

**MINUTES OF REGUAR PLANNING BOARD MEETING
HELD ON THURSDAY, AUGUST 19, 2021**

Chairman Blewett called to order the regular meeting of the Board and announced the meeting was duly advertised in compliance with the Open Public Meetings Act by notice sent to the Daily Record, Suburban Trends and posted on the bulletin board and website at Borough hall. All stood for the Pledge of Allegiance.

PRESENT: BLEWETT, GEMIAN, KAUFMAN, MARINO, TAORMINA AND TERRERO

ALSO PRESENT: BOORADY, ENGINEER AND NEISS, COUNSEL

ABSENT: *FLORENTINO, KOLDYK, RUNFELDT AND D'ANTONO (ALT. #1)

Chairman Blewett stated the first item on the agenda is approval of minutes. You had in your packet May 20th and June 17th, 2021 minutes. We will take the May 20th minutes first. Any discussion or corrections?

Ms. Ward stated the members that can vote are Blewett, Gemian, Kaufman, Marino and Terrero.

Mr. Terrero moved the minutes.

Chairman Blewett asked is there a second.

Mr. Kaufman seconds.

Roll call:

Yes: Terrero, Kaufman, Blewett, Kaufman and Marino

No: None

Abstain: None

Ms. Ward stated they're approved.

Chairman Blewett stated the next set is June 17th. Any discussion?

Ms. Ward stated June 17th it would be Blewett, Marino and Terrero.

Mr. Terrero moved the minutes.

Chairman Blewett asked is there a second.

Mr. Marino seconds.

Roll call:

Yes: Terrero, Marino and Blewett

No: None

Abstain: None

Ms. Ward stated they're approved.

Chairman Blewett stated Joan sent us today the July 15th minutes. Do you want to take another month to read them? Does anybody have any comments? Alright who can approve these?

Ms. Ward stated July 15th it would be Blewett, Gemian and Terrero.

Chairman Blewett asked is there a motion to approve.

Mr. Terrero moved the minutes.

Mr. Gemian seconds.

Roll call:

Yes: Terrero, Gemian and Blewett

No: None

Abstain: None

Ms. Ward stated they're approved.

Chairman Blewett stated the second item on the agenda is Minor Site Plan and Variance Application #344 and Flood Plain Encroachment Application #FPE 14-03 by J. Killion, LLC, on property known as Block 5, Lot 35 on the municipal tax map also known as 4 Beaver Brook Road. This is a consideration of a resolution of memorialization.

Ms. Ward stated the members that can vote on the resolution are Blewett, Gemian and Terrero.

Chairman Blewett asked are there any comments, corrections or changes? Arthur are you good?

Mr. Neiss stated as everyone knows, before I present it to the Board. I generally run my resolutions by the applicant's attorney, and in this case I did that and I got no comments back from the applicant's attorney either.

Chairman Blewett stated thank you. Is there a motion to approve?

RESOLUTION OF THE LINCOLN PARK PLANNING BOARD

APPLICATION OF J. KILLION, LLC

**RE: APPLICATIONS FOR MINOR SITE PLAN APPROVAL AND BULK
VARIANCE [APPL. #344]
AND FLOOD PLAIN ENCROACHMENT [#FPE 14-03]**

**BLOCK 5, LOT 35
4 BEAVER BROOK ROAD,
LINCOLN PARK, NEW JERSEY**

WHEREAS, J. KILLION, LLC (the "Applicant"), having applied to the Lincoln Park Planning Board (the "Board") for minor site plan approval and necessarily seeking certain bulk variances with regard to real property designated as Block 5, Lot 35, on the Tax Map of the Borough of Lincoln Park and which is commonly known as 4 Beaver Brook Road (the "Property") to provide certain aesthetic and logistical or circulation improvements to the Property and to the two-story mixed use building located thereon, and

WHEREAS, the application was heard by the Board at its July 15, 2021 meeting, at which time it was established that notice was properly published and that property owners within 200' of the Property had been properly served with notice, all in accordance with the Municipal Land Use Law and § 17-4.6 of the Land Development Review Ordinance of the Borough of Lincoln Park; and

WHEREAS, the Applicant was represented throughout by Harold P. Cook, III, Esq., with offices at 886 Belmont Avenue, Suite 2, North Haledon, New Jersey 07508; and

WHEREAS, the Board reviewed the testimony, exhibits and other evidence submitted in connection with the application, as well as the July 7, 2021 review letter of the Board's Engineer, Darmofalski Engineering Associates, Inc. (the "Engineer's Report"), which is incorporated into the record of this application;¹ and

WHEREAS, the Applicant introduced its principal, Joseph Killion who testified that he bought the Property in the early 1980's and neither since then nor in connection with this application is the Property or the building being enlarged, rather, the awnings will be removed and a mansard roof will be installed, and the front windows will be upgraded and there will be certain changes to the parking areas to accommodate a loading zone and a handicapped parking space; none of the uses on the first floor (3 retail stores which at present, consist of a packaging store and two vacant units) and the residential units on the second floor (a 3-bedroom unit and a 1-bedroom unit) will be changed in any manner; and

WHEREAS, the Applicant addressed each of the Technical Review Comments on pages 4-6 of the Engineer's Report, as follows:

1. The Applicant agrees that spaces numbered 11, 12, 13 and 15 will be designated as parking for residents only and signage reflecting that shall be installed at each such space. All parking spaces shall be striped and the loading zone areas (for space no. 14) shall be zebra striped.
2. The Applicant provided testimony on the commercial use of the first floor but because two units are vacant, hours, employees, etc., could not be provided.
3. In testimony, the Applicant advised the Board of the architectural improvements shown on the plan.
4. The Applicant shall comply with this paragraph and will submit a revised Site Plan showing the reconfiguration of parking, that the ADA space will accommodate a van, and that the parking drive aisle has been increased to create a minimum eight (8) feet wide access aisle.
5. The Applicant will comply with this item and the revised plan will show compliance.
6. The Applicant recognized the need to ensure that sight triangles and vantage points on the Property are maintained and not impeded. Accordingly, the Applicant agreed that 2-1/2' will be the highest that any of the plantings shall be permitted to grow and the Applicant shall maintain all plantings to ensure the same. The plantings and other aspects of this item 6 shall be subject to the reasonable satisfaction of the Board Engineer.
7. The Applicant shall eliminate any encroachment by parking stall number 15 into the McKelvey Street right-of-way and the revision shall be shown on the revised plan.
8. The Applicant shall comply with this item.
9. The Applicant agrees that it will comply with the diagonal cross hatch recommendation of this item but could not advise the Board on the frequency and timing of deliveries because of the two vacant units.

¹ At pp. 1 and 2 of 6 of Engineer's Report are listed nine documentary items upon which the Report was based. The nine items had been provided to the members of the Board in anticipation of the hearing.

At the hearing the Applicant introduced no new exhibits. Accordingly, the Engineer's Report and the nine items listed comprised the complete documentary record of this application and are incorporated herein by reference and the Engineer's Report shall be attached to and made part of this Resolution

10. The Applicant shall install a concrete pad under the entirety of the garbage enclosure and will comply with the Borough Ordinance. In addition, the Applicant will show a concrete or asphalt path connecting the garbage area to the existing pavement and plantings.
11. The Applicant shall comply with the recommendation.
12. The Applicant shall comply with the recommendation.
13. The Applicant shall comply with the recommendation.
14. No milling will occur but the Applicant has agreed to repave where needed.
15. The Borough's right-of-way has existed on the Property for a period longer than the Applicant's ownership. Accordingly, the Board determined no need to comply with item 15.
16. The Board Engineer noted, as did the Engineer's Report, that this item has been completed.
17. The Applicant agreed that it shall comply with any comments provided by the Borough's departments.
18. The Applicant has agreed to enter into a developer's agreement. The Resolution shall be an exhibit to the Agreement.
19. The Applicant agreed that there shall be no field modifications in the absence of prior approval from the Borough Engineer and the Building Department.
20. The Applicant agrees that its escrow account shall be kept current and as stated in this item.
21. The Applicant agrees that it shall provide the project completion report and four signed and sealed originals of an as-built topographic survey.

WHEREAS, the Board has made the following findings and conclusions:

1. The Applicant is the owner of the Property that is the subject of this application. Accordingly, the Applicant has standing to bring this application before the Board.
2. The Property is located at the unusually-configured intersection of Beaver Brook Road (running east-west) and McKelvey Street (running northwest as a one way). As such, the Property is triangular in shape with two curb cuts on Beaver Brook Road and one curb cut on McKelvey Street. It is improved with a two-story frame structure. Commercial space comprises the first floor and residential space is on the second (with ingress/egress on Beaver Brook Road and McKelvey Street side, respectively).
3. The Property is located in the B-2 Zone and the uses that are occurring and area anticipated to occur on the Property are permitted.
4. The Board adopts as facts the sections of the Engineer's Report at page 2-4 and 6 (Brief Project Summary, Parking; Floodplain Encroachment; and Signs)
5. The Applicant requests variance relief for the size of the proposed parking spaces. Although the number of spaces would appear to be conforming, their size at 9' x18' where 9' x 20' are required (see Zoning Ordinance § 28-6.4A), necessitates this variance.
6. The Applicant also requires a variance for the location of the loading zone (i.e., in the parking space designated number 14). A variance is required because Zoning Ordinance §28-18.9D requires "Off-street loading and unloading facilities shall be provided for each establishment." Only one such unloading facility is being provided for the three commercial units.

7. The Board finds and concludes that the requested variances for parking space size and the loading zone can be granted because they will promote the purposes of zoning including the provision of an appropriate number and type of parking spaces on the Property (including an ADA compliant space that does not now exist) and for unloading and loading into and out of the building. These variances can be granted without substantial detriment to the public good or the zone plan or the Borough's Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that this application by J. KILLION, LLC be, and hereby is, granted subject to the following conditions:

1. The "WHEREAS" recitals set forth above are incorporated, as if set forth at length, as part of the Board's findings and conclusions.
2. The Applicant's application to the Board and all materials submitted in support of and in connection with it (see fn.1), together with the Applicant's testimony and stipulations on the record, and the persons otherwise heard by the Board including its members, are all deemed part of the record of this application.
3. The Property shall be developed strictly and entirely in accordance with the plans that have been presented to the Board and the revised plans or materials to be submitted and approved as required herein, the testimony of the Applicant's witness, and the stipulations made on the record regardless whether the same, or any of them, appear herein as such
4. The plans shall be deemed amended to conform with the testimony and agreements made by the Applicant during the course of the hearing as pertains to compliance with the Engineer's Report.
5. In addition to the agreement to comply and compliance with the Engineer's Report Technical Review items as discussed, all of which are deemed conditions of this approval, the Applicant shall pursue a verification from the NJDEP to verify the location of the New Jersey Flood Hazard Area Design Flood Elevation. The Applicant shall promptly provide to the Borough Engineer the response of the NJDEP to this application.
6. The Applicant's revised Site Plan shall verify that a minimum of 0.5'-candle illumination is achieved within the entire parking area.
7. The Applicant shall continue to be responsible for payment of all escrow fees and inspection fees, and shall furnish such sums in full no later than twenty (20) days subsequent to any written request therefor.
8. Compliance with all applicable Federal laws, State, County and Borough ordinances, codes, regulations and directive as a condition of this Resolution.
9. Prior to the issuance of a certificate of occupancy and/or certificate of completion for the project approved by this Resolution or at such earlier time as the Board Engineer may require:
 - (a) The Applicant shall submit to the Board Secretary a certification from the Borough Finance Department (i) setting forth the then-current balance in the Applicant's escrow account and (ii) confirming that all charges billed to such account have been paid in full.
 - (b) The Board Secretary shall determine (after inquiries to the Board's professionals) that there is a sufficient balance in the escrow account to cover all remaining services chargeable to such account.
 - (c) Applicant shall submit to the Board Secretary a certification from the Borough Tax Collector that all real property taxes on the Property have been paid to date.

(d) The Applicant shall submit four (4) sets of as-built plans prepared by a licensed professional engineer or surveyor and a project completion report to be certified by the Applicant.

10. House of construction activity shall be limited to those permitted in § 210-1, *et seq.* of the Code of the Borough of Lincoln Park.

11. All notes included in the approved plans including notes required by this Resolution if any, shall be deemed to be conditions of this Resolution having the same force and effect as the conditions expressly set forth herein.

Mr. Terrero moved the resolution.

Chairman Blewett asked is there a second.

Mr. Gemian seconds.

Roll call:

Yes: Terrero, Gemian and Blewett

No: None

Abstain: None

Ms. Ward stated it is adopted.

Chairman Blewett stated the third item on the agenda is Minor Subdivision and Variance Application #632 by Andrew Rusin, on property known as Block 3 Lots 9.21 and 9.20 on the municipal tax map also known as 18 and 16 Sherbrooke Drive (complete August 5th, 2021 decision by December 3rd, 2021). This is a public hearing.

Mr. Schepis, attorney, representing Andrew Rusin. We have for you tonight a minor subdivision, a lot line adjustment, so no new lots are proposed. Mr. Rusin and his neighbor have come to an arrangement whereby Mr. Rusin's property would become slightly larger and his neighbor's property would become slightly smaller. Mr. Rusin proposes some additions to his home and this will help accommodate zoning compliance.

The property is located at 16 and 18 Sherbrook Drive in an R-40 Zone, so it is 40,000 square feet lot area. When we are done, the lots will be in compliance with the zoning ordinance as they are now. One becomes a little larger and one becomes a little smaller. There is also a noncompliant condition with regard to lot frontage so Mr. Mianecky is going to walk us through the application.

So if Mr. Mianecky can be sworn and put his credentials on the record.

Mr. Neiss swore in Mr. Mianecky. Would you please state your name and business affiliation for the record.

Mr. Mianecky testified Joseph S. Mianecky, Jr., owner of Mianecky Consulting Engineers.

Chairman Blewett stated Mr. Mianecky has testified before us many times so I believe there are no objections from the Board right?

Mr. Boorady asked are you testifying as an engineer and a planner.

Mr. Schepis stated we'll take them both in both capacities this evening as there are some c variances associated with the application and Mr. Mianecky is prepared to offer planning testimony in support of those variances. So why don't you walk us through the existing conditions and tell us how the properties are configured and what improvements are on there, and what we can expect in the way of adjustment to the lot line and conditions relative to same.

Mr. Mianeck testified I am referring to the cover sheet prepared by myself, sheet 1 of 2 dated February 18th, 2021, last revised August 2nd, 2021, which is the exact same drawing that everybody has. There is no need to mark it correct?

Chairman Blewett asked we don't have to mark it as an exhibit right.

Mr. Neiss asked there weren't any changes to it right.

Mr. Mianeck testified it is exactly the same as everybody has.

Mr. Neiss stated as presented to the Board.

Mr. Mianeck testified yes.

Mr. Neiss stated so it is part of the record.

Mr. Mianeck testified as Mr. Schepis pointed out, the properties are 16 and 18 Sherbrooke Drive. Sixteen is the selling lot right here and Mr. Rusin, the applicant's lot is 18 Sherbrooke Drive. Mr. Rusin would like to put a horizontal addition on to the side of his house, the southerly side of his house, and also bump out the back. In order to better meet the side yard setbacks we asked for a minor lot line adjustment since Lot 16 is much larger.

The next sheet is Minor Subdivision & Zoning Compliance Plan, sheet 2. of 2.

Mr. Schepis asked is this exactly as the copy presented to the Board.

Mr. Mianeck testified exactly. It is dated February 18th, 2021, last revised August 2nd, 2021. Number 16 as I said, it would be this half of the drawing; there is an existing house, pool, septic system and served by underground gas, electric and all that. The subject property is #18, similarly it has a septic system on that also served by underground gas and electric, and served by municipal water also.

Mr. Rusin's house is outlined in the red here and the next door neighbor is also outlined in red. He is proposing an addition, one on the front of the house right here highlighted in yellow, and also building on the southerly side and across the back. The existing lot line is right here now which had a substantially substandard side yard setback. We are bumping that property line out so this cross hatched area right here is the area that he will be acquiring from #16 Sherbrooke Drive right here. That area is just under 7,000 sq. ft. It is a change but it does require a minor subdivision lot line adjustment.

Number 16 has an existing nonconforming frontage on the street and I imagine that it conformed to the zoning at that time, or a variance was granted for insufficient frontage. It only has 66.4 feet where 200 feet is required, and then the applicant has conforming frontage. Those are the existing conditions of the properties.

*Mr. Florentino arrived at the meeting.

The variance that we are seeking is a side yard setback variance. It became a juggling act between the existing house on Lot 16 and 18 and being that the A/C units are considered part of the principal structure that we had to seek a side yard setback variance for that, although the house has a 40 foot setback required, the existing house has a minimum of 40.5 setback, however the A/C compressor is only 36.4 feet to the property so we are seeking that variance for #16 Sherbrooke Drive.

We did everything we could to balance it out and still allow Mr. Rusin to put the addition on that he would like to. Again that 39 foot which we are requesting for Mr. Rusin is right here. Forty feet is required and we are asking for 39 at a point and that area is very small. Potentially only the first couple of feet of the addition is 39 feet because the property line skews, the setback becomes greater and becomes compliant so it is very de minimis and won't have any visual impact on Mr. Rusin's property or on #16 Sherbrooke Dr.

Mr. Schepis asked is it fair to say that these deviations relate to the common lot line between the

two lots that are subject to this application.

Mr. Mianecki testified correct.

Mr. Schepis stated so the only properties that are impacted are Mr. & Mrs. Rusin and the Siebels who have joined in on this application.

Mr. Mianecki testified that's correct.

Mr. Schepis stated then also there are noncompliant conditions, I believe you testified that 16 Sherbrooke has an existing and proposed frontage of 66.64 feet and Mr. Rusin's property has 176.98 where 200 is required, but those are existing conditions that are proposed to remain as they are.

Mr. Mianecki testified that is correct. There are no changes in the frontages of either lots. The lot line adjustment starts well into the property, the lot line adjustment starts basically at the front yard setback line of the two dwellings.

Mr. Schepis asked is it fair to say, that between two lots we can't squeeze in any more frontage.

Mr. Mianecki testified no. Considering Mr. Rusin's driveway can only come in at this location right here because it is the low point in the road along the property frontage, there would be no room to relocate the driveway because of the topographic conditions in the front.

The other existing condition is the accessory structures where there is a maximum height of 10 feet where Mr. Rusin's one accessory structure is 360 square feet adjacent to the pool area so that violates the --

Mr. Schepis stated I think we fixed that one Joe, I want to say since it was listed as garage, and Tom correct me if I'm wrong, 12 feet was the maximum height permitted for a garage.

Mr. Boorady stated it is the maximum for a garage and a shed.

Mr. Schepis stated alright 12 feet.

Mr. Mianecki testified okay, so then the highest point we have is 11.9 feet so that would no longer be a variance then correct for a shed?

Mr. Boorady asked is that a garage or a shed though. Is it really a garage?

Mr. Mianecki testified it is a shed.

Mr. Schepis stated it came on the building permit that we attached as a garage and I believe it has a garage door on it, so I don't know whether you want to consider it as a garage because it has a garage door on it.

Mr. Mianecki asked which one has a garage door.

Mr. Schepis stated the one next to the pool.

Mr. Mianecki asked this one? Okay.

Mr. Schepis stated and Tom I pointed out the one that was in the back has since been demolished and we will show proof of that.

Mr. Boorady asked the one next to the septic system.

Mr. Mianecki asked is that the one with the door Steve.

Mr. Schepis stated yes.

Chairman Blewett asked is it labeled building 360 s.f.

Mr. Mianecky testified yes, 360 square feet that is the one we are considering a garage Steve?

Mr. Schepis stated there was a permit that was issued as a garage so I would go with what it was, it says detached garage and it is attached to the application and it was a permit issued in May 19th, 2000.

Mr. Boorady stated I would agree that it is a garage based upon the size of it. Sheds are only limited to 200 sq. ft. so let's call it a garage based on the square footage.

Mr. Mianecky testified correct. Okay so then that variance would go away and it meets the side yard setback.

Mr. Schepis stated I don't think it meets the side yard setback. I want to say isn't 20 feet required in this zone for the side yard?

Mr. Mianecky testified I have 10 feet for an accessory structure.

Mr. Boorady stated I think for an accessory structure the requirements are the same no matter what zone you are in for residential.

Mr. Mianecky testified I believe it is 5 feet correct?

Mr. Boorady stated so that variance would go away also.

Mr. Schepis stated I mean they got approval for it back in 2000 so it must have been compliant at that time I would imagine.

Chairman Blewett stated your schedule though says, side yard 20 rear yard 25.

Mr. Schepis stated I thought it was 20.

Mr. Boorady asked Joan, do you have the book here.

Ms. Ward stated yes.

Mr. Mianecky testified it is 20 in the R-40 Zone for an accessory structure. Does the ordinance differentiate between shed and garage?

Mr. Boorady stated I think it does. Tool shed are up to 200 sq. ft.

Mr. Mianecky testified then I'm not sure I don't have the ordinance in front of me.

Mr. Schepis stated I have it down that 20 is required. It must have been compliant at the time because the town did issue a certificate of approval.

Mr. Mianecky testified rear yard is 5 and the side is 20 and that's what I have on the plan.

Mr. Boorady stated so that is a variance.

Mr. Mianecky testified Steve would have noticed for that because I show that as a variance on my plan. Correct Steve?

Mr. Schepis stated yes.

Mr. Mianecky testified the only thing that disappears is the building height.

Mr. Schepis stated the building height is compliant.

Mr. Mianecky testified Tom said it was 12.

Mr. Boorady stated I believe it was 12 that is why I was looking through the zoning book.

Ms. Ward stated it is 20 on the side and 5 in the rear.

Mr. Boorady asked and the height of the accessory structure is not in the schedule.

Ms. Ward stated no it is in the text.

Mr. Mianecky testified I have 11.9 on my plan.

Mr. Schepis stated I think it is 12, I remember that from a recent application.

Ms. Ward stated in the R-40 Zone capacity not to exceed 3 automobiles, 12 feet in height and 8 foot doors.

Mr. Boorady stated I think we got the 10 because he thought it was a shed.

Mr. Mianecky testified so we are compliant with that, so we are considering it a garage and I will agree to revise the plan to note that it is a garage. I'll note on the plans that 12 foot is the height for it where 11.9 is existing. That height was taken along the front of the garage and the ordinance states that the building height is measured at the front of the building. I considered the front of the building, the front that was facing the pool so this would be the front

Mr. Boorady asked is that where the door is.

Mr. Mianecky testified yes, that is where the door is and that is how they access it.

Mr. Neiss asked just so we are clear Mr. Mianecky, on the zoning table what is coming off as a variance.

Mr. Mianecky testified the building height variance for that 360 square foot building that I'm showing on my plan which I will relabel as a garage.

Mr. Neiss asked is there anything else.

Mr. Mianecky testified I think that is it. We agreed that it has to have a 20 foot side yard setback so we have 17.5 so that would still be a variance.

Mr. Neiss stated okay.

Mr. Schepis stated I draw everybody's attention to the photograph that was provided by the Morris County Planning Board annexed to the application, you can see there is a large evergreen buffer between the garage and the adjoining property to the east, to the north.

Mr. Mianecky testified that is a huge evergreen buffer you cannot see through it. I think they are arborvitaes and they are huge, probably 20 feet tall.

Mr. Schepis stated Mr. Mianecky we are also asking for a variance relative to wall height in the front yard is that fair to say?

Mr. Mianecky testified yes, the front yard and side yard. The requirement is a 4 foot high maximum wall height where we are proposing 10 feet, and that wall is right here. It forms the southerly and I'll call it the northwesterly side of this wall here and this here, and that area is 10 feet in height. I believe the intent with the walls were that they didn't want to create a wall in the front yard with the public motoring by, it would look like a 10 foot wall with a house sitting on top.

When you drive down Sherbrooke no matter which direction you come from, you can't see the wall. The wall is depressed so it is all downhill. When you are coming down here this is reasonably sloped in here, it slopes kind of like in this direction and this direction, but this is where it drops 10 feet. We are proposing a chain link fence along the top of it that is more than 25% open, so basically we are asking for a wall variance for the front yard and for the side yard.

Mr. Schepis stated let's talk about the topography in that area. Why don't you tell us what the

lay of the land is?

Mr. Miannecki testified it is quite steep that front yard area. Mr. Rusin needed to provide an area for them to turn around, a tiered wall really wasn't an option. When you have one wall you have to step another wall at least the height of the wall in front of it, so the wall is essentially right up against the property line of his neighbor on 16. If you do a tiered wall, by doing one solid wall all the way up you cut down on the area of disturbance and provide the area he needs for a back out area. His garage doors are right here and the driveway comes up to Sherbrooke right across the front, so basically he can back up now into that area and turn and just go out and make a nice clean sweep, and it also provides parking area down below the wall.

Mr. Schepis asked is it fair to say, then the wall helps screen any cars that are parked there so people driving down Sherbrooke wouldn't see parked cars in the front yard.

Mr. Miannecki testified essentially you can't see. Maybe the roof if you are coming from the end of Sherbrooke and heading west on Sherbrooke you might see it, but other than that you wouldn't see the cars. Although the wall is 10 feet there it is probably another 10 foot drop between Sherbrooke Drive and the top of the wall, so essentially from Sherbrooke Drive it is 20 feet below.

Mr. Schepis stated perhaps we can take on Mr. Boorady's memo August 9th, 2021.

Mr. Miannecki testified I explained the additions are in yellow and the orange is a proposed deck.

Yes I have it, Tom do you want to go through it? Do you want to do it or me to do it?

Mr. Boorady stated you can address it if you want.

Mr. Miannecki testified so we will go through your technical review. I think we covered everything up to page 3. Do you want me to start on page 3?

Mr. Boorady stated including page 3.

Mr. Miannecki testified so technical review. Number 1 relates to the letter of interpretation that was granted for the property when the house was constructed and it relates to the shed. At the time when the house was constructed when there was no transition requirement, or sometime thereafter when the building permit, when the exemption would no longer have been applicable, so in light of not having to go round and round with DEP and the fact that the applicant didn't care as much about having the shed or retaining the shed, he has opted to remove the shed. Mr. Schepis has provided pictures of the area.

Mr. Schepis stated I showed Mr. Boorady a picture of before and after where the shed has been demolished. If you like, I can dispense photos so you can see where the shed was and then demolished. I think Mr. Boorady is satisfied that the shed is removed, is that fair to say?

Mr. Boorady stated yes. I don't know if you want that as an exhibit or not?

Mr. Schepis stated we accept as any condition that the shed is gone.

Mr. Miannecki testified the area will be graded to match the existing grading and it will be reverted back to lawn. Is that acceptable to you Tom?

Mr. Boorady stated yeah.

Mr. Miannecki testified it will be restored and maintained as lawn.

Item #2 relates to retaining walls, the applicant will agree to provide a design, and after the fact design, as-built photos or whatever is necessary for the town engineer and the Building Department to approve the wall that was constructed at some earlier time.

Mr. Boorady asked that plan will show the removal of the shed and the area to be restored down below.

Mr. Mianecky testified I'll revise my plan to show the existing shed to be removed and the lawn to be re-established, and any impervious surfaces in and around that area would also be removed. I think it's already been removed.

Mr. Boorady stated okay.

Mr. Mianecky testified so Item #2 the applicant will agree to it.

Item #3, the applicant propose to install a 48 inch high chain link fence on the high side of the retaining wall. We recommend the installation of the fence along the replacement asphalt driveway and the construction of the addition of the home is included in the grading permit application. Okay.

Then mitigation of stormwater runoff shall be considered as part of the grading permit. What were you intending on stormwater runoff?

Mr. Boorady stated I believe #4 touches on that as well.

Mr. Mianecky testified so I will move on to #4 then. The applicant is proposing to replace 3,850 square feet of asphalt pavement with pavers in front of the garage and turnaround area. The Borough of Lincoln Park does not consider pavers as impervious surfaces, although stormwater runoff is affected. By replacing the asphalt with pavers, the applicant reduced the proposed impervious coverage to 9.2 to 13.5% where a maximum of 15% is permitted. So what we did in order to eliminate the impervious coverage variance on this for a very small increase in impervious coverage, we removed pavement and replaced it with pavers. In Lincoln Park the policy has always been pavers were not considered for the purpose of zoning impervious so that is how we deducted out of getting an impervious coverage variance, so whatever the increase in impervious coverage I guess we will have to address it somehow.

Mr. Boorady stated yes. The pavers, although they are not considered as impervious for zoning purposes they still create additional runoff that infiltrates into the ground and essentially you know affects people downstream and you have wetlands down there. Normally we try to mitigate runoff by collecting it in seepage pits to provide infiltration and limited eroding.

Mr. Mianecky stated correct.

Mr. Boorady stated I would just ask as part of the grading permit that we have some sort of stormwater mitigation seepage pit or infiltrator, or something to offset the increase.

Mr. Mianecky testified maybe I can take like a roof area somewhere and route it to a pit or something like that.

Mr. Boorady stated yeah, that is even easier than catching driveway water which is a little bit harder. I would agree with your suggestion.

Mr. Mianecky testified so I will quantify increase in impervious coverage and then come up with some minor way to mitigate it.

Mr. Boorady stated okay.

Mr. Mianecky testified maybe we can do a little rain garden or something like that.

Mr. Boorady stated I mean you have two big additions so normally those would be collected as well.

Mr. Mianecky testified right.

Mr. Boorady stated less whatever minor increase for the driveway.

Mr. Mianecky testified okay.

Mr. Boorady stated I'm sure we can come to some kind of agreement.

Mr. Miannecki testified we will figure it out.

Mr. Boorady stated yeah.

Mr. Miannecki testified Item #5, if this application is approved, the resolution of approval should stipulate the applicant agrees to make all plan revisions outlined herein or as may be required based upon testimony during the public hearing, or based upon revised information. All such revisions shall be made prior to signature of the deeds. Naturally we will agree to that.

Item #6, if the minor subdivision is approved, then we recommend as a condition of approval the applicant shall agree to submit minor subdivision deeds to the Board Engineer, Borough Surveyor and Board Attorney and obviously we will do that.

Item #7, approving the deeds for recording, we must receive a status report from the Tax Collector saying escrow fees and property taxes are current this is not a problem.

Item #8, minor subdivision required to be filed in the County Clerk's Office within 190 days. If this application is approved, then we recommend the applicant prepare revised plans, legal descriptions for review and approval as soon as possible so there is time to review the deeds prior to expiration of the approvals. Steve do you have a problem with that?

Mr. Schepis stated we can handle that.

Mr. Miannecki testified Item #9, the applicant's escrow account shall be kept current. Not a problem.

Mr. Schepis stated Tom so apart from plan modifications, you don't see any other conditions that would hold up signing off on the deeds right? In other words, I would like the Board to consider the subdivision separately from these building permits. In other words, I don't want to get held up for getting the subdivision deed signed because of an issue associated with the house.

Mr. Miannecki testified we will be applying for a grading permit, so we are not going anywhere without a grading permit.

Mr. Boorady stated yeah, but Steve is asking do we approve that grading permit and is the work done before the recording and I don't think that has to be. I don't think there is any conditions other than the fact that you are restoring, and if the restoration area and the transition area are the only things that need to be done.

Mr. Miannecki testified it is already done, all he has to do is throw some grass seed and some hay on it.

Mr. Boorady stated it is already done so I don't see anything that would hold up recording the subdivision.

Mr. Schepis stated okay very good. Joe, why don't you touch on the planning aspect of the variance there are a total of 5 variances.

Mr. Boorady stated I just want to put on the record I think Mr. Miannecki addressed all my comments satisfactorily and I don't have any additional engineering issues.

Mr. Miannecki asked does anyone have any questions on this plan.

Mr. Neiss stated I do. Insofar as there are certain of your technical review comments in which you say you recommend as a condition of approval and those are satisfied, or do you not want them or leave those as conditions of approval?

Mr. Boorady stated well the end of my letter will have to be revised before they record the subdivision because there are some variance corrections now that it is going to be a garage and not a shed.

Mr. Mianecki testified correct.

Mr. Boorady stated and that the shed way in the back has been removed and is open.

Mr. Mianecki testified I show the shed to be removed and that will be reflected in the zoning summary chart also.

Mr. Neiss stated and you are going to submit new revised plans.

Mr. Mianecki testified I will. These are very minor changes and I can do that in a couple of days after the resolution is adopted and get them in. I think those were the only things right?

The stormwater management we will work out as part of the grading permit and that will be okay?

Mr. Boorady stated yes.

Mr. Mianecki testified he is also putting a new septic system in as well as part of this application. We did test pits and verified the soils, so they will be putting the septic system right next to the old one.

Mr. Boorady stated I don't think the septic replacement has anything to do with the subdivision necessarily.

Mr. Mianecki testified no. If the septic failed, you would just get a new system.

Mr. Boorady stated for something like that you need Health Department approval.

Mr. Mianecki testified right.

Mr. Neiss asked you don't need a detail for that.

Mr. Boorady stated no that is the Health Department.

Chairman Blewett stated but you intend on putting it where you have it mapped today.

Mr. Mianecki testified yes right here.

Chairman Blewett stated okay onto planning.

Mr. Mianecki testified as I said, we have lot frontage variances where they are both existing conditions. We are not changing that condition because the subdivision starts basically along the front line of the existing two dwellings, and the subdivision starts right here. We are actually not modifying the configuration of the lots at all along the frontage, the neighborhood is used to seeing this configuration for the past 20 years or so, so I don't see any detriment to that. There is no ability to make one compliant and the other one compliant so there is really no necessity to.

Mr. Neiss stated that commentary was with regard to minimum lot frontage.

Mr. Mianecki testified lot frontage correct.

Mr. Schepis stated just so everybody is clear, it is predominantly caused through the geometry of the road because you are like on a bend.

Mr. Mianecki testified it is right on a bend. You can see right here where Sherbrooke Drive takes a bend. The lots are large for the zone and more than adequate. You can see the lots meet the lot area and everything, they are large lots in an R-40 Zone. They happen to be on a turn and I imagine when the subdivision was approved either variances were granted for them or different zoning at that time.

Mr. Ward stated variances were granted. That was the Woodmont Estates project.

Mr. Miannecki testified next is the minimum side yard setback variance, again we are changing the lot line adjacent to both houses. The existing home will comply, at its closest point it is 40.5 where 40 feet is required. It is just the A/C units they are an existing condition and this application only slightly modified that configuration in there, it would have been compliant in that location, however it is not worth relocating the A/C units for the sake of a few feet it is de minimis. It is almost like considering the A/C units an accessory structure, although it is connected to the house but it is separate physically from the house too.

Mr. Schepis stated and based on our zoning analysis this evening, you can put a 12 foot high garage in front of the A/C units between the property line and 20 feet would be compliant, but the A/C units are not.

Chairman Blewett stated these are existing.

Mr. Mianecki testified these units are existing, obviously if they were proposed --

Chairman Blewett stated so there is really no change other than where the line is.

Mr. Mianecki testified no. The other side yard setback we are requesting is because we tried to average it out the best we could, it would have been either a side yard setback variance for 16 Sherbrooke or 18 so we opted for a 1 foot side yard setback deviation at a very small point, right at the northwesterly corner of the addition for a very small area. You almost can't make it out essentially, I think it is actually 39.5 feet but I put 39 just to be safe. It is also a de minimis variance as well because it is in between the two lots subject to this application so it doesn't affect any other lot, whether it is across the street or next door.

Again I testified to the minimum height of the retaining wall where 4 feet is required and we are proposing 10 feet. Again I explained the topography of the front yard and the fact that a tiered wall, the placement of the house won't allow for a tiered wall configuration because you have to allow for decent back out and turnaround area for the house. Again the applicant, in the interest of health and safety, agreed to provide the structural calculations for the wall, the plans that the Building Department needs to approve it and we are also putting a fence along the barrier along the top of the wall.

Chairman Blewett asked and the length of the fence is noted on there

Mr. Mianecki testified the fence is noted yes.

Chairman Blewett stated thank you

Mr. Mianecki testified then lastly, the side yard setback for the accessory structure, the 360 sq. ft. building that I show on there that I am going to relabel as a garage where 17½ feet is existing, we would like to retain that 17½ feet.

Mr. Schepis stated I would like to point out there was a C.O. issued on that, so perhaps at one time it was a compliant condition. We are not touching it in any way, it is just where it is and how it is.

Mr. Mianecki testified it is buffered from the neighbor's by a very dense evergreen hedge row and again you can't even see through, so there will be no adverse impact. That is it.

Mr. Schepis stated okay I don't have any other questions for Mr. Mianeck. Certainly he is open to questions from the Board and the public.

Chairman Blewett asked any questions from the Board. Okay this is a public hearing and I'd like a motion to open the public hearing.

Mr. Florentino so move.

Mr. Kaufman seconds.

Chairman Blewett asked all in favor.

Board aye.

Chairman Blewett asked opposed.

Board none.

Chairman Blewett asked anyone wishing to comment on the engineer and planning testimony, please come forward. Seeing no one, motion to close the public hearing.

Mr. Gemian moved.

Chairman Blewett asked for a second.

Mr. Kaufman seconds.

Chairman Blewett asked all in favor.

Board aye.

Chairman Blewett asked what is the Board's pleasure on this application.

Mr. Terrero moved to approve with the variances and conditions.

Mr. Kaufman seconds.

Chairman Blewett stated okay very good.

Roll call

Yes: Terrero, Kaufman, Blewett, Florentino, Gemian, Marino and Taormina

No: None

Abstain: None

Mr. Schepis thanked everyone and we appreciate your time and consideration. See you sometime soon.

Chairman Blewett stated the next item on the agenda is waiver request by Edward Mainardi, Jr., Esq., of Mainardi & Mainardi, PC, dated August 5th, 2021 with reference to Preliminary & Final Major Site Plan & Variance Application #376 and Grading Permit Application #G21-04 by Lincoln Park Square, LLC, on property known as Block 22.1, Lot 302 on the municipal tax map also known as 31 Boonton Turnpike.

Mr. Mainardi stated good evening gentlemen and Ms. Ward, we are here on a completeness determination on a number of waiver requests. I will work from Mr. Boorady's letter of July 22nd.

Chairman Blewett asked can you explain a little bit of what is going in there.

Mr. Mainardi stated oh sure. This concerns the former Lincoln 1st Bank building across the street. The owner of the Lincoln Pak Plaza recently developed the former gas station across the street from the plaza which now has the property across the street from that that he acquired from the bank which has relocated to the plaza. He is seeking to change the bank from what is now a freestanding bank into another subdivided retail office structure depending on what type of tenants he can obtain. He is going to have to change the look of the building to make it into a multi-tenant building which is going to involve redoing the face of the building and redesigning it to look like a retail property. This is going to necessitate some variances, site plan approval and what to do with the drive-thru and things like that.

At this point he doesn't have any leases signed and that raises certain issues in Mr. Boorady's report and we will seek some guidance from this Board as to how you would have us proceed.

referring again to Mr. Boorady's letter. There was an issue he raised concerning variance relief for the drive-thru and I think Mr. Neiss determined that the drive-thru use is compliant with the zoning, although it is site plan approval and we don't need any variance relief for that.

Mr. Neiss stated I'm sorry to interrupt.

Mr. Mainardi stated go ahead.

Mr. Neiss asked are we discussing your July 22nd letter so the record is clear.

Mr. Boorady stated correct, my July 22nd, 2021 letter relates to completeness items only there are no technical items. They are here tonight seeking completeness waivers only.

Mr. Neiss stated okay and the application is technically incomplete at this point.

Mr. Boorady stated yes and it will remain incomplete even if you grant certain waivers because --

Mr. Mainardi stated there are certain items that we have to provide.

Mr. Boorady stated yes.

Mr. Neiss asked and you understand that.

Mr. Mainardi stated of course.

Mr. Neiss stated okay.

Mr. Boorady stated I just want to make sure it was clear to everybody.

Mr. Mainardi stated no problem.

Mr. Boorady is seeking a minor change to the front of the application and we will do that on page 1.

On the menu board, page 7, the plan Mr. MianECKI prepared refers to a menu board in the back of the structure and Mr. Boorady is of the opinion this is going to require a sign variance, maybe it does? What this is is one of these ordering kiosks and I was just over at the McDonald's looking at what they have, and certainly we don't have a tenant so we don't know what the design of the thing is going to be. To me it is a piece of outdoor equipment but if the Board considers it a sign we will apply for a sign variance. It is not large and it is not facing towards the street and it is not for advertising purposes it is just to assist drive up customers. If a restaurant were to take that space, to place their orders through one of those radio devices and the drive-thru and then pick it up, you think it is a sign?

Mr. Boorady stated I don't know what else it is.

Mr. Mainardi stated I don't know either.

Mr. Boorady stated I think it is a sign. It advertises certain products and pricing, and it will have illumination and text and graphics, to me it is a sign.

Mr. Neiss stated it could be a duck, it walks like a duck.

Mr. Mainardi stated okay it is a sign, I hear you.

Mr. Boorady stated I think it is safer to call it a sign and ask for variance. I know you are concerned, it appears that you don't have tenants so you are asking for a certain size sign and it may not work for a particular restaurant or business.

Mr. Mainardi stated well that is a risk we run. We'll pick some numbers and if we have a tenant who wants more, we are back here.

Mr. Boorady stated yeah.

Mr. Mainardi stated we will do the best we can and that's the way we will play this.

Mr. Boorady stated fine.

Mr. Mainardi stated we will do that.

Mr. Boorady asked Arthur do you agree or if the Board agrees with that, but I call it a sign via a menu board.

Mr. Neiss stated yes.

Mr. Mainardi stated then it is a sign and then it is a variance request no problem. We will amend the application to reflect that.

The TBSA application form we will submit that.

The slope map we will provide Item 12.

On the final major site plan Item #2 requesting a waiver from the utility companies.

Mr. Boorady stated going back to Item #12 I recommended a waiver, you don't need a steep slopes map because it is flat.

Mr. Mainardi stated you are right.

Mr. Boorady stated I would recommend we grant a full waiver on that. I just didn't want to skip over that and say you'll either provide it and then Joe and I are scrambling, so Item #12 is a recommended waiver.

Mr. Mainardi stated okay

Item 2 on the final major site plan, we would request a waiver for utility jurisdiction since the property is existing and already served by the utilities. The basis for the utilities is because they are already there, the structure is already there.

Item #4 Mr. Boorady recommends a waiver subject to the DEP flood hazard approval which we would request the Board grant that.

Chairman Blewett stated before we go on from 2, let's make sure of the wording here. The applicant is not requesting a completeness waiver but we are okay from an engineering perspective, it is okay in granting a completeness waiver that is what it says.

Mr. Boorady asked Item #2.

Chairman Blewett stated yes.

Mr. Boorady stated that is in regard to providing service for utilities since this area is fully developed and already a commercial building.

Chairman Blewett asked are you asking for a waiver.

Mr. Mainardi stated yes please.

Chairman Blewett stated thank you.

Mr. Mainardi stated certainly with Item #4 we are requesting that waiver recommended by the engineer.

Chairman Blewett stated go ahead

Mr. Florentino stated the applicant has not request a completeness waiver but he just said --

Chairman Blewett stated well that is why I asked. Tom is recommending a waiver because it is unnecessary, the utilities are already there so we can grant them a waiver from that

Mr. Boorady stated Item #12 they didn't ask for a waiver on slopes but I recommended it because I recognize the slopes aren't exceeding 15%. Item 2 is the same. The site is fully developed with electric, water, sewer and gas so I don't think they need an intent to serve letter.

Mr. Kaufman stated they were prepared to provide all of that, but you are saying it is not necessary and they are saying okay now can we have our waiver.

Mr. Boorady stated I don't know what their intent was but I don't think they need to provide it.

Mr. Kaufman stated I think the conversation is going in circles and I don't think it matters.

Mr. Florentino stated you say we don't need it because it already exists.

Mr. Neiss stated may I say it like this. Tom you noticed in your review of the application that a technical waiver would be required normally, but you are saying that the applicant didn't request that technical waiver, but if it did, you would recommend that it be granted.

Mr. Boorady stated I would yes.

Mr. Neiss asked does that help at all.

Mr. Mainardi stated in other words, we should have checked the box and didn't.

Mr. Neiss stated well let's not get that way about it.

(Laughter)

Chairman Blewett stated okay #4.

Mr. Boorady stated if I may sum up for 4 and 5, the Borough just recently obtained a LOMR which was effective June 29th, 2021 and that is a FEMA document. Technically DEP still has jurisdiction over construction even though FEMA has jurisdiction over flood insurance rate maps. So what they would have to agree to do is obtain a permit from DEP that verifies the FEMA map, and if they do, they won't need any flood permits from DEP and will not need any permits from Lincoln Park. So I'm recommending a full waiver and the condition is that they obtain a letter from DEP that says, yeah we agree with FEMA's map.

Mr. Mainardi stated we will comply with that.

Mr. Boorady stated I did receive the application made to DEP which is going to verify FEMA's work that they did and DEP will nod their head yes that they agree with it and they won't need a permit. I'm predicting the future that they will not need a permit, so I am recommending that they are going to comply fully with the flood requirement because they won't be in a flood zone anymore.

Mr. Gemian stated just a follow-up question on that. We were privy to the length of time when FEMA and the flood people took this on, do you have any concern about protractedness about getting what they need.

Mr. Boorady stated they should get an answer of within 90 days but it might be even within 60.

Mr. Gemian asked so you are not concerned about that.

Mr. Boorady stated no I'm not. They will still be securing our approvals, and other construction related approvals long after DEP will answer. I have every confidence DEP will issue an

approval for this verification.

Mr. Gemian stated thank you.

Mr. Boorady stated so Items 4 and 5 are full waivers, and similarly Item 6 there are no wetlands in the area so we have no objection to a wetlands waiver

Mr. Mainardi stated on page 4, Item #7 we would request a completeness waiver for Soil Conservation District.

Mr. Boorady stated completeness only, you will still have to provide that subject to approval prior to getting construction permits. You'll provide it as a condition of approval.

Mr. Mainardi stated understood. Item #8J obviously we will revise the plans to show the parking for the correct zone that was an oversight by us. We will make that change.

Mr. Boorady stated the zoning table change we already spoke with your engineer and he agrees.

Mr. Mainardi stated that is appropriate. Item #8M we would request a waiver of existing utilities within 200 feet because it is existing property and we are not going to be touching those utilities because everything is already there.

Mr. Boorady stated that is a partial completeness waiver, they will provide utility locations within the frontages of the property because it is a corner lot, but they won't go beyond the frontages of the property as they won't be extending water mains, sewer mains, gas mains or electrical lines. All of the utilities connections will be within their frontage so there is no need to relocate utilities beyond that project. I would recommend a partial waiver on that.

Mr. Neiss stated, in other words, they are already there.

Mr. Boorady stated yeah but they have to show what is in front of their frontage. They don't have to show it 200 feet away because there is no connection that far away.

Mr. Neiss stated right.

Mr. Boorady stated so that is a partial, they are going to show on site and in front of the property.

Mr. Mainardi stated Item #8S is flood hazard elevation. We would request that waiver as well since we are not in a flood hazard area at all.

Mr. Boorady stated our checklists are a little confusing and they are a little repetitive, so I'm going to say 8S, 8T and 8U are just what we talked about with the LOMR and the wetlands and we would recommend the waivers.

Mr. Mainardi asked if the Board had any questions about those.

Moving onto 8X existing lighting and landscaping, well since everything is going to be replaced we will give a plan of what we are going to do, but we request a waiver from showing what is there because it is going to be removed any way and we would request that waiver as well.

Mr. Boorady stated yeah.

Mr. Mainardi stated moving on to page 5, 8EE we will comply with location descriptions, dimensions, setbacks that will be added on to the plan.

Item 8GG and II I guess, the menu board we will treat that as a sign and add that in.

8LL light pole detail and mounting height all of that will be provided.

8PP we did not request a waiver but would like to request the waiver for water course, ROW widths, railroads, bridges and such within 200 feet. Obviously we will provide it for what is at the property and I think the comments Mr. Boorady made before would be the same for this.

Mr. Boorady stated partial waiver.

Mr. Mainardi stated Item #9 is the lighting. Didn't we already address this?

Mr. Boorady stated for some reason the checklist has lighting twice as it does with some of the flood stuff.

Mr. Mainardi stated that is the same waiver previously requested.

Item 14 Traffic Impact Study, here is the thing, we don't have tenants yet and we did design the parking for 45 restaurant seats throughout the property. We don't know which store is going to be a restaurant, maybe all of them or maybe none of them, but we don't know who they are going to be or what arrangements they are going to want which raises a problem for us.

We took the amount of parking that was available and figured out we could support 45 seats so that generating a need for traffic impact, environmental impact and fiscal impact studies as a practical matter, the applicant then has to prepare these studies for uses he frankly doesn't know what they are going to be. He'd like to get a coffee shop in the drive-thru which we think would be an appropriate use of that space. We don't have a signed lease and it may not be a coffee shop. To prepare these statements for a coffee shop when it may end up being a sit down restaurant which would generate a completely different traffic pattern instead of cars backup for a drive-thru, you would have people staying for fine dining who would be there for an hour or more. How do you want to handle this? We will do what you want but we are kind of stuck.

Mr. Taormina asked what happens if it does become a coffee shop. The next thing you know you have a Conga line out onto Comly Road like Route 23 Starbucks.

Mr. Boorady stated you know it could back up onto Chapel Hill Road too right?

Mr. Taormina stated my personal thing is, if you are planning to have even multi things what is your ideal concept of the building itself? Are you talking about one double building with two possible retail outlets?

Mr. Mainardi stated I think it is 3 or 4 stores right? Up to 4. One of them is subdividable I think.

Mr. Gemian asked nothing on the second level.

Mr. Mainardi stated there is no second floor.

Mr. Gemian asked this is all commercial retail.

Mr. Mainardi stated yes sir. Conforming commercial, certain other uses are involved, it could be offices.

Mr. Gemian asked if someone steps up to the plate and buys 2 units is that a possibility as well.

Mr. Mainardi stated well they wouldn't be for sale they would be for lease. They could occupy 2 units.

If we provide a traffic study for the 45 seats, then as long as we don't put in a restaurant use collectively exceeding the 45 seats, am I correct we wouldn't need to come back to the Board is that right?

Mr. Boorady stated I think the restaurant use is already outlined in the ordinance that you need so much parking for so many seats.

Mr. Mainardi stated correct.

Mr. Boorady stated what is not in the ordinance is anything about a drive-thru. Are we going to have a drive-thru for CVS which is maybe 1 or 2 cars stacking, and we already have a CVS, or is it going to be a Starbucks where you can go to Wayne and there are two police officers every day because there is so much traffic there. I think we need to know the level of drive-thru that

can be supported here.

Your client knows this better than any of us, every fast food store has numbers that they meet. Dunkin' Donuts says they can place an order and service it within a minute and a half let's say, Starbucks maybe says two minutes, and Panera says 10 minutes. I think what our traffic impact study has to say is, what level of service can the drive-thru support. Can it handle a level of service like a Starbucks, or can it handle a level of service like a Chick fil-A, or can it only handle a CVS and a bank? You have queueing lanes, timing and ordering times and these things are known by all the major retailers and restaurant food people, and we've all been through this rodeo before.

Mr. Mainardi stated okay.

Mr. Boorady stated so I think the traffic impact study has to look at the parking and circulation.

Mr. Mainardi stated your primary concern is the drive-thru.

Mr. Boorady stated yes the drive-thru and level of service; how many minutes, how many queueing spaces, and what business even though you don't have the leases would be supported there like a KFC, Chick-fil-A, Panera, and Dunkin' Donuts, they all know their numbers and they have them down to a second and how fast they can serve their people.

Mr. Mainardi stated I know.

Mr. Neiss stated I'm a little confused Tom, are you suggesting there are drive-thru uses because of their numbers could promote a problem for this particular project. For example, a Starbucks their time is two minutes per order, a Chick-fil-A where it could be five or six minutes per order and thus backing up the cars that is something that can be known and the applicant can determine ahead of time without regard to what exactly is going to be leased in those premises.

Mr. Boorady stated correct.

Mr. Neiss stated and therefore just as Mr. Mainardi backed into a 45 seat restaurant using those figures, using those measurements, the applicant's traffic study could say, you can do this kind of use but you can't do that kind of use, is that what you are --

Mr. Boorady stated yes. Their analysis may find they can handle a Chick-fil-A which is probably one of the longest queuing lines around.

Chairman Blewett stated the one in Morris Plans.

Mr. Kaufman stated the one on Route10 is ridiculous.

Mr. Boorady stated as an extreme example that is one of the most popular drive-thru chains right now is Chick-fil-A. They may find that their site is perfect for that, but then they might have to go down a level, maybe like a Starbucks or a Dunkin' Donuts. They can pack into that as well Arthur.

Mr. Gemian stated just coming back on the building concept, it is four units of equal square footage?

Mr. Mainardi stated no.

Mr. Gemian asked can you give us a little hint as to what we are talking about here.

Mr. Mainardi stated sure.

Mr. Boorady stated we don't want to get into hearing the application.

Mr. Gemian stated no, I'm just trying to get a --

Mr. Mainardi stated and this is only a concept stage. I don't know what is going to come before

the Board or certainly before the Building Department, but the concept at this point is a --

Mr. Gemian stated if there is more than one drive-thru that can pose a potential problem.

Mr. Mainardi stated no there is only room on the site for 1.

Mr. Gemian asked you talking about 1 drive-thru

Mr. Mainardi stated 1 drive-thru of one lane, so he's got 1,444 foot store, a 12/24 and then a large store that might be split into two, a total 30,030 square feet but it could be split into 20/80 plus 952.

Mr. Gemian asked those spaces are for all of those businesses. Is that the total number of spaces for all four units?

Mr. Boorady stated it is 45 restaurant seats not 45 parking spaces.

Mr. Gemian asked is that for one fourth of the total building, for the whole building.

Mr. Mainardi stated no. The spaces available on the property would serve this building as long as it didn't have more than 45 restaurant seats.

Mr. Gemian stated okay. So you are saying 45 seats for the entire building.

Mr. Mainardi stated right.

Mr. Boorady stated your ordinance doesn't differentiate what kind of a restaurant that could be sushi or regardless of what food they are serving.

Mr. Gemian stated exactly.

Mr. Boorady stated the drive-thru is a little bit different because that is a whole different ballgame for sitting down and eating.

Mr. Mainardi stated going back to the traffic study, I haven't seen a traffic study where it says you can have this tenant and not that tenant.

(Inaudible- interference)

Ms. Ward stated the interference was from the police broadcasting.

Mr. Boorady stated well to get back to where we were, I don't think we are looking to have a Starbucks or not have Starbucks, I think we are saying that you need show what level of service you can provide and that business will be able to either queue that many cars or they won't.

Mr. Mainardi stated so if the study were to show the traffic system could bear a queue of 9 vehicles, now we come in with an application for a certain tenant in there, how does the Building Department or zoning know whether or not a tenant complies with that? I'm just trying to figure out what to produce that's all.

Mr. Boorady stated you are going to have to produce a business that can show that they are going to be able to comply with the Board's resolution of approval that is going to limit you to so many queuing spaces and a service level of so many minutes per car. It would be really nice if we knew who was going in there and it would make your job a lot easier and our job easier.

Mr. Mainardi stated yes, but at this point we really don't.

Mr. Boorady stated with a fictitious tenant it is hard to give a blessing on a drive-thru where it could be a troublesome tenant; such as, and I don't want to say anything bad about a tenant, but Chick-fil-A and Starbucks have really long lines and we would love to have tenants like that if the site could support it. We are not being discriminatory but we just want the site to work and not create a traffic problem for the police or any of the residents.

Mr. Mainardi stated oh I understand that.

Mr. Boorady stated my recommendation is to have a traffic study in that form for your benefit at this point since you don't have a tenant.

Mr. Mainardi stated okay. As far as environment and fiscal impact studies, considering the building is already constructed and considering we don't know who the tenants are, we would request waivers from those requirements.

Mr. Boorady stated I would recommend a limited environment impact study since the ordinance does say 20 seats or more, you are proposing 45 seats. So right now at the bank you would be introducing dumpsters, grease dumpsters and other things that a restaurant brings that an environmental impact study would normally touch on, plus stormwater and the flood issue which is an easy discussion. So I would recommend a limited EIS to address some of those noise, odor and garbage issues that come with a restaurant with 45 seats, plus two other tenants that is much different than a quiet bank that shuts at 6 o'clock every night.

Mr. Mainardi stated okay.

Mr. Boorady stated that would be my recommendation is some sort of EIS. The fiscal impact study I have no engineer objection with waiving that.

Mr. Mainardi asked are you okay with that.

Mr. Vita stated what if we have 20 seats or less.

Mr. Mainardi asked suppose we reduced it, if it is 20 seats or more, or 20 seats required.

Mr. Boorady stated I think it is 20 seats or more.

Mr. Mainardi asked so if we go 19 seats maximum, we could avoid these requirements.

Mr. Boorady stated there are other reasons for the EIS in the flood zone that triggers it alone.

Mr. Mainardi stated okay.

Mr. Boorady stated I mean, look I'm not your applicant but I wouldn't limit the number of restaurant seats just because of the EIS. I think your engineer is more than capable of preparing an EIS so that's for the benefit of the applicant, you may eventually have 45 seats. Just go over any potential impacts but that it up to you guys what you want to do. I would still recommend the EIS though because of the flood zone.

Mr. Mainardi stated we need it any way

Mr. Boorady stated you have noise and it is a completely different site. It is a 4 unit retail or restaurant versus a bank.

Mr. Mainardi stated okay fair enough.

Mr. Boorady stated the fiscal impact study I have no engineering objection to a waiver on that. That just basically goes over what kind of an economic impact this will have and what potential detriments, if any, it will have on police and ambulance response, but I don't have any objection to waiving that at all.

Chairman Blewett asked how does the Board feel.

Mr. Taormina stated I agree with Tom, as long as they do the traffic study and the fiscal impact study.

Chairman Blewett asked is everybody okay with that.

Board members yes.

Mr. Mainardi stated okay, thank you very much.

Item 19C we will clarify, this has to do with some sort of square footage question. We will clarify the drawing we have no objection.

Mr. Boorady asked will there be some preliminary layout for the restaurant. Typically when someone comes in to have a restaurant approved they have seating shown, the kitchen area shown. Can you show that you can fit 45 seats?

Mr. Mainardi asked among all 4 stores.

Mr. Boorady asked are you going to have 4 restaurants.

Mr. Mainardi stated I wouldn't think so, but anyone or more might be a restaurant. I guess we could have the architect draw something but it would just be --

Mr. Boorady stated across the street when he came in with the other one, we had a typical unit shown I believe.

Mr. Vita stated no.

Mr. Mainardi asked did we have the lease.

Mr. Boorady stated it was going to be a restaurant at the time.

Mr. Vita stated it is the same situation as we are now we have no tenants. We just put the plan together and then we went out and marked it, but we didn't know who was coming in it is the same thing here. If we put a restaurant in, we would like to put it in this location so they can take advantage of the drive-thru window. We don't have a restaurant. If we get a coffee shop you are talking primarily morning traffic but I can tell you we are not getting Starbucks or Chick-fil-A because they are not coming to Lincoln Park.

Mr. Boorady stated I didn't think so because the number are not there for them. You never know because we are also getting 200 more new apartments.

Mr. Mainardi stated I understand.

Mr. Boorady stated Starbucks may want to come all of a sudden.

Mr. Vita stated I don't think that is going to push the meter at all.

Mr. Boorady stated okay. You can show something on the architectural where 45 seats could potentially fit without locking you in. Just show --

Mr. Mainardi stated we can do that with the understanding this is a concept only. We can do that put 45 seats.

Mr. Boorady stated it is just typical to approve a restaurant to see a restaurant on the plan. I know when Meridia came in with their restaurant, they showed a seating plan. When 202 came in they showed a seating plan for indoor and outdoor, so I think we are use to seeing something to show that it works.

Mr. Mainardi stated okay.

Mr. Vita asked do you still require that tenants come before the Board to get permission before they open up in town. Do you still do that?

Ms. Ward stated they have to do a zoning permit and a site plan exemption application. The application is reviewed by the zoning official and if he is uncomfortable with the application it can be remanded back to the Board, but normally they are done in-house.

Mr. Vita stated but the tenant should present the seats if it is a restaurant because it doesn't

make any sense for us to go and guess the seating here because we are wasting everyone's time. It will never happen, and we are not in the business, we don't have the foggiest idea how to layout a restaurant, so whatever we produce it is never going to happen, we don't know what we are doing in that regard.

Mr. Boorady stated it puts the administration, the zoning/construction official and engineer in a difficult position to approve a restaurant if it wasn't laid out. I'm not saying it is impossible.

Mr. Vita stated Tom that is what we did across the street, we had no tenant across the street.

Mr. Mainardi stated if we make up a fictitious restaurant and put it on this plan--

Mr. Boorady stated across the street you had a specific area that was going to be something like a Firehouse Sub or something.

Mr. Vita stated well that is what we are telling you tonight that store #1 is going to be drive-thru and we would like to put a restaurant in there.

Mr. Kaufman stated if store #1 is a restaurant they can draw up a restaurant with the square footage. What they are saying is, anyone of the 4, up to all 4 could be food establishments. So if you said that only unit 1 was the restaurant, then 2, 3, 4 were going to be retail non-food, then you could layout the restaurant in theory with the drive-thru.

Mr. Vita stated when you say in theory, if you are asking us to put seats inside a building, inside a store, I'm sure it could be done but we don't know what the heck we are doing. It is going to be totally wrong. Whatever we would put there, even if we guessed right for one type of restaurant and the next guy wants something different, if a store goes out of business, we tell them to take everything because even though it is of value to you, it is zero value to the next fellow.

I can only tell you how we envision it at this point and what we would like to accomplish. I would be happy to share our vision but I can't really be specific because we weren't even looking to buy this building. The bank wanted to come across the street and we made the deal and they said well you want us across the street you have to buy my building. We wanted the bank in Lincoln Park Plaza so we ended up buying the building that we had no interest in buying.

We laid out a lot of money and now we are going through this and I can tell you the bigger we get, our property our shopping centers we like to be different and I don't want to cannibalize the stores that we already have in town. The more stores that we have in the community the more protective we have to be to find something different. So when you start looking at restaurants which might be the biggest draw what do we not have? I don't need another pizzeria because I'm not looking for 2 pizzerias. I have sandwiches, I have Chinese and sushi so what is left? The only thing left really is a coffee shop, a deli, or something that is chicken based, and in our heads what we would envision is a coffee shop with a drive-thru, but it could be a chicken shop but we don't have anybody, and Chick-fil-A is not coming to Lincoln Park on any property in Lincoln Park.

Maybe something medical related, dental or something like that next door. We are thinking of something like a beauty parlor for store #3 only because the beauty parlor in the shopping is only 600 square feet and very tiny and I don't think we are going to hurt anybody, and maybe the store that would be on Comly Road which would be store #4 might be another restaurant. What does Lincoln Park not have and quite honestly the thing that we came up with is something like chicken wings or thigh which is what they are coming out with now, and that just blends right into the community and it doesn't hurt any of our other two shopping centers at all.

We are pitching the same exact look as you are seeing at the Corner Shops and just picture that building over here with something similar and that is our goal for what we are going after, but that doesn't mean that we are successful. I can tell you we don't just sign anybody who wants to open up a business, if we don't believe it will work, we are not putting it in. So we have a good track record of having stores come in and most of them last, and we have some original stores that are 50 years old.

Chairman Blewett asked so how do you intend to market this. You are going to configure the

stores and they are going to be shells essentially that you can show to try and attract a tenant. So we have a process that if there is a tenant that is going to be let say restaurant intensive that the applicant can come back to us so that we can see that it works.

Mr. Vita stated I think that is fair. I can tell you right now that if it is somebody like Kenko in our shopping center, we would never put it over here because we don't think it has enough parking for that type of use for as busy as they are. They would leave Lincoln Park Plaza only because they need more space. So if we gave them a bigger store over here and basically half the building, they would probably take something like half the building and that means more cars than we currently have in the shopping center. So for us who are in the business, right now we are involved with at least 25 shopping centers in 8 or 9 states that we currently own, we've had many more of those shopping centers over the years, I think we are very good in what we do, but we don't love money more than doing the right thing for the property. We take a lot of pride in our property itself.

Mr. Neiss stated Mr. Vita the question that the chair raises, how are you going to market this? What steps are you taking to market this because that really will determine what you ultimately have available to you to put in that place?

Mr. Vita stated well you have to go right to that type of tenant.

Mr. Neiss asked what type of tenant.

Mr. Vita stated well let's just say a coffee shop, you go right to the coffee shops.

Mr. Neiss stated forgive me for asking this question, but you don't even need to answer it, but does your company use a broker to assist you?

Mr. Vita stated we are brokers.

Mr. Neiss stated so then you can market this yourselves and see what the market will bring in. What kind of interest you will generate for this and then you decide to lease the space out and can do it on a contingent basis. We can lease it to you but we have to get approval from the Planning Board. Then you can come before the Planning Board and say look, this is what we are proposing for this space and come in on a site plan application.

Mr. Gemian stated well if I may, I sense some concurrence on Mr. Chairman's suggestion and Mr. Vita responded favorably to it. If we can pursue that a little further it might give us a solution that we all can live with, at least in the process of getting to where we think we can go.

Mr. Boorady stated it could even be a site plan exemption that they are coming in with, but not administratively done but a site plan exemption before the Board, so that it is not a full blown site plan but I don't know if that is going to work.

Mr. Gemian stated to get started right?

Mr. Boorady stated well the traffic report is going to have a specific number right?

Mr. Miannecki testified well it has to recognize the restaurant so that will be the most intensive use.

Chairman Blewett stated but I guess what I was thinking is that, what will it take to get the building into a condition that you would want to market it right? You are going to create 4 stores from what I see on the plan, 3 are going to be rectangularly long and you are going to have one big space which could potentially be a drive-thru. What from an engineering and a planning perspective do we need to have on paper so that they could maybe do some updates, do some configuration and then market the property? I'm not a marketing guy but --

Mr. Vita stated well we are marketing the property already so that you know.

Chairman Blewett stated okay.

Mr. Vita stated we've been marketing it and we have been a little fortunate that we've been marketing the Corner Shops across the street for the last two or three years.

Mr. Boorady asked can I ask a question. Is it fair to say, that the drive-thru, the triangular shaped area is going to be in your desire a restaurant of some sort, a coffee shop?

Mr. Vita stated that is what we would like to do.

Mr. Boorady stated couldn't you present some sort of internal basic layout that shows either 20 seats or 45 seats, or whatever would fit in there for a typical coffee shop. Just typical and then the next thing would be maybe another restaurant with another 20 seats, or maybe not another restaurant just so we have something.

Mr. Vita asked are you asking us to draw seats in the plan or just say here are 20 seats. What are you asking us?

Mr. Boorady stated show 20 seats somewhere or 30/40 whatever and put it on the plan.

Mr. Vita stated put it on the plan.

Mr. Boorady stated show that this area would fit approximately --

Mr. Gemian stated conceptually.

Mr. Vita stated but not layout a table inside the store. Why can't you handle it like you did across the street?

Mr. Boorady stated we have a drive-thru it is different. It is a little different to say you are going to have a restaurant with a drive-thru and then have all that seating as well it is different. If it is your desire to market this as a drive-thru restaurant of some kind, say chicken whatever, then why not just show that?

Mr. Vita stated it may never happen.

Mr. Boorady stated it could probably transfer to a coffee shop as well.

Mr. Mainardi stated what I'm hearing is, if we don't show it, we are going to end up coming back to the Board later to show it anyway, that is what it sounds like.

Mr. Boorady stated I would think all day long you are going to want that as a drive-thru restaurant so why not just show it. You've got a drive-thru what else can go with a drive-thru? What other drive-thru type of businesses could you possibly have if not a restaurant?

Mr. Vita stated the only objection that I'm saying to you, putting tables and chairs in a store why would you ask us to design something and just make up like a college type term paper that you are asking us to do? If you say yes this is a restaurant with a drive-thru that is what we are proposing, but to say you need to see something like 20 seats and tables --

Mr. Boorady stated we talked about ducks earlier and I think why not show it.

Mr. Mainardi stated I think the architect with minimal work can draw the kitchen area, show a few tables and a wait station.

Chairman Blewett asked can I just take this back a little bit, because the building is existing right and in town, we've had buildings that individuals would say, you know what I want to sell a hundred thousand square feet, it is a two hundred thousand square foot building and they come in for a site plan exemption. Then you go through the process of reviewing that technically and through the site plan exemption process, then it comes before the Board or it could be a technical review by an official in town, and why not do that for each of these units because it is an existing structure today?

Mr. Kaufman stated it would require them to come back for each unit but it would solve this

whole situation.

Chairman Blewett stated it would simplify it instead of trying to propose what is going to happen in the building.

Mr. Boorady stated if they are happy coming back I'm okay with that, but as long as it is recognized that it won't be approved administratively. A lot of people come in with strip centers and they get administrative approval going from one pizzeria to another pizzeria.

Chairman Blewett stated right. But I've seen other buildings and warehouses where we've allowed people to carve them up and they come in for a site plan exemption right and we go through the technical review and the Board looks at it and we are done. It seems like that is a better fit for that type of building, not knowing what is coming in but knowing what you want essentially, the only downside to that is you know the traffic impact study.

If you come in with whatever the drive-thru is going to be and you have a traffic impact study, then later you have 3 other units come in that may generate some traffic, you don't see an overall use, but I just think unless you are going to carve the building up and say this is what it is going to be, I can't see working it any other way. Once you know what the customer is or tenant is to come back and do a site plan exemption.

Mr. Miannecki asked I just don't know how you do the traffic report if we don't know what is going in there. If you want an impact report, it seems like if you come back for a site plan exemption you are going to need a traffic report at that time to justify whatever use.

Mr. Kaufman asked if we go that route do we need a traffic study. Why do you need a traffic study if you come back for each tenant?

Mr. Boorady stated then it is not a site plan exemption because a site plan exemption specifically states that traffic is not impacted. Site plan exemptions are supposed to be quick with not much traffic discussion.

Mr. Neiss stated so if they divide the space into 4 spaces and everyone agrees that the biggest space containing the drive-thru, could they come back for site plan exemption on the 3 spaces and do a site plan or some modification of a site plan for the fourth space, the big one with the drive-thru, because that is really what's driving this entire discussion it seems to me.

Mr. Boorady stated retail is retail. There is a specific parking number for that so it really doesn't matter if you are a stationary store, a gift shop, smoke shop or a medical office. Generally the parking is around the same. It is the restaurant and drive-thru that usually causes the parking issue and I think that the Board needs some kind of an idea of what kind business is going to be there, and I thought maybe showing restaurant seats would help in that traffic impact study. I mean they are saying 45 restaurant seats, but how do we know it can handle 45 restaurant seats plus the drive-thru because they don't show anything.

Mr. Neiss asked a site plan exemption would apply to 3 of the spaces and the 4th space, the big one is the one that is the 800 pound gorilla in the room.

Mr. Boorady stated right and that is what I was getting at. Say the 4th spot, the drive-thru is going to be the restaurant, why would you have a drive-thru and not have a restaurant? The other two or three spaces are retail and parking will probably not be affected much from one business to the other.

Chairman Blewett stated the whole purpose for the 45 seats is to make sure they have sufficient parking right?

Mr. Boorady stated yes.

Chairman Blewett stated it doesn't mean that it is going to be 45 right?

Mr. Boorady stated yes.

Mr. Taormina stated just to have a formula for square footage versus seating for parking for restaurants, in other words, 45 seats how many square feet for 90 people plus a kitchen.

Mr. Marino stated it varies with the aisles involved and you can't do it that way.

Mr. Taormina stated you can't do it that way.

Mr. Boorady stated all I'm asking for is some kind of a concept of a typical coffee shop. 202 Bistro retrofitted a church for a restaurant and who would have thunk right, but they showed it there. Meridia showed it but they didn't have a restaurant named, whether it was going to be a steakhouse or sushi restaurant but they showed us a restaurant.

Mr. Mainardi stated now when he came in for his permits it looked different because now you have a tenant and that wasn't a problem?

Mr. Boorady stated he is the tenant for that, but the restaurant for Meridia is unknown and they don't know who is going to run it, whether it will be a steakhouse, sushi or something else.

Mr. Mainardi stated so if we show you a 2,000 square foot restaurant in that space and then a tenant comes in and proposes a completely different restaurant in the same space that's okay?

Mr. Terrero stated as long as it meets the 45 seats then that is not a problem.

Mr. Boorady stated as long as it meets the seats and as long as the drive-thru and intensity is at that maximum.

Mr. Mainardi asked are you good with that.

Mr. Vita stated just to make sure that at least you're not thinking the plan is something that we don't have an intent for. In one of your comments you were confused by the dotted line if you remember that?

Mr. Boorady stated that's the number we are on right 19C?

Mr. Vita stated the reason for the dotted line is because the bank originally built the one square structure facing 202 and then they expanded by adding on the crooked structure so that would be the newer structure. We have the dotted line in there because it was in our head, store #1 could basically be somewhere on the left hand side of that dotted line which is about 2,000 square feet. You can't fit 45 seats in 2,000 square feet and to balance that area we will go to store #2 which will be kind of a v-shaped store which will be the most difficult store to rent because it is not front to back. It has a narrow front with a big rear, so that is going to be the most difficult store just by the nature of the way it is designed.

Mr. Boorady stated you are telling me that that 952 square feet might be a 5th store?

Mr. Vita stated no, there is no frontage. The 952 might get blended into store #2.

Mr. Boorady stated okay right. I think that is the way it is going to end up. So the reason for the dotted line is, because let's say we find somebody for store #1 they may want that dotted line a little bit to the left or a little bit to the right, but I can tell you a coffee shop basically is 1,500 to 2,200 square feet that is the size of a coffee shop, so what we have here I think it is a little over 2,000 square feet and that is how we are marketing it. I don't know if that confuses anything but I guess in our heads that is what our intentions are

Mr. Boorady stated that 952 is flexible, it may go to two or it may go to one, or maybe split, flexibility.

Mr. Vita stated the line is possible to move a little bit in each direction yes.

Mr. Boorady stated okay. How many seats does a coffee shop have?

Mr. Vita stated I have no idea. Take a look at Dunkin' Donuts in town.

Mr. Boorady asked 4 or 5.

Mr. Vita stated I was going to say that. I think that is what you should picture right here.

Mr. Terrero stated I think the worst case scenario you are looking at 45 seats and if you come with less than 45 seats that is not an issue. The issue is your maximum which would be a maximum of 45 seats, so if your architect shows a layout of a 45 seat restaurant using the entire square footage, then that is fine and you wouldn't have any issues if you come back with a 30 seating place because it is less than what you are showing the max. If 45 doesn't fit in the 2,000 the way it is laid out, so if you have your architect show a 45 seat layout of a preliminary restaurant, via what it may, it doesn't have to be a specific brand it is a schematic layout and it just simply explains that it could possibly seat so many seats with proper aisles for egress and for that, it is a simple (inaudible – alert going off).

Mr. Vita stated the whole concept makes no sense. If this is what the Board is directing us to do, it is something that makes totally no sense, then that is what we are going to have to do. But it is a waste of time and there is no possible way we could even be close to guessing how it would look in reality.

Mr. Kaufman stated you are showing us that it will work in this space. It does matter if put the kitchen is in the back and the restaurant comes in and the kitchen is in the front, as long as the layout works and the facial aspects work, I don't think it matters about the layout at all.

Mr. Vita stated look if this is what the Board is directing us to do, I have never seen it anywhere.

Mr. Boorady stated I don't want to get into the technical aspects of this project at all, we are trying to help you in that we don't want you to come back and spend money on site plan exemptions and potentially lose the deal because they realize man we've got to wait 3 months to have a hearing for a site plan exemption. We are actually trying to help you. I just want you to recognize that first and foremost, but when you look at the parking you have 14 plus 13, plus another 6; 33 spaces. The one unit alone, the one restaurant alone that is 45 seats that is 15 parking spaces which is almost half the parking for a restaurant use, and then you have potentially 3 other retail spaces that need parking too.

Mr. Vita stated you want us to put 45 seats on the plan.

Mr. Boorady stated you need to figure that out as the broker. You own more property than any of us combine in this room so I think you know the answer and I think you should show us because it will benefit you. We are trying to help you. We don't know if 45 seats will work because that is almost half the parking, now where is everyone else going to park? Then you have a drive-thru on top so I think it is critical for us to have some sort of idea of a potential coffee shop or chicken place with 45 seats or with 20, and then have another restaurant with another 20 seats so we have some idea of traffic and parking.

Mr. Mainardi stated I think the numbers are going to be supported by the traffic study.

Mr. Miannecki stated I think the traffic study will determine the number of seats that the site can accommodate.

Mr. Mainardi stated that might push the number down.

Mr. Boorady stated exactly.

Mr. Miannecki stated the traffic engineer might say you can only do 25 or 20.

Mr. Mainardi stated then that is what it is.

Mr. Boorady stated we would recommend you show something and discuss that amongst yourselves to determine what the benefits are for your own client on that because I really think it is a benefit to show something to this Board so that potentially you don't have to come back.

Mr. Vita stated well that would be the intent not to come back.

Mr. Boorady stated we don't want you to have to come back frankly. We want you to go out and succeed. We want you to come here and know what you are doing and make it work, I mean that is all what we want. I'm trying to save you time in the long run.

Mr. Vita stated well I said we will do what the Board wants.

Mr. Mainardi stated thank you for the guidance.

Mr. Boorady stated I don't know whether that helps or not.

Mr. Mainardi stated I know where you are coming from so we will figure it out on our end.

Mr. Boorady stated alright.

Mr. Mainardi asked did we get through 20.

Mr. Boorady stated I think so.

Mr. Mainardi stated we will give you the finishes.

Mr. Boorady asked will the architect lay out the names and colors. Are you going to come with actual brick samples?

Mr. Mainardi stated you require that at the hearing not a completeness item. From what I understand it is going to be substantially what it is across the street right?

Mr. Boorady stated to the hearing.

Mr. Mainardi stated yes we will.

Ms. Ward stated very small samples please.

Mr. Miannecki stated Joan likes large ones.

Ms. Ward stated no.

Mr. Vita asked Joan the sample board you have for across the street are we able to have that.

Ms. Ward stated I can't give that to you because that was done by another architect, unless you get permission from him then I can release it.

Mr. Mainardi stated the last item was Item 4 so there is no use variance requested so that goes away.

Mr. Boorady stated that goes away.

Chairman Blewett asked for a motion to grant the waivers.

Mr. Terrero moved to grant them as long as all the restrictions are met I don't see why not.

Chairman Blewett asked is there a second.

Mr. Kaufman seconds.

Mr. Gemian asked what are we voting on.

Chairman Blewett stated to approve their waiver request.

Mr. Kaufman stated as long as the conditions are set forth.

Ms. Ward asked okay.

Chairman Blewett stated yes.

Roll call:

Yes: Terrero, Kaufman, Blewett, Florentino, Gemian, Marino and Taormina

No: None

Abstain: None

Mr. Mainardi thanked the Board for spending the time on this and giving the guidance that we needed, and giving you what you need to make your decision.

Chairman Blewett stated good luck.

Mr. Vita thanked the Board.

Chairman Blewett stated the fifth item on the agenda is Master Plan Re-examination Proposal dated July 29th, 2021 from Paul Ricci, of Ricciplanning and this is a discussion.

So to kind of frame this, we were asked to put together a budget for the Master Plan Re-examination which has to be done next year by the end of the year.

Ms. Ward stated correct and we have to budget for it.

Chairman Blewett stated so out of the gate I thought it was good to ask Paul Ricci, who is our planner of record right now to put a proposal together and he did. I guess from what I was thinking from a budget perspective, whether or not Mr. Ricci was going to do it you could use that Sal for budgeting for the Planning Board. I was under the impression that we needed to give you some numbers for the budget for planning.

Mr. Marino stated yes.

Chairman Blewett stated so I mean it is open for discussion. I think we had some feedback from the town manager.

Ms. Ward stated yes, pay-to-play is fine and Ricci can do it.

Chairman Blewett stated we didn't get a response from the Borough attorney so we asked whether we needed to bid it.

Mr. Neiss stated right. But I was under the impression that the Borough administrator's response to me, in which he said to me it was okay, was basically the response from the Borough attorney.

Chairman Blewett stated okay. Does everybody have a copy of this?

Ms. Ward stated I provided it.

Chairman Blewett stated I think for planning purposes we can use that number to budget. Sal is that alright?

Mr. Marino stated yes.

Chairman Blewett stated I do think we do have some time if everyone wants to read through the proposal and if you think there is something missing we can discuss it next month. I think that simplifies what we are trying to do here. Any objections to using Mr. Ricci? Alright. I guess administratively he works for us, he is under the planning budget.

Ms. Ward stated yes. We have a line item in our budget now.

Chairman Blewett stated okay.

Mr. Neiss asked in the planning budget for the town or the Board.

Ms. Ward stated in the Planning Board budget. We have a line item for the planner, engineer and counsel in our budget which covers work not billed under escrow. Most of the work is covered by escrows except the meetings and other general planning items. We have to put a figure in the budget for next year.

Chairman Blewett asked okay is there any other new business.

Ms. Ward stated I don't have anything else.

Chairman Blewett asked for a motion to adjourn.

Mr. Taormina motion.

Chairman Blewett asked for a second.

Mr. Kaufman seconds.

Chairman Blewett asked all in favor.

Board aye.

Chairman Blewett asked any opposed.

Board none.

Meeting adjourned 8:51 P.M.

Respectfully submit:

Joan Ward, Secretary

Charles W. Blewett, Jr., Chairman