

MINUTES

PLANNING BOARD

JUNE 28, 2011

LONG HILL TOWNSHIP

CALL TO ORDER AND STATEMENT OF COMPLIANCE

The Chairman, Mr. Connor, called the meeting to order at 8:02 P.M. He then read the following statement:
Adequate notice of this meeting has been provided by posting a copy of the public meeting dates on the municipal bulletin board, by sending a copy to the Courier News and Echoes Sentinel and by filing a copy with the Municipal Clerk, all in January, 2011.

PLEDGE OF ALLEGIANCE

ROLL CALL

On a call of the roll, the following were present:

Christopher Connor, Chairman	A. J. Batista, 1 st Alt.	<u>Excused:</u>
Mead Briggs, Vice-Chairman		E. Thomas Behr, Member
Mayor Nanette Harrington, Mayor	Barry Hoffman, Bd. Attorney	Guy Piserchia, Member
Donald Butterworth, Member	Kevin O'Brien, Twp. Planner	Brendan Rae, Member
Kevin Dempsey, Member	Thomas Lemanowicz, Bd. Engineer	Michael Smargiassi, Member
	Dawn Wolfe, Planning & Zoning Administrator	

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EXECUTIVE SESSION

Mr. Connor announced that there is a need for the Planning Board to meet in executive session to discuss personnel matters.

Mr. Butterworth made a motion to adjourn to executive session at 8:04 P.M. which was seconded by Mr. Briggs.

The Board re-entered public session at 8:08 P.M.

Mr. Connor asked for a motion to adopt the annexed Resolution of appointment of Thomas R. Lemanowicz, P.E., P.P., C.M.E. (or Remington, Vernick & Arango Engineers, Inc., the firm with whom Mr. Lemanowicz is now affiliated) as the Planning Board's Engineering Consultant for the balance of the calendar year 2011, with the terms of said appointment or designation to be as more particularly set forth in the Agreement or Agreements for Professional Services entered or to be entered into between the Planning Board and the Consultant, with such Agreement to be deemed to be effective, retroactively, as of January 1, 2011 and to be continued on the same basis until December 31, 2011.

Mr. Butterworth made the motion which was seconded by Mr. Batista.

A roll call vote was taken. Those in favor: Mr. Briggs, Mr. Butterworth, Mr. Dempsey, Mayor Harrington, Mr. Batista, and Mr. Connor. Those opposed: None.

Mr. Lemanowicz thanked the Board for its patience during the changes in his employment and for retaining him as Board Engineer.

PUBLIC QUESTION OR COMMENT PERIOD

The meeting was opened to the public for questions or comments. There being none, the meeting was closed to the public.

ANNOUNCEMENT

Mr. Connor announced that, due to the public hearing on tonight's agenda and also the fact that several Board members are not in attendance, Item No. 12 on the agenda (the discussion of the Valley Road Business District) will not take place this evening.

DISCUSSION

TIFA LTD. DIVISION AVENUE STREET FRONTAGE IMPROVEMENTS

Mr. O'Brien said that further research on his part showed that there have been discussions with Tifa going back to 2003-2004 and that, in addition to a suit and settlement that took care of the site plan issues, there were also negotiations concerning the actual improvements to the property that both the County and the Township wanted. He felt that it is probably in the Board's best interest at this point to gather the appropriate documents, create a timeline, and lay out for the Board exactly what has happened in the past and where we are now.

Mr. Connor requested Mr. O'Brien to present such information at the next meeting because he wanted the matter resolved as quickly as possible.

In response to Mr. Briggs, Mr. O'Brien said that there is a standard measure between road and sidewalks, but he did not recall what it is. He said that he would obtain the County standards.

Mr. Lemanowicz said that he walked the site today and saw the structure that is currently hidden by vegetation and noted that there is not a lot of room there. However, he offered to formulate something a little more formal if the Board would like.

DISCUSSION

ORDINANCE 282-11 – “AN ORDINANCE REGULATING STORE SIZE AND SUPPLEMENTING AND AMENDING THE TOWNSHIP LAND USE ORDINANCE”

Mayor Harrington said that, when the Planning Board last discussed this ordinance, it noted that the definition of the maximum size for a grocery store was inadvertently written into the ordinance at 60,000 S.F. and the proposed ordinance corrects it back to 80,000 S.F., which was the Township Committee’s original intent. She said that it was reintroduced at last week’s Township Committee meeting and is intended to be finalized at the Township Committee meeting in July.

Mr. Connor said that the Board has a copy of the first reading and introduction which was June 22, 2011 which does, in fact, show the change to 80,000 S.F. for grocery stores and that was the only change.

Mayor Harrington moved to introduce Ordinance 282-11 with a finding that the Planning Board finds that the proposed ordinance is consistent with the Master Plan and recommends it to the Township Committee. Mr. Butterworth seconded the motion.

Mr. Batista said that he listened to the recording of the last meeting and the only concern he had with regard to making such an alteration presented itself at the end of the meeting when Mr. Smargiassi stated that we should look towards making this part of the Valley Road Business District Plan, as far as the prohibition on the size of structures over 30,000 S.F. He was worried that that is going to become a point of discussion at a later time. He felt that a specific prohibition on any properties that size might have a chilling effect on the types of applications/applicants that will come before the Board, where it may not see applications such as the one that presented itself in concept of a 55,000 S.F. project and he felt that it will present a lot more problems for an applicant to bring that type of a project to the Board. He realized that this is being addressed under the ordinance as it is currently written and that it will be redone at some point, but going forward with regard to the Valley Road Business District, he said that he would place an objection on the record and would not vote in favor of it at a later time.

Mr. Connor said that he understood and the only wording changes are the grocery store definition in the current ordinance. He said that it has no impact on any other discussions and it does not limit the Board’s discussion or ability to adopt anything that it wishes to adopt.

A roll call vote was taken. Those in favor: Mr. Briggs, Mr. Butterworth, Mr. Dempsey, Mayor Harrington and Mr. Connor. Those opposed: Mr. Batista.

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FRANCES ANN MASON

274 Main Avenue
Block 11604, Lot 15

**#11-01P
Prelim./Final Site Plan
Development Permit
Bulk Variances**

Present: Vincent T. Bisogno, attorney for the applicant
Frances Ann Mason, applicant
A. Thomas Murphy, licensed professional engineer
Marc T. Marion, licensed professional architect

Lucille Grozinski, certified shorthand reporter

Proof of service was submitted.

Mr. Vincent T. Bisogno, attorney for the applicant, said that his client, Frances Mason, is the owner of property located at 274 Main Avenue, Stirling, which suffered severe damage as the result of a fire. He said that Mrs. Mason and her husband purchased the property in 1980. At the time, the first floor contained an auto parts store. In back of the auto parts store was a small apartment that was rented out. The second floor contained their own apartment which they lived in and the third floor contained a third apartment. He said that there was some question as to the legality of the third apartment which was installed after Mr. & Mrs. Mason purchased the property. He said that the current application is to restore the building and that a retail store is proposed on the first floor and there will be no longer be an apartment on the first floor. The second floor will contain Mrs. Mason’s apartment and she will also have rooms on the third floor. There will not be an apartment on the third floor – it will just be additional rooms for her. He said that the total square footage of the apartment is about 2,064 S.F., not counting the small area on the first floor mud room for an entryway.

He said that preliminary and final site plan approval is being sought this evening and that the variances involved are basically pre-existing conditions. For instance, they involve a shed that has existed on the property for quite a period of time and it is probably only 1” from the southerly property line. He said that there is a variance that is necessary because of the fact that they do not have a loading zone. He said that they *never* had a loading zone for the building and probably one is not needed. He said that the building is 2 ½ stories in height and has *always* contained 2 ½ stories. He added that pictures will be introduced going back to 1939 where you will see the building at 2 ½ stories. He said that Mrs. Mason wants to maintain that particular look and the proposed building will look very similar to what was there before, which is a pre-existing condition. He said that the proposed apartment is limited in the Ordinance to 1,000 S.F. and the proposed apartment will be in excess of that (probably double that size) and so a

variance for that is being sought. He stressed that that is a pre-existing condition which was there before. He said that another issue has come up which he has discussed with Mr. Hoffman at length. He said that N.J. has a statute that says that if you have a building that is destroyed either by fire or some other casualty, you can restore that building if it is partially destroyed. The question is, what does it mean by “partially destroyed”? He said that that is basically a fact question and that you have to look at every case and make a determination. However, he said that Long Hill Township has an ordinance that says, in effect, that if more than 50% of the restoration of the building is required, as determined by the Tax Assessor, then the building is totally destroyed. He said that he and Mr. Hoffman have been going back and forth on the issue. He told Mr. Hoffman that there is some ambiguity about that and there is some question whether or not the Ordinance is entirely valid and Mr. O'Brien has opined on it also. He said that the way he suggested we handle this is that we are not going to be relying on that particular State statute that says we have a right to rebuild in the event of partial destruction. He said that they will seek variances and are not waiving any of their rights under the statute, but think they have a strong enough case where the Board will grant a variance for what is proposed.

He said that the Board may wonder what took so long to get to this particular point. He explained that Mrs. Mason has had some major setbacks in her life. In 2008, both of her in-laws died within 24 hours of one another. About 8 months later, her husband died. 4 months after that, the fire in the building occurred. He said that all of that led to a point where decisions were not made quickly.

He said that he had 3 witnesses to present. Mrs. Mason will testify, as well as Mr. A. Thomas Murphy, licensed professional engineer, and Mr. Marc T. Marion, licensed professional architect.

Mr. O'Brien and Mr. Lemanowicz were sworn.

Mr. O'Brien pointed out that on Pg. 3 of his report dated 6/21/11, it indicates that the required front yard setback in the B 1-5 Zone is 10'. He said that that is actually a *maximum* setback from the street and you can go from 0'-10' maximum. He said that currently the property is in violation of that setback because it is actually in the R.O.W. He said that the applicant is proposing to bring it back onto her property and it will meet the setback requirements. Therefore, he said that a new variance is *not* required, but it is a pre-existing nonconformity.

Mr. Hoffman said that, as Mr. Bisogno had stated in his opening comments, there was initially a question of whether a “d” variance is a part of this application due to the fact that the height of the building is some 2 ½ stories and the Ordinance permits a maximum height of 2 stories. He said that there doesn't seem to be any case law that specifically discusses the classification of that type of a height violation in a variance, however there is an excerpt in the leading treatise of William Cox which states, “Sometimes ordinances provide for height limitations expressed both in terms of stories and in feet. Where the limitation is expressed in stories is exceeded but the limitation in feet is not it would seem appropriate to treat the application as a c variance inasmuch as the statute requires that the structure exceed the height limitation by “10' or 10%.” So, the numerical part of the height is complied with and the number of stories is exceeded and Mr. Cox is opining that that type of scenario is merely a c (or bulk) variance, in which case it tags along with the site plan that is reviewed by this Board and the jurisdiction to consider that particular variance remains with this Board. The other issue which he found, and felt that Mr. Bisogno likewise felt to be a rather interesting one, was the entire subject of damage due to a casualty or act of God, as it is sometimes referred to, a substantial fire, and basically the Ordinance, as Mr. Bisogno said, gives a numerical quotient or factor to be weighed. His understanding was that the applicant is willing to proceed at her risk to go forward without any actual calculations having been done, particularly since the rebuilding will not really introduce *new* or *newly created* or *intensified* variances, but will basically entail a reiteration of the existing conditions at the property. To that extent he said that reconstruction, in light of the fact that we are talking about a restoration of what had been there for many years, is being viewed as something entirely different from brand new construction where it would seemingly be quite inconsistent with what the Ordinance says. He asked Mr. Bisogno if he concurred or had comments.

Mr. Bisogno replied that he concurred. He emphasized that they are not waiving any rights that they might have under the statute, but feel that they can proceed under the variance request, as opposed to the statutory right to rebuild. He called Mrs. Mason as his first witness.

Mrs. Frances Ann Mason was sworn. She said that she and her husband purchased the subject property in July, 1980. At that time, there was an auto parts store in the front on the first floor and, in the back, there was a small two room apartment containing one room, a kitchen, and a bathroom. The second floor contained 3 bedrooms, a kitchen, dining room, and a living room and there were stairs that went up to another 3 rooms that were finished off (consisting of one large room and two smaller rooms). She acknowledged that after purchasing the property, her husband converted the upstairs rooms to an apartment. She said that, when they purchased the building, the owners were in the process of moving out. There was a father and mother that got divorced and, at one point, she lived upstairs in the small apartment and he lived downstairs. When they left, the son lived on the second floor and his friend rented the apartment upstairs. She said that her neighbor had given her that information.

In response to Mr. Bisogno, Mrs. Mason said that there came a time when her husband did some improvements to the third floor. He installed a staircase from the outside going up and sealed off the staircase from their own apartment. He also made one of the rooms into a kitchen and bathroom. She said that the apartments remained until the fire occurred. She said that the auto parts store stayed on the first floor for about 2 years after they purchased the property. Following that, she recalled that the Township cable company rented it for a year or two, and then a doctor

rented it for about 18 years. When the doctor left, she said that a consignment shop moved in. In January, 2010, a fire occurred and that is when the property was destroyed.

Mrs. Mason said that her current proposal is to have a retail use on the first floor. She explained that her previous tenant who operated a consignment shop on the first floor would like to return to again occupy the first floor which contains approximately 1,600 S.F. She said that the second floor will be used for her own apartment. It will contain a kitchen, a combination living room, dining room, 3 bedrooms, a bathroom, and a laundry room. The third floor will be accessed via stairs from her apartment and will contain one room, a bathroom, and storage. It will be a part of her own apartment and will not be rented out to anyone. She said that she plans to live in her apartment by herself. She added that her son lives in China and, when he comes home, he will stay upstairs. She also said that when her grandchildren come to visit, they will go upstairs to play.

Mr. Bisogno presented the following photographs which were marked into evidence as follows:

- **EXHIBIT A-1** – Front of subject property dated 1939, containing Frank DeFilippis' store in the first floor.
- **EXHIBIT A-2** – Front of subject property dated August, 2002, containing MAAPS (Main Avenue Auto Parts Store) in the first floor.
- **EXHIBIT A-3** – Front of subject property taken in 2006, containing the Act II consignment shop in the first floor.

Mrs. Mason said that she received the photo marked as **EXHIBIT A-1** from her neighbor. She also said that the photo marked as **EXHIBIT A-2** was taken by her father-in-law and the photo marked as **EXHIBIT A-3** was taken by her son.

In response to Mr. Bisogno, Mrs. Mason said that there is an existing shed on the southerly side of the property. It is used for storage of a lawnmower, tools, and garden equipment. She said that it has stone underneath it, sits on wood, and is elevated a few inches off the ground.

Also in response to Mr. Bisogno, Mrs. Mason confirmed that she had experienced some setbacks in her life fairly recently which was a factor in not making a decision as to what to do with the subject property right away. She acknowledged that she lost her mother-in-law and father-in-law in October, 2008, her husband passed away in August, 2009, and the building on the subject property caught fire in January, 2010. Soon after the fire, she thought that the best thing for her would be to go away to a new location. She said that she tried to sell the property on her own by putting up signs on the property and she did have people call, but they wanted to use the site for things she did not believe the Board would approve of. She said that she looked at houses but they were all too big for her needs. After further thought, she decided that the best thing for her to do would be to rebuild the structure that was destroyed by fire. She said that she lived there for 30 years, knows everyone in the area, and likes it here. She said that she grew up in the city and likes the fact that Stirling is bustling in the day and at night the sidewalks are "rolled up".

In response to Mr. Briggs, Mrs. Mason said that the third floor will be used for storage.

In response to Mr. Bisogno, Mrs. Mason said that she had experienced flooding problems before and therefore opted *not* to have a basement in the proposed new structure.

Mr. Batista asked if a variance is being requested with regard to the fence at the back of the property.

Mr. Bisogno replied that they were not sure if it violates the Ordinance. He felt that the reason that Mr. Lemanowicz may have mentioned it is because it is in the front yard. When he read the Ordinance regarding front yard, it did not seem to him like the fence began in the front yard. It seemed like, even though it is on Union St., when he read the definition it seemed to imply that it did *not* require a variance. He said that perhaps Mr. Lemanowicz can elaborate on the matter.

Mr. Lemanowicz said that it was his feeling that the subject property is a corner lot and they are both front yards.

Mr. Bisogno replied that, if there is no front setback required for a building, why would one be required for a fence?

Mr. Batista said that he was discussing the height of the fence. He said that a 6' fence is being proposed but the Ordinance only permits a height of 4'.

Mr. Bisogno replied that what he was saying was that it is not in a front yard.

Mr. Batista asked Mrs. Mason if there was a particular necessity for a 6' fence?

Mrs. Mason replied that she did not specifically discuss the height of the fence with her architect, although she felt that a 6' fence along the parking lot would provide more privacy for her neighbor.

In response to Mr. Bisogno, Mrs. Mason said that she gets along well with her neighbor and, at one time, he told her that he wanted to install a fence but she wanted to keep the hedges. She said that a fence will keep him happy and that she did not really care if the fence is 4' or 6' in height.

Mr. Lemanowicz said that, to answer the original question, he believed that the somewhat unique condition of a 10' *maximum* front yard is probably what led him to believe it was a front yard.

Mr. O'Brien said that, here, the Ordinance defines a front yard as the open unoccupied space between the right-of-way and the front of the closest building. In this particular case, he said that the closest building is actually next door. He said that he would then concede the point.

Mr. Bisogno said that they had no objection either way and will install either a 4' or 6' fence, whatever the Board feels is appropriate.

The meeting was opened to the public for questions. There being none, the meeting was closed to the public.

Mr. A. Thomas Murphy, licensed professional engineer, was sworn. He has appeared before the Board on many occasions and was accepted as an expert.

He referred to and described a colored version of Sheet 5 of his Site Plan entitled "Lighting & Landscape", dated 1/17/11, last rev. 3/4/11, which was marked into evidence as **EXHIBIT A-4**.

He described the location of the subject property as being on the corner of Main Ave. and Union St. It contains just under 10,000 S.F. in size. The existing and proposed building have frontages on Main Ave. where the entrances are and also have a front yard on Union St. He referred to Sheet 2 of his Site Plan and said that it shows the layout of the existing building which has a 3.1' setback from Main Ave. and it is slighting over the property line on Union St., so that it actually encroaches upon the Union St. R.O.W. He said that the proposed building will have a 1.7' setback on Main Ave. and the building will be moved so that it is not on the Union St. R.O.W., it will be 0.4' off of Union St. He said that the parking lot will come off of Union Ave. and provide parking for 6 cars (5 regular spaces and 1 handicapped stall). He said that the parking lot was designed for 18' stalls with 2' overhangs and a 24' back-out. In order to reduce coverage, he said that the entrance of the neck going out onto Union St. will be 20' wide. He said that there is handicapped access coming from the rear of the parking lot to service the retail portion of the building which accesses the decks and the first floor sidewalk off of the southern side. Currently, there is a paved drive that runs from Union St. all the way to the back of the property, a little over 20' in width. He said that cars used to park tandem coming in on the driveway. He believed that there were 6 cars parking on the site. They did not conform to a normal parking layout, but it did service the building at that time.

In response to Mr. Bisogno, Mr. Murphy said that the footprint of the proposed new building is smaller than the footprint of the existing building. He referred to the Zoning Schedule on the first page of the Site Plan, noting that the existing building that the existing building contains 2,467 S.F. and the proposed new building will contain 1,854 S.F., therefore the footprint will be about 600 S.F. smaller.

Referring to the Area Map, Mr. Murphy said that generally the setbacks on Main Ave. are in conformance with the Zone, which is a maximum of 10'. He described the nearby properties and their setbacks and said that many of the uses along Main Ave. are residential and there is also an office and some retail stores. He also described the uses along Union St.

In response to Mr. Bisogno, Mr. Murphy said that he has been to the site of the subject property. He described the extent of damage to the building caused by the fire. He said that the walls are still up and the roof and ceilings are caved in. The foundation remains, but the second floor is pretty much collapsed. He said that the main change between the existing and proposed structures is that the proposed building is smaller. He said that he also designed a parking lot that will accommodate the required number of vehicles for the size of the building. He said that he has provided stormwater management, which the site does not presently have. The volume of fill in the flood plain was reduced. He noted that a small portion of the site is in a flood hazard area. He said that in this part of the Township the N.J. Design Flood is at elevation 215.7. He said that there are no contours since everything is pretty much flat, but the property goes from 214.8' at a low point to where the building is at 215.5'. It is higher on the western side, but all of them are at about a 215' or 216' elevation. He said that there is a flood plain that impacts the property. The first floor of the building is well above that – it will be at 219.2', which is the existing first floor and there is a crawl space under that that is 3' lower, at 216.2'. He said that there is no part of the building that is going to be affected by the Design Flood Elevation. He agreed that it is fair to say that the building has been reduced in size; the building is out of the public R.O.W.; the parking lot now has been delineated and also provides for a handicapped space; there is stormwater management on the property now that wasn't there before; and that there is a reduction in lot coverage and runoff because, not only did they reduce the impervious coverage, but have also provided a detention basin under the parking lot that will reduce the rate of runoff from the site. He said that in order to get the water to drain off the property (since it is so flat), he lowered the area where the parking lot is slightly in order to get a pitch from the low parts of the site towards the trench drain which runs down the middle of the parking lot. He said that the water there will be collected and stored underground in a gravel basin and then it will be released through a controlled outlet structure into a storm sewer to be constructed behind the curb on Union St. and tie into the existing basin at the corner of Main Ave. and Union St. The reason that he put the storm sewer behind the curb is because, if he brought the storm sewer out onto Main Ave., he would lose 6" of elevation or cover on top of the pipe. He said that the pipe right now, which is behind the curb, is very shallow and under the pavement it would be even worse. He also noted that there is a gas line in that vicinity and so the best way to get cover over the pipe and get it into the storm sewer would be to run it between the curb and the R.O.W.

Also in response to Mr. Bisogno, Mr. Murphy said that the proposed lighting consist of two wall mounted lights that will be located along the western side of the building that will shine onto the parking lot and provide adequate coverage. He said that there will be a slight adjustment to one light in order that one area has a footcandle that is a little bit less than required. On the front of the building, he said that there will be doorway type lights to illuminate the entrances to the building.

With regard to the report of the Environmental Commission dated 6/2/11, Mr. Murphy referred to **EXHIBIT A-4**. He said that the parking lot on the western side of the property is only 3 ½' off of the property line, where 5' is required. The reason for that is that they wanted to provide landscaping between the handicapped ramp and the curb. He said that, if he shifted the parking lot over 1 ½', they could not have adequate area for plantings. In the location between the handicapped parking and the parking lot, he provided several Boxwoods and more Boxwood's along Union St. near the western side of the entrance. He said that the Environmental Commission had commented that they wanted something more native to the Township and his client would prefer to have something other than the Boxwoods and, therefore, they will probably plant Mountain Laurel in those locations to replace the Boxwoods. Because of the size and space that they have, he said that Hollies will be planted along the front. He said that two Andromeda's, one at either end of the building, will be planted.

With regard to the report of the Shade Tree Commission dated 6/5/11, Mr. Murphy said that one of the comments they had was because there are two pear trees located on Union St. and, since a storm sewer will be installed there to cover the pipes, those trees will be eliminated. He said that they can replace one of those trees with a shade tree in the western part of Union St. (just west of the entrance). He said that he set up the parking lot the way it is to provide a landscaped feature between the building and the handicapped ramp and parking. He said that there will be a board on board fence between the parking lot and the neighbor and so landscaping at that point would be a double buffer. He said that they would rather have landscaping between the building and the parking lot. He said that the Shade Tree Commission had recommended larger Boxwood plants proposed for screening on Union St. from the parking lot. He said that he may be able to get 6 in that area, but if they are bigger when planted, you will not be able to space them as well. He again noted that his client prefers that they be changed to Mountain Laurel, therefore he said that he may have to redo the plan and resubmit it to the Shade Tree Commission as to the spacing and size. He noted that he was proposing to have the Boxwoods planted two sizes down from their maximum height, rather than at full height as recommended by the Shade Tree Commission. Referring to the proposed planting beds between the building and Main Ave., Mr. Murphy said that there is one on each corner and one in the middle of the building. He said that the Shade Tree Commission has requested one additional planting to each of those locations and he felt that that could be accommodated. He said that he will work out the height of the plantings with the Shade Tree Commission. He said that original drive that came into the parking lot will be eliminated and it is intended that that area will become lawn and landscaped area. He said that it was an oversight that that is not shown on the plan.

In response to Mr. Bisogno, Mr. Murphy said that he was aware of the Police Dept. report dated 5/18/11 which had no recommendations.

With regard to Mr. O'Brien's report dated 6/21/11, Mr. Murphy said that he felt that a 6' fence would provide privacy on both sides of the fence. He said that the setback would start at the neighbor's property, which would be the front yard. He said that it could be installed at 4' high for 3' and then jump up to 6', or they could start a 6' fence at the parking space which would probably make more sense. He also said that Mrs. Mason and the neighbor don't have an objection to a 4' fence, it could be 4' in height all the way.

With regard to Mr. Lemanowicz's report dated 6/7/11, Mr. Murphy said that he felt that he was fairly close on his drainage as to the required drainage. As to the number of bedrooms and floor area of the apartment, he said that they are more architectural in nature. As to the building height, he said he showed that it complies. He acknowledged that there was a discrepancy between the architectural and engineering plans of ½", which will be corrected. He said that the front yard setback is 0.4' and not 0.04', which was a typo. As to the existing parking, he said that it does provide spaces for six cars *in tandem*. He said that it was mentioned that a variance may be needed for parking, however it was pointed out that there is adequate parking for the building because of a reduced parking requirement in the downtown area. He said that leaf guard protection will be installed on the gutters. He said that there is adequate back-out with 24' and the only place he reduced it was at the driveway coming into the site where he shows it at 20', which he said is adequate for 2-way traffic and it is not necessary for back-out. He said that he did that to reduce coverage wherever he could on the site. He said that the northernmost off-street parking space is not within the front yard. He said that the reason he proposed a 4" curb is because he had the top of curb to meet the existing grades along the westerly side so that he would not block water that was in that area and not prevent it from coming onto the site. So the top of the curb was basically matched with the existing grade and, in order to get more cover over the trench drain and the pipe, he only had a 4" drop from the top of curb to the pavement, rather than 6". He said that, if he had 6", it would just make everything 2" lower and he was having a difficult time getting water from the parking lot out to Main Ave. which has a shallow catch basin. He said that it is intended that there be a handicapped ramp at the parking entrance and the sidewalk. He said that he would make the change to indicate that it is handicapped accessible. He said that the footcandles of the lights will be adjusted to meet the minimum requirement. He said that his clients would like to have the trash cans stored underneath the deck rather than out in the open air. He said that the reason a 5' wide buffer strip around the perimeter of the parking lot is not provided is because he wanted to provide a landscape feature in the center of the property where it would be more visible and productive. He said that the present condition of the property along the westerly property line is basically pavement. There is about a 2' strip of open space between the pavement and the existing pavement on the Mason site and that area has a hedgerow growing through that location. He said that he would be setting his pavement about 1' further back from what exists now. With regard to signage, he said that he has indicated the maximum size sign allowed.

He said that he did not show where or what the sign would say. He said that a sign permit would have to be applied for by the tenant and it would have to be the proper size or be granted a variance. He said that the N.J. Flood Hazard Area Design Flood does encroach onto the property and, because of that, they will have to go to the NJDEP to do what is proposed because it is a regulated water. Any grading or grading is a regulated activity and there are several different types of permits they could apply for. He felt that the best way is to go for an applicability determination and the NJDEP will tell them if they need a permit (which he believed is the case). He said that, in his submittal to them, he would suggest that they get a Permit By Rule, if that is possible, since no filling will be done in the flood plain. He said that all of the finished floors will be above the flood elevation. If the NJDEP does not say that a Permit By Rule applies, they will get a permit to do the grading. He said that there was nothing in Paragraph 14 (a-f) of Mr. Lemanowicz's report that he could not make amendments to his plans and comply with. With regard to Paragraph 15(a), he said that he used the numbers that are in the code and he believed that those numbers will come under scrutiny by the Township, so he was not sure if he should be adjusting his numbers now.

Mr. Lemanowicz said that the Board may recall that when we were discussing the Environmental Ordinance he brought out that the Ordinance makes reference to the Somerset County detention basin design and he believed that Long Hill Township is one of the few towns still using it. He said that Somerset County doesn't even use it anymore. He said that when they wrote that, they were looking to protect existing conditions. In this case, it meant lowering the CN value and the CN value is a function of how much water runs off – it is not an exact proportion, but for discussion purposes it is essentially a percentage of how much water runs off. He said that they put a very low value on grass so that when you take grass away and put in pavement, there was a dramatic change in the calculation. In this case, because there is more grass going back in, there is a dramatic change in the other direction, meaning that *less* detention would have to be provided. He said that he recommended, during the development of the Environmental Ordinance, that he thought we should go to what the standard CN value that the State uses and R.S.I.S. uses. He said that there is more than one way to do it in the Ordinance and they don't speak to each other. He said that he was recommending here that we stick to the documents that are currently used by the State and the Stormwater Management.

Mr. Murphy said that he could comply with Mr. Lemanowicz's request. He would just have to rerun his numbers and present the calculations.

Mr. Lemanowicz said that this is a relatively small site and so, proportionately, it may be a measureable number, but the reality of it is that the system is so small now that he thought, on an order of magnitude, he did not think it would be that large of a change.

Mr. Murphy agreed. He also said that he would discuss his use of a weir coefficient of 2.60 with Mr. Lemanowicz and explain to him his thoughts behind it. If he does not agree, he said that he would change it. Either way, he felt that they are engineering calculations that can be worked out. He said that the remaining items in Paragraph 15 (a-g) will be worked out with Mr. Lemanowicz or be complied with.

With regard to the issue of building height, Mr. Lemanowicz said that there are actually 3 numbers in the application – 34'3"; 34'21/2"; and 34' even. He requested Mr. Murphy to get all 3 to work. With regard to the 20' wide access driveway to the 24' wide aisle, he said that this is a relatively small parking lot and we don't have a loading space or large vehicles. He said that it has frontage on two roads and so it is not *required* that the Fire Dept. get in there since they basically have access from two sides. In this case, it will probably allow one more bush along Union St. to shield the parking lot from street view. For all those reasons, he said that he did not have an objection to it from an engineering standpoint. He said that he understood what Mr. Murphy said about the curbing which ties into the discussion about the storm drain along Union St. He said that it would seem that the topography of the site relative to the drainage that is available really doesn't leave a whole lot of room to move things up and down.

Mr. Murphy replied that it was set up that he didn't trap water, but he didn't want to lower it so much that he had not cover over the pipe.

Mr. Lemanowicz said that the Applicability Permit is a good way to attack the issue of the flood hazard. He said that a lot of the other comments about the stormwater management facilities involve a lot of detail work. He said that he did not see that there is going to be a *dramatic* change to the system and the way the system is prepared, it is basically a lot like a septic system in that you've got pipes in a stone bed, only it is used for storage only. He said that there are a lot of options to increase the drainage and we can increase the number of pipes coming off into the stone and make the stone bed bigger. He said that there are ways we can make up for storage if we need to. He did not believe that addressing these items will be such a dramatic change that it's going to change the flavor of the design. He said that he was not overly concerned about having a huge change in the system once these items are addressed. He said that the only thing he did not have a chance to look up was the issue of the trash enclosure and putting the cans under the deck.

Mr. O'Brien referred to Sec. 154.3 – "Trash and Recycling Storage" and said that it requires that a trash and recycling area have a particular floor area made out of reinforced concrete and compacted stone and that it be surrounded on 3 sides by a masonry or solid wood board fence. He said that one of the sections of the Ordinance does allow an alternative to a structural enclosure if landscaping is used to screen the trash and recycling enclosure. He said that we do not have any details on what we are referring to here for under the deck. He said that, if the Board would like, perhaps that is something that he and Mr. Lemanowicz could work out with Mr. Murphy. He said that they could either conform with the Ordinance or go for the permitted alternative in the Ordinance or, perhaps as an alternative, Mr. Bisogno should request permission to request a variance on it if needed.

Mr. Bisogno replied that that is agreeable to the applicant.

Given that it is a residence as well as a business, Mr. Briggs asked how many cans/recycling we are talking about. He asked if there was sufficient deck space underneath for both facilities.

In response to Mr. Murphy, Mrs. Mason said that she utilized 4 cans in the past. Mr. Murphy said that perhaps the applicant's architect can describe the size of the deck and where the cans will go better than he could.

Mr. O'Brien said that there are a large number of permitted uses in the Village Business District Zone and he felt that we would like to make sure that down the line there is sufficient space, noting that a delicatessen, for example, would generate a lot of garbage.

Mr. Briggs said that with once a week pickup that could be an issue with a delicatessen.

Mr. Batista asked Mr. Murphy what the original parking requirement was.

Mr. Murphy replied, "Ten spaces". He agreed that he was informed that he would only need half of those because of the recent change to the Ordinance and now they have one extra space which works out good for his client.

Also in response to Mr. Batista, Mr. Murphy said that a 24' back-out is a normal parking lot standard, so that will be good.

Mr. Batista noted that there is no curbing to the right, next to the neighbor's property. He asked if a curb will be installed there.

Mr. Murphy replied, "No, not along the edge of the pavement". He said that he believed that the curb ends at their site and so curbing will not be providing back along Union St.

Mr. Lemanowicz said that, in the place where there was an existing drop curb, the curb should match what is on the other side of it.

Mr. Batista said that the neighbor's property is flat and this property has curbing on the other side towards Main St.

Mr. Lemanowicz replied that there is Belgian block between the driveway and Main Ave. He said that, if the Township ever continued curbing there, it would probably be Belgian block. He said that what we would probably do is put the full height curb from the curb return to the property line but, when we get towards the property line, drop it so that you don't have the butt end of a curb facing it because it will be a problem if a plow ever hits it. He said that it is about a 5' transition that goes up. He said that we could do a 5' transition, come around the curb return heading west and then at the last 5' before the projection of the property line, taper it down to nothing.

With regard to the lighting at the rear of the property, Mr. Batista asked if the lighting is going to affect the second story on the neighboring property in the evening.

Mr. Murphy replied that it is a wall mounted shielded light that shines down onto the paved surface and not horizontally. He said that the lights will only be on in the evening when the retail space is in use. Other than that, he did not propose the lights to be used.

Mr. O'Brien said that there is a fair amount of lighting in the neighborhood now as the result of the Stirling Main Ave. street improvement project. He said that, even though every other light bulb was removed, there is still quite a bit of lighting on that street. He said that he knew that a driveway requires .6 footcandles but, given that this is the back of the property with another residence adjoining it, he felt that we should lower the lighting rather than raise it, particularly given the spillover lighting that is going to come in from Main Ave. Provided that the lighting is on a timer so that it goes off no later than a half hour after the close of business, he felt that that should be sufficient. He felt that 75 watt or 100 watt bulbs would be sufficient for the two wall lights to shine onto the parking lot itself.

The Board members were in agreement.

Mr. Murphy noted that the streetlights do not carry behind the building. He felt that that is something that should be looked at and worked out.

Mr. Batista said that he wanted to balance the potential effect it will have on the neighboring property and keeping the parking lot adequately safe.

Mr. Lemanowicz said that in looking at the Ruud Lighting detail, it indicates total wattage of the two proposed lighting fixtures at 380, but the description seems to suggest that they are 100 watts each.

Mr. Murphy said that he will look into the matter further and advise Ruud that it should be reduced to the least amount needed.

Going back to the proposed landscaping, Mr. Briggs said that he assumed that Mountain Laurel are approved as native species.

Mr. Murphy said that he will run it by the Environmental Commission.

Mrs. Mason said that Mountain Laurel plantings stay green all year long.

In response to Mr. Briggs, she agreed to plant one additional shade tree on her property.

Mr. O'Brien said that once a revised landscaping plan can be prepared by the applicant, the Shade Tree Commission, and he and Mr. Lemanowicz will look at it.

The meeting was open to the public for questions. There being none, the meeting was closed to the public.

Mrs. Mason said that she had the address numbers on the house and she had a little light shining on them. She asked if she could still have that. She said that she also had little lights in the entrance of the store and her own door in the front and asked if she could have them again. She said that she would keep them dull because there is a lot of lighting in the front. Also, by her side door and back deck, she wanted to put little lights there too. She said that she did not need them bright, but wanted them for safety reasons. She asked if the lights could be on sensors rather than timers.

Mr. O'Brien replied that it has been the practice of the Board not to use sensors, particularly in the Village Business Districts because anything could set them off and they would light up the whole area. He said that it would have been easier to have this on the plans but, if the Board wishes, they could work out the details.

Mr. Connor felt that it is a detail that could be worked on.

Mr. O'Brien said that, in the past, the Board has also discouraged the use of flood lights for signs because they go astray and wind up lighting up the oncoming traffic. He said that some other type of signage lighting may be appropriate.

Mr. Bisogno agreed.

In response to Mr. Briggs' question, Mr. O'Brien said that Mountain Laurel is *not* on list of approved plantings

Mr. Batista believed that Mr. O'Brien may be looking at one of the old lists. He said that, in the Tree Ordinance that was passed by this Board, he believed that there is a new list. He did not believe that it has been codified but felt that it was more expansive.

It seemed to Mr. Connor that we ought to look at the new list because a lot of work went into it.

Mr. Batista felt that it could be deferred to the Shade Tree Commission. Whether or not the Tree Ordinance is ever adopted, he felt that the current ordinances should be updated with the more expansive list of approved plantings.

Mr. Marc T. Marion, licensed professional architect, was sworn.

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Mr. Marion reviewed his educational and professional background and was accepted as an expert.

He said that he saw photographs of the previous building on the site and described it as a Colonial building with various additions and renovations over the years. He said that it looked like it had a front porch that was expanded to retail space with a lot of fixed windows and that it was a simple gabled structure with clapboard siding, double hung windows, and an asphalt shingle roof with a brick base. He described the neighborhood as consisting of buildings with mixed styles, mostly 2 stories and some with 2 ½ stories. He said that some have been converted to businesses and noted some new businesses in the area. He said that they are all low scale, mostly residential in character with a small downtown feeling.

He said that Mrs. Mason really wanted her old building back and he tried to mimic it as best he could with a simple 2 ½ story structure in the back, with a porch like one story element in the front where large glass was installed for the retail establishment and two doors and a door to the north for the retail use. He said that she really wanted a front door like she has. He said that the proposed building is very similar to the existing building except that it is moved over and lacks a basement. He said that the proposed building will have clapboard siding with a brick base. He said that concern was expressed for neutral, warm colors and used red brick on the base. He said that the proposed windows are pretty simple double hung windows with shutters and simple heads (decorative elements) above them. He said that they were considering putting up shutters along the Union St. side also to dress up that side facing the street. He said that there are a lot of entrances to the building. The retail store has an entrance on the front and there is also a back entrance for the retail which is handicapped accessible from the parking lot up the ramp. He said that there are actually 3 entrances to the building. There is the front door off of Main Ave., a side door on the left side elevation so that Mrs. Mason can easily access her side yard, which leads to a very small area that will be used as a mechanical/powder room, similar to a mud room on the first floor. Also, on the second floor there is a door that leads out to a deck with stairs down to the back parking area, so that Mrs. Mason has 3 ways out of her residence and the retail establish has 2 ways out (front and back).

He recommended residential light fixtures at all of Mrs. Mason's doors for the residence which the code will require for safety. They will be low wattage (approximately 75 watt) residential fixtures at her 3 doors and probably something similar at the front business door. He said that there is only one door out the back and it will probably need a small light at the door. He felt that the parking lot lighting was already covered by the applicant's engineer.

Starting with the first floor, he said that there will be a retail area that will contain approximately 1,462 S.F. which will have a front and back door with a ramp. It will also contain a handicapped bathroom and small office, as well as a small mechanical room. He said that Mrs. Mason will have her two doors, one from the side and one from the front that leave to a small service/mud area with stairs that will lead up to her main unit which will contain 1,485 S.F. It will have a kitchen and a very large multi-use family room/eating area, as well as 3 bedrooms, all sharing a bathroom. It will also contain a laundry closet. From there, there will be a set of stairs leading up to what he referred to as a "habitable attic". He said that it is not technically a third floor as long as it doesn't exceed 33% of the second floor in the code. It will have a loft area (mostly attic area), noting that there will *not* be a basement in the new building. There is a basement in about half of the old building. Therefore, Mrs. Mason will have areas for storage up in the attic. He said that there will also be a bathroom up there. He referred to his Schematic Attic Plan and said that where it is marked "attic" is basically for storage. It will have sloped ceilings. He said that, typically, there will be one set of mechanicals up in the attic that would service most of Mrs. Mason's unit.

In his opinion, the proposed new building will fit in quite well with the Stirling neighborhood because it has been inspired by the existing building. He said that, hopefully, most people would never notice that the old one is gone. He said that the proposed materials are all typical of the neighborhood in terms of character and style – they are residential materials and there are many Colonial style houses on the street and this would just be another one.

Mr. Lemanowicz said that the application form says that there will be a bedroom on the third floor. He asked if there is an area that is going to be designated as a bedroom on the third floor.

Mr. Marion replied, "Not at this time, no".

Mr. Lemanowicz asked if there is an area by code that *could* be a bedroom.

Mr. Marion referred to the loft area and said that, by code, it *could* be. He said that you would have to install a door to close it off. He said that it could be an egress window but, from a building code point of view, it could be legal.

Mr. O'Brien asked Mr. Marion if the third floor could be separated from the second floor with its own unique access.

Mr. Marion replied, "No", and added that that would be very difficult to do.

Mr. O'Brien asked Mr. Marion if his answer was "No", or "Very difficult to do".

Mr. Marion replied that he would say "No", but added that he has seen some people do some very unorthodox things over the years. He said that the way the entrance ends up, it would really compromise the second floor unit to create a private entrance stairway that wrapped right around the middle of Mrs. Mason's apartment.

Mr. O'Brien asked if you would have to use the proposed stairway, extend it, and then block it off in some way from the second floor.

Mr. Marion agreed and said that it would make the family room substantially smaller and make it difficult to get back to her bedrooms.

Mr. O'Brien added that, in order to make the 3rd floor an independent unit, you would have to do something for a kitchen. He asked if that would be possible.

Mr. Marion replied, again, that he has seen some pretty bad things. However, he said that it would be difficult.

In response to Mr. O'Brien, Mr. Bisogno said that he was done with his case.

Mr. Batista said that he had a question regarding the Union St. side where the pear trees are being removed. He said that Mr. Marion had said that he would consider putting shutters on that side. He said that, while we will be losing those trees, we would definitely want to see something that would warm up the side of the building, including shutters, rather than just considering it.

Mr. Marion said that shutters will be installed, as well as matching window heads that match the front. If need be, he said that he would also bring the base across that side.

Mr. O'Brien asked if all of the proposed entrances are necessary.

Mr. Marion replied that Mrs. Mason thought so. He said that it is very similar to what she had.

Mrs. Mason said that she always had the entrance in the front and the one in the back and the reason for the one going into the yard, if you look at the photographs, you would see that there is always something sticking out in the back, which was a sunroom before her time. She said that her neighbor told her that it was a sun porch that had an

entrance to the yard. She said that she always said that she would love to have that. She said that now she has an opportunity to have a little mud room and a place to hang coats and put boots from the front or back and she felt that this was a perfect time to get it. She said that you can also go into the little bathroom from the yard.

Mr. O'Brien replied that she could also take the stairway up to the deck.

Mrs. Mason said that, in that case, there is nowhere to change you shoes. You would just walk in the house and the proposal would provide a little cover.

Mr. O'Brien asked if anything will be done about the shed in its current location.

Mr. Bisogno replied that Mrs. Mason would like to leave it where it is because, if it is moved further back into the yard, she will lose some yard space back there. He said that he knew it was over the property line by about 1", but it is a pre-existing condition and she would like to continue it there.

Mr. Hoffman said that it is understood that, if there is an encroachment, the applicant can continue that at their own risk. He said that the Board cannot sanction or give official approval to any encroachments.

Mr. Bisogno replied that he understood. He added that it may be somewhat difficult to remove noting that it contains some built in shelves.

In response to Mr. O'Brien, Mr. Bisogno said that there has been no decision on signage but the applicant intends to comply with the Ordinance and submit a sign permit application.

The meeting was opened to the public for comments. There being none, the meeting was closed to the public.

Mr. Bisogno gave his summation. He said that his client is proposing to basically establish the same building that she had before. He said that the variances that are involved in the application are basically are existing now. Before the fire, the building was basically in the same configuration and the same square footage for the apartment. The shed was located in the same place. Everything was basically the same as is *except* for the fact that the proposal is making it better. For instance, the building will be taken out of the R.O.W. which is a positive effect. The proposal complies with the front yard setback, side yard setback, and all of the other bulk variances that are required in the Ordinance. He said that the lot coverage will be reduced to some extent. The parking is being delineated in the parking lot that was not delineated before. Handicapped parking is being provided. The size of the building is being reduced by about 600 S.F. – 700 S.F. from what was there before. Stormwater management is being provided that also wasn't provided before. He said that all of those items are positive factors that support their request to continue what was there before. He said that they are not asking for anything new, only for a continuation of what existed before and he felt that that has a positive impact upon not only the neighborhood, but also for the benefit of the public. He said that they are providing extensive landscaping and will be working it out with the Shade Tree Commission and with Mr. O'Brien and Mr. Lemanowicz as to how the trees and landscaping will fit on the property. He said that all of those things are positive factors that go towards approving this variance. For those reasons, he felt that the variances that are requested, such as the existing shed that is there now, the apartment space of 2,064 S.F. that is there now, the no loading space which is there now, and the 2 ½ stories – if you look at the photos, the building contained 2 ½ stories back in 1939 when it was first built. He said that the proposal is basically improving a situation that existed previously and the building will be made better.

Mr. O'Brien said that as the Board goes through its deliberations, they may wish to remember that the burden of proof here are for c variances (or bulk variances) and the applicant can receive an approval for a bulk variance based upon one or both of two criteria. The first criteria is that there is a hardship on the property due to its size, shape, or topography or, in the alternate, that the advantages of granting these variances outweigh the disadvantages – that it is a better planning alternative than what exists or what *could* go there should the variances not be required – plus a showing that the negative criteria has been dealt with and that there is no negative impact upon neighbors, nearby properties, or upon the Township as a whole. He also reminded the Board that a Development Permit has been requested as part of this application and it is up to the Board whether or not a Development Permit shall be granted.

Given the testimony and the large number of things that the applicant has agreed to, Mr. Connor asked Mr. Hoffman what he would recommend.

Mr. Hoffman said that he would have a very specific recommendation because he felt that this is an ideal case in which to deal with a memorialization in an expedited fashion. He said that recently what we have been doing in Boards that his office represents is where there is a large number (and that is certainly the case here) of recommended changes, deletions, etc. set forth in the reports, rather than to list all of those (and he counted 70-80 potential conditions here), he said that we can save paper by shortening that list so that the approval, which would be granted presumably if the Board is in favor tonight to act on the approval of the site plan and variances for the building which is depicted on the plans would be granted now, but predicated specifically on detailed plans that would implement that approval to be prepared, submitted, and reviewed by our consultants, presumably within the next couple of weeks – as quickly as the applicant's professionals can generate them so that we don't have to have 50 pages of resolution on things that are already essentially all agreed to. In his experience, it shortens and expedites the process. He added that he had discussed this procedural approach with Mr. Bisogno during the recess and, as he understood it, he has no objections to proceeding in that fashion.

Mr. Bisogno agreed.

Mr. Batista asked how the Board would be sure that all of these items are checked off if we have nothing to check it off from.

Mr. Hoffman replied that the Board's consultants will say that Items 7, 8, 12, \$ 15, for example, have all been complied with and #9 still needs this, etc. So you can track, specifically, everything that has been raised in the reports and show that they are no longer open or, if they are still open, what still remains to be done.

Mr. Batista replied that he felt that that was fine with regard to what has been presented in the reports by the Board's professionals, but not what has been suggested by this Board.

Mr. Hoffman replied that Mr. Batista was absolutely correct. He said that he was talking about whittling down the large number of presumably non-controversial and already agreed upon recommendations by the Board's consultants, the Shade Tree Commission, etc. But if the Board members have their own recommendations, that puts it in a category of being specially noted.

Mr. O'Brien said that, in addition to the 4 reports (of the Shade Tree Commission, the Environmental Commission, and planning and engineering), amongst the discussion items were to rework the trash and recycle enclosure; add curbing to the west side of the driveway (which will taper); work on the lighting throughout the building; Shade Tree Commission review of the landscaping; and shutters on Union St. with window headers and bringing the brick face across the Union St. façade.

Mr. Hoffman said that if Mr. O'Brien feels that those items are noteworthy and deserving of specific mention, and he obviously does, he will include those, as well as any comments or recommendations the Board members may bring out. He said that the point is to whittle down most of the "boiler plate" part of this exercise.

Mr. O'Brien asked Mr. Batista if he had any other items that were missed. If so, he said they should be made on the record.

Mr. Batista replied that he had nothing further. He said that he had discussed the issue with regard to the rear fence but, based upon the testimony, he would leave that up to the applicant at this point. He said that he felt that the 6' works because of where it is, so we can leave that out of the Resolution.

Mr. O'Brien added that there is no variance required for it because it doesn't violate the front yard setback.

Mr. Hoffman noted that he did have that item specifically mentioned in his notes. He said that, if this were a contested application where there were differing views and experts on both sides, he would not recommend disposing of the final Resolution in the manner suggested. But when no one from the public has appeared and the applicant is basically agreeable to doing just about anything, it seems a sensible and efficient way to conclude it.

Mr. Connor asked if there were any further comments from the Board members that they would like to see incorporated in any design changes outside of Mr. Batista's recommendations, which he assumed the Board members were in agreement with.

(There were no further comments from the Board members).

In that case, Mr. Hoffman said that what should then be considered this evening would be a motion by the Planning Board to grant preliminary and final site plan approval for the proposal together with associated variances, waivers, and exceptions, all of which have either been discussed during tonight's proceedings, mentioned in the reviewing reports, and which will be detailed in the follow-up plans that will be submitted for further review by the Board's consultants.

Mr. Butterworth made such motion which was seconded by Mr. Briggs.

The meeting was open to the public for comment. There being none, the meeting was closed to the public.

A roll call vote was taken. Those in favor: Mr. Briggs, Mr. Butterworth, Mr. Dempsey, Mayor Harrington, Mr. Batista and Mr. Connor. Those opposed: None.

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DISCUSSION

PROPOSED NEW CHECKLIST

In response to Mr. Connor, Mr. O'Brien said that nothing has been distributed yet because, frankly, none of the subcommittee thought that the matter would be reached this evening. He added that consideration and conclusion of tonight's major site plan application set a record!

Mr. Connor agreed that the expedited method at the conclusion saved quite a bit of time, otherwise the meeting would have had to be adjourned for a half hour or more to work on the conditions of approval.

Given that the proposed new checklist had not been distributed and that he had announced that consideration of the Valley Road Business District would not take place this evening, he called for a motion to adjourn.

The meeting adjourned at 10:22 P.M.

DAWN V. WOLFE
Planning & Zoning Administrator