer studies as well as real life studies. They addressed questions raised regarding a Convenience Store and a Gas Station and provided analysis on all uses and how traffic is affected with a minimal interference of about 5 (five) seconds. Discussion also took place about the roads and how the traffic pattern will actually improve. The applicant agrees to the open process of working with the Township and the NJDEP to implement the traffic mitigation proposed for the improvements. The positives of this proposed use include site visibility, compatibility, aesthetics, site suitability, and site location. The applicant believes the proposed use of a convenience store with gas pumps advances the Land Use purposes of I, M, G, H. Attorney Mennen further believes that the positives outweigh the negative criteria as the applicant has a willingness to continue to work with the board through the process. The site will become more towards compliance of the intent with a use in a commercial zone. The applicant seeks a C2 variance and is required to see if hardships will be created. Attorney Mennen believes that there are no hardships created but that the approval of said variance advances Municipal Land Use Law, promotes the public good, has positive benefits and does not impair the intent of the Zone Plan or Ordinances. Attorney Mennen believes the record is clear and that the applicant is entitled to the Use Variance being sought as the location is well suited for the use. Quick Chek will continue to work with the Township.

Attorney Anderson stated that there are no laws requiring Quick Chek to own the property and that they could sell it after the approval is granted.

Board discussion....

Brian Kirkpatrick had concerns about the discussion of tables creating a possible third use on the site. Although testimony was not given regarding that subject, concern was expressed as it was possible an additional third use variance being needed. After much discussion from the professionals and board members, the applicant stated that they will remove tables inside and outside and that if they want to pursue adding tables then they would return with an amended site plan in the future.

After much discussion and the board attorney verifying the notice, it was decided that the board should review each variance and vote on each variance.

A motion was made by Brian Kirkpatrick and seconded by Robert Nace to grant the variance for two uses and fuel storage/sale, with the condition that traffic signalization improvements are to be completed

before the use can begin. At a roll call vote, all present at the dais were in favor of the motion. Motion carried.

Design discussions took place with conversations about sign canopy, height, lighting, sign locations, monument signs, pump signs, building signs, signs to the right, signs to the left etc. Some testimony was given on this subject but board members had concerns about the number of signs in relationship to maintaining the rural setting of the town. In regards to the canopy signage, Planner Malcolm stated canopy signage is not permitted in the ordinance. Some members had questions about the need for three signs with other members stating that most people know and recognize the Quick Chek logo so they challenged the need for all the signage. One member reminded the members that people view things differently and that in itself justifies the need for different signs. He further reminded the members that in viewing the signs differently you also have to remember that people themselves can view the signs differently each time they view the sign depending on their location, the time of day and what they are looking at (e.g the name of the establishment or the actual price of fuel). We just do not always view things the same. The LED lights have a limited impact on the whole area and actually help people at night. Other members had expressed concerns that there was not enough testimony to answer the why the three signs are needed as it does exceed the ordinance.

After continued discussions and opinions were shared a motion was made by Brian Kirkpatrick and seconded by Christian Kastrud to approve the monument sign, to not permit canopy signs and to require other signage comply with the ordinance (with the understanding that they would need to be revised, removed, reduced) and to allow one compliant wall sign. At a roll call vote of those present at the dais, 5 votes were in favor of the motion (Robert Nace, Daniel Dix, James Esbach, Brian Kirkpatrick & Charles Neary) and 4 votes were not in favor of the motion (Alan Ford, Christian Kastrud, Daniel Pettit (alt. 1) & Justine Maglio Wardell (alt. 2)). The motion carried.

A motion was made by Brian Kirkpatrick and seconded by Robert Nace to approve the variance for a residential non-conforming lot with the maximum imperious coverage of the two sites not exceed what has been testified by the applicant, recorded on the deed for each lot and the site plan. At a roll call vote, all present at the dais were in favor of the motion. Motion carried.

A motion was made by Brian Kirkpatrick and seconded by Robert Nace to approve the variance for the fuel storage tanks proposed. At a roll call vote, all present at the dais were in favor of the motion. Motion carried.

Discussion noted that a number of other design items were acceptable as testified to, including detention basins within the setback at the lowest portion of the site, Stormwater management, septic field location, parking within two (2) front yards, steep slopes percentage disturbance, handicapped parking spaces, two driveways on Perryville Road, no parking curb near the convenience store, loading dimensions, landscape buffer of 50' southwest and 0' south east corner and street tree spacing. The left turn off Frontage Road onto the site is permitted, but the left turn off the site onto Frontage Road is removed. The parking lot lights are for safety, and the building will likely shield some of the lighting. A split rail fence is the acceptable around the Stormwater basin.

Board members discussed potential conditions with reference to the board's professional technical review memos previously prepared as well as testimony shared. Items of consideration included but are not limited to the items listed in each professional review.

Illumination in the canopy must comply with the ordinance, noting that no portion of the lighting is to extend beyond the canopy.

All traffic and signalization improvements that meet or exceed the levels of mitigation must be in place prior to the issue of a temporary or permanent Certificate of Occupancy. Permits for the driveways must be obtained from NJDOT and approved by our Board professionals. The mitigation testimony given is for safety concerns and must be implemented before any temporary or permanent Certificate of Occupancy is authorized. Board professionals must sign off that the conditions have been met. Not one (1) single customer is allowed until these conditions are met.

The landscaping installed will be monitored by the board planner, with a five year monitoring requirement.

The impervious coverage on either of the lots cannot be increased.

The applicant will amend the site plan to remove interior and exterior tables.

A motion to approve the application for Block 22 Lot 39, 40, 41 with all the conditions mentioned above as well as standard conditions was made by Brian Kirkpatrick and seconded by Robert Nace. At a roll call vote, all present at the dais were in favor of the motion. Motion carried.

Attorney Anderson was authorized to prepare the resolution for the next scheduled planning board meeting. It was noted that the draft resolution will be shared with the applicant before adoption is scheduled.

Member Kastrud thanked the board for the patience to review each variance and for all the additional discussions. In his opinion, by discussing things tonight it helped him process the requests and to see the application clearer. He stated that he was on the fence with his decision but the conversations tonight helped make his decision favorable. He thanked the board members and the professionals.

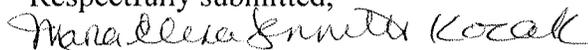
Public Comment

There were no public comments offered at this time.

Adjournment

Christian Kastrud made a motion to adjourn. Motion approved. The meeting ended at 10:00 p.m.

Respectfully submitted,



Maria Elena Jennette Kozak
Covering Secretary