

**Township of Egg Harbor
Planning Board**

January 22, 2013

Solicitor: Christopher Brown, Esq., (in attendance, left at 6:15 p.m. Stanley J. Bergman, Jr., Esq., in attendance remainder of evening)

Engineer: James A. Mott, P.E., of Mott Associates (Robert Watkins, P.E., in attendance)

Planner: Vincent Polistina, P.P., of Polistina and Associates (in attendance, left at 6:15 p.m.)

A re-organizational and regular meeting of the Planning Board of Egg Harbor Township was held on the above date, 5:30 p.m., prevailing time, Egg Harbor Township Hall, Egg Harbor Township, New Jersey. The Chairperson opened the meeting by reading the statement in compliance with the Open Public Meetings Act.

Roll call taken as follows:

Manuel E. Aponte, V-Chairman, present
Committeeman John Carman, present
Milas Cook, Alt.#I, present
Charles Eykyn, present
James Garth, Sr., Chairman, present
Frank Kearns, arr. @ 6:30 p.m.

Robert Levy, another engage.
Mayor James J. McCullough, Jr., out-of-town
Peter Miller, Township Administrator, present
Paul Rosenberg, Alt. #II, present
MD Shamsuddin, Alt. #II, another engage.

May the record reflect: Charles Eykyn was duly sworn, by Board Solicitor Bergman, as a re-appointed Class IV Member of the Egg Harbor Township Planning Board.

Re-Organization:

1. Motion Aponte/Eykyn to nominate/appoint **James Garth** as **Chairperson** for the Planning Board.
Vote 7 Yes: Aponte, Carman, Cook, Eykyn, Miller, Rosenberg, Garth
2. Motion Carman/Rosenberg to nominate/appoint **Manuel Aponte** as **Vice-Chairperson** for the Planning Board. **Vote 7 Yes:** Aponte, Carman, Cook, Eykyn, Miller, Rosenberg, Garth
3. Motion Carman/Aponte to nominate/appoint **Paul Rosenberg** as **2nd Vice-Chairperson** for the Planning Board. **Vote 7 Yes:** Aponte, Carman, Cook, Eykyn, Miller, Rosenberg, Garth
4. Motion Eykyn/Rosenberg to nominate/appoint **Theresa Wilbert** as **Secretary** to the Planning Board. **Vote 7 Yes:** Aponte, Carman, Cook, Eykyn, Miller, Rosenberg, Garth
5. Motion Carman/Rosenberg to nominate/appoint **Christopher Brown, Esq.** as **Solicitor** for the Planning Board. **Vote 7 Yes:** Aponte, Carman, Cook, Eykyn, Miller, Rosenberg, Garth

Committeeman Carman advised since there is no anticipated changes for the professional's. He asked if the Board would like to do a consent resolution for all professional positions. Board Member Aponte stated this would be fine, however, he asked if the Planner and the Alternate Engineer's position be taken separately.

6. Motion Carman/Eykyn to nominate/appoint **Polistina and Associates - Vincent Polistina** as **Planner** for the Planning Board. **Vote 6 Yes:** Carman, Cook, Eykyn, Miller, Rosenberg, Garth. **1 Abstention:** Aponte
7. Motion Carman/Eykyn to nominate/appoint **Mott Associates – James Mott** as **Alternate Planner** for the Planning Board, **Remington Vernick and Walberg – Edward Walberg** as **2nd Alternate Planner**, **Mott Associates – James Mott** as **Engineer** for the Planning Board and **Doran Engineering – Matthew Doran** as **2nd Alternate Engineer** for the Planning Board. **Vote 7 Yes:** Aponte, Carman, Cook, Eykyn, Miller, Rosenberg, Garth
8. Motion Carman/Eykyn **Polistina and Associates - Vincent Polistina** as **Alternate Engineer** for the Planning Board. **Vote 6 Yes:** Carman, Cook, Eykyn, Miller, Rosenberg, Garth. **1 Abstention:** Aponte
9. Motion Miller/Carman to adopt a resolution setting the **Time and Days for Special and Regular Meetings** for the Planning Board and setting the February Meeting of the Planning Board for Monday, February 25, 2013, 5:30 P.M. **Vote 7 Yes:** Aponte, Carman, Cook, Eykyn, Miller, Rosenberg, Garth
10. Motion Miller/Aponte to adopt a resolution designating the **Official Newspapers** for the Planning Board as **The Press of Atlantic City, The Mainland Journal and The Courier Post**. **Vote 7 Yes:** Aponte, Carman, Cook, Eykyn, Miller, Rosenberg, Garth

MINOR SUBDIVISION(S):

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| <ol style="list-style-type: none"> 1. Bellevue Properties Group
6725 Delilah, LLC
Zone: M – 1, 3.605 acres, sewer/water, applicant is proposing to subdivide property into two (2) lots. Proposed lot 8 will consist of 2.094 acres and will contain an existing two (2) story office building. Proposed lot 8.01 will consist of 1.511 acres and also contain an existing two (2) story office building. No site improvements are proposed as part of this land development application, however, variance relief is requested. CAFRA | <p>Minor Subdivision
902/8
6725-27 Delilah Road
Waiver of Time --- Not Granted</p> |
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Checklist Waiver(s):

1. **Item #5:** Existing topography at one-foot intervals within the subject property and extending 100' ft. from the property lines.
2. **Item #9:** Survey of property prepared by a NJ Licensed Land Surveyor with datums in NAD 83 and NGVD 88 for all horizontal and vertical datums.
3. **Item #14:** Site characteristics map
4. **Item #15:** Letter from the NJDEP indicating the proposed subdivision does not require a wetlands delineation.
5. **Item #16:** Copy of existing and/or proposed covenants or deed restrictions
6. **Item #17:** Soil Boring information
7. **Item #21:** Temporary stakes

8. **Item #24:** Proposed easement of land reserved or dedicated to public or common use shall be designated and the proposed use of site other than residential shall be noted.

Variance(s):

1. §225-7: Minimum Lot Area: **Proposed Lot 8.01: 1.51 acres in lieu of 2 acres required.**
2. §225-7: Side Yard Setback: **Proposed Lot 8: 29' ft. in lieu of 50' ft. required**
Proposed Lot 8.01: 33.7' ft. in lieu of 50' ft. required
3. §225-7: Maximum Lot Coverage: **Proposed Lot 8: 77.8% in lieu of 70% permitted**
4. §225-7: Parking Setback-front yard: **Proposed Lot 8: 8.1' ft. & 14.3' ft. respectfully in lieu.**
Proposed Lot 8.01: of 20' ft required
5. §225-7: Parking Setback-rear yard: **Proposed Lot 8: 8.1' ft. & 14.3' ft. respectfully in lieu.**
Proposed Lot 8.01: of 20' ft. required
6. **Parking Setback: Proposed Lot 8:**
Proposed Lot 8.01: 0' ft. in lieu of 10' ft.

Charles Gemmel, Esq., introduced himself as attorney for the applicant. He advised currently there are two (2) buildings existing on block 902 lot 8. The applicant is seeking minor subdivision approval in order to create two (2) lots for which one (1) building will sit on each. He advised there will be two (2) separate owners of each parcel and there will be cross access easements prepared for each site. He advised the site will operate in the same manner as it has since the 1980's.

Attorney Gemmel advised the applicant is seeking some variance relief based upon providing the proposed lot lines. He advised the applicant's professionals will providing detail information concerning the sidewalk waiver. Attorney Gemmel noted the applicant would like to make a contribution to the sidewalk fund.

Attorney Gemmel advised he has provided notices to the Board Secretary.

Rami Nassar, New Jersey Licensed Engineer, Schaeffer, Nassar, and Scheidegg, Cantillon Boulevard, Mays Landing, New Jersey, was duly sworn: Engineer Nassar advised the property in question is across from the "Print Art" facility and the "Atlantic County Utilities Authority". He indicated the site contains two (2) existing buildings. He advised with the proposed subdivision each building and the current parking will be divided between the two (2). He advised the parking is beyond what is required.

Engineer Nassar advised proposed lot 8 will contain a lot area of 3.18 acres, therefore, it complies with the ordinance, however, proposed lot 8.01 is substandard. He advised proposed lot 8.01 has an area of 1.5 acres and 2 acres is required for the zone.

Engineer Nassar advised the applicant is requesting a parking setback of -0- feet because of the new proposed lot line. He further noted the applicant must also seek a variance for the maximum amount of lot coverage for proposed lot 8, again, due to the request for subdivision approval. Engineer Nassar stated there is no new development for either lot with respect to this proposal.

Engineer Nassar advised the applicant is requesting the allowance to make an in lieu contribution for the sidewalk. He stated currently the facility has a small strip of green area between the road and the

property line. He advised if the sidewalk were to be placed in there will be no other green space available on either parcel. He also advised there is a 5 ft. difference in the elevation of the roadway and the site itself. Engineer Nassar advised they have met with the County and discussed this situation with them. He advised the County has suggested rather than placing the sidewalk in they should make a contribution.

Engineer Nassar advised there is no residential in the area nor is this a shopping community to require sidewalk. He advised there is only "Print Art" and the "Atlantic County Utilities Authority". Board Member Aponte asked why the lot lines were created this way. Engineer Nassar advised they were proposed in order to give allocation to the square footage of each building to meet their needs.

Board Solicitor Brown advised there appears to be eight (8) checklist waivers being sought. Attorney Gemmel advised this is correct. Engineer Nassar stated the applicant is not proposing any improvements to the site. He advised all the checklist waivers listed are based on new development, which none is being proposed. Township Administrator Miller asked if variance relief was not granted at time of approval years ago? Attorney Gemmel advised relief sought has not changed at this site, other than the fact a new lot line is being placed in. He advised the relief is associated with the lot area, lot coverage and setback for the parking.

Board Planner Polistina indicated he believes the variance(s) are needed because it is for the lots that are being proposed now. He advised the exiting lot is changing because the applicant is subdividing. He stated even though some variance relief may have been granted years ago relief needs to be granted again because of the subdivision.

Board Planner Polistina advised the applicant is requesting the Board adopt the resolution of approval this evening. He indicated the variance relief must be included within the resolution as presented.

Engineer Nassar indicated there is one (1) sight triangle for the County. He indicated the existing sight triangle will be vacated and a new site triangle will be approved under the ASTO requirements. He advised the applicant will keep this area clear. Board Member Rosenberg asked what will happen if the parties involved with easements do not agree. Attorney Gemmel advised the obligation of the cross-easements will be between them not the Board. Board Planner Polistina stated all other approvals from any other agencies must also be satisfied.

Board Member Aponte advised some variance relief sought is based upon existing conditions, other relief sought is due to the proposed lot line. He indicated he had no issue. Township Administrator Miller advised he does not have any issue with relief sought. He indicated also some variance relief is based upon the new lot line. He indicated there will be cross access easements to allow for parking. He indicated he did not have any issue with variance relief requested.

Motion Eykyn/Aponte to open public portion. Vote 7 Yes.

May the record reflect no one came forward

Motion Garth/Rosenberg to close public portion. Vote 7 Yes.

Motion Eykyn/Carman to grant requested checklist waiver(s). Vote 7 Yes: Aponte, Carman, Cook, Eykyn, Miller, Rosenberg, Garth

Motion Aponte/Carman to grant requested variance relief. Vote 7 Yes: Aponte, Carman, Cook, Eykyn, Miller, Rosenberg, Garth

Motion Carman/Eykyn to grant conditional minor subdivision approval. Vote 7 Yes: Aponte, Carman, Cook, Eykyn, Miller, Rosenberg, Garth

Motion Miller/Aponte to adopt amended resolution for memorialization concerning SD 06-12 Bellevue Properties Group, b/l: 902/8. Vote 7 Yes: Aponte, Carman, Cook, Eykyn, Miller, Rosenberg, Garth

PUBLIC HEARING(S):

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| 1. SP 10-11 (Amended)
Jersey Outdoor Media
Zone: MC, 5.85 acres, applicant received minor site plan approval in September, 2011 to construct a double sided billboard to be setback at a distance of 25' ft. from the R-O-W of Margate Boulevard. The existing billboard is 60' ft. in height and has one (1) 20' X 30' digital sign facing west and two (2) 10' X 30' non-digital signs facing east. | Amended Minor Site Plan
9801/13
114 Margate Boulevard
Waiver of Time – Not Granted |
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Applicant is now seeking to amend the minor site plan approval in order to relocate the billboard to an area outside of the wetlands. The billboard will be mounted on a single pipe column and will be cantilevered over the wetlands area. No other improvements are proposed on site. CAFRA

Checklist Waiver(s):

- 1. Item #12: Vehicular access**
- 2. Item #15: Location of all wetlands area, transition area, or buffers**
- 3. Item #18: Stormwater Management Plan**
- 4. Item #19: Water and sewer connection**
- 5. Item #20: Method of solid waste**
- 6. Item #21: Location of existing wells and septic systems**
- 7. Item #23: Landscaping plan**
- 8. Item #24: Lighting and signage plan**

Board Member Rosenberg stated due to his non-participation with this hearing during the last meeting he will remove himself from voting on this matter.

Attorney Talvacchia advised the Board currently has only six (6) members and he prefer a vote with seven (7) members versus six (6). He advised he would prefer an odd number of members. Township

Committeeman Carman advised the Board may carry another month, however, there is no guarantee it will not be the same situation.

May the record reflect: the meeting was delayed until Board Member Kearns arrival at 6:30 p.m.

Chairman Garth moved that the meeting be called back to order, based upon the arrival of Board Member Kearns, whom arrived at 6:30 p.m.

Stephen Hankin, Esq., introduced himself, as counsel for the Levitt's. Attorney Hankin advised he is having Evan Labov, Esq., a new attorney with his firm, pass out a new table of contents concerning the booklet that was passed out last month. He also indicated a Volume II booklet is also being presented to the Board.

Attorney Talvacchia indicated there are some newspaper articles that are not relevant to this matter and there are resolutions from Margate and Northfield, that unless there are witnesses that come here he does not believe they are proper. He indicated he would like to reserve the right to object to these exhibits as they proceed.

Chairman Garth asked if Attorney Hankin has any answer to what Attorney Talvacchia stated. Attorney Hankin stated the resolutions are formal documents from cities and they are an exception to the heresay rule. He indicated last month the Board heard from the Mayor of Northfield who verified it and this month Scott Abbott, Esq., the Solicitor for Margate, has been sent by the City of Margate to read the resolution into the record and to voice their objection to this application.

Board Member Aponte asked what is his answer concerning the newspaper. Attorney Hankin advised he also believes the newspaper articles are also relevant. Board Solicitor Bergan advised the Board should hear the testimony and the exhibits will be introduced during and the Board can determine at that time.

Attorney Hankin advised when he was last present he had concluded the testimony of Engineer Zepponi, however, there was some questions from Township Administrator Miller concerning the camera's that were used. Attorney Hankin advised he would like to clarify some testimony from Engineer Zepponi concerning the photographs that were placed in the exhibit that would be considered Volume I (green booklet presented in December, 2012).

Alex Zepponi, P.E., was duly sworn: Attorney Hankin advised Engineer Zepponi's report was introduced last month, however, it has been placed within Volume II as Exhibit X. Attorney Hankin advised during Engineer Zepponi's testimony last month he had indicated he had taken certain photograph's that are part of his report, which is Exhibit X. Engineer Zepponi stated yes, he advised his assistant was with him during the observation and many pictures were taken. He further noted when he looked at the photographs last month he believed they were the ones taken because they were identical to the location where his assistant had taken photograph's, however, he stated they were not. The photograph's that were placed within the report were provided by the homeowner.

Engineer Zepponi stated the photographs taken by his firm are very similar and reflect the same

conditions. Attorney Hankin asked if the photograph's within Exhibit X representative to the photograph's taken by you? Engineer Zepponi stated yes. Attorney Hankin asked that within the report presented it does reference that the photographs were taken by the Levitt's and not by yourself. Engineer Zepponi advised yes. He advised he had forgot this information when presenting his testimony last month.

Township Administrator Miller stated he has quickly looked at Exhibit X. He asked were in the report does it say the Levitt's took the photographs. Attorney Hankin stated it is outlined on Page 5 of the report, 4th paragraph; last line. Board Member Aponte stated it does not say they took the photographs. He indicated it says "attached please find photos representative of conditions observed".

Township Administrator Miller asked when Engineer Zepponi did his report were the Levitt's present. Engineer Zepponi advised Mrs. Levitt was present. Township administrator Miller asked if Mrs. Levitt took the photographs? Engineer Zepponi stated he does not know whether it was Mr. or Mrs. Levitt.

Township Administrator Miller asked if Engineer Zepponi has the photographs he took that day to make part of his report, since he is not sure who took the ones within his report. Engineer Zepponi stated it was either one of them and they can testify to this. Township Administrator Miller stated he needs to know for the value of the report if the person who prepared the report can advise where the documentation included came from.

Attorney Hankin asked Engineer Zepponi to explain why his photographs were not used and whether the ones that were are representative of what was truly seen. Engineer Zepponi advised there were two (2) issues. He explained the first was based upon the weather, which he advised delayed the report several times. Engineer Zepponi indicated this information was provided within the beginning of his report. He then advised that by providing these pictures because of the time constraints and because they represented what was he saw and the pictures he took that night he placed them in the report to get it out in time. He further noted, he did not believe it would hurt to show the photographs on another night that were representative to what we saw as long as it was referenced they were not his.

Township Administrator Miller asked if these pictures were taken on the same day of his report, May 7, 2012. Engineer Zepponi stated not to his knowledge, but they represented what he witnessed that day and similar to his photographs. Township Administrator Miller asked if Engineer Zepponi has his photographs available.

Board Member Kearns asked Engineer Zepponi if he had taken any photographs. Engineer Zepponi stated they had taken numerous photographs, however, they were moving their office and the file room was vandalized so he does not have them, as well as, other items as a result.

Township Administrator Miller stated so he understands, Engineer Zepponi represented he does not know when the pictures were taken that are within his report, however, they look similar to his, which were lost. Engineer Zepponi stated this is correct.

Attorney Hankin asked as a result of his observation on May 7, 2012, if Engineer Zepponi had any conclusions and if so what. Engineer Zepponi advised on the last page of his report are the conclusions.

He then read directly from his report his conclusions onto the record. Engineer Zepponi stated the lighting standards exceeded current standards and was over lit, which was compounded that the displaced having white backgrounds at night. He also advised light does trespass onto the Levitt's Bay Drive residence and that there is illumination within the Levitt's bedroom that is about 3,000 ft. away. Engineer Zepponi advised it is creating a nuisance for the Levitt's.

Engineer Zepponi stated they are still his opinion today. He further noted that it also based on personal observations not just pictures. He indicated in his experience it is much brighter than what he normally deals with including the meter readings. Attorney Hankin asked if Engineer Zepponi's results surprised him? Engineer Zepponi stated yes.

Attorney Hankin stated last month Engineer Zepponi indicated that he went 250' ft. beyond the property line. He asked what was the amount of the foot candles? Engineer Zepponi stated it was over 3 foot candles. Engineer Zepponi stated this is not a specific measurement. He indicated to properly test the board it needs to be turned off to see what the lighting is in the area. He advised it could not be turned off by him. He then stated the board would be turned back on with an all white display, which should not be more than .3.

Township Administrator Miller asked how the measurements were taken. Engineer Zepponi advised he used a light meter and the measurement was taken at the recommended distance based on the standards for a billboard this size. Township Administrator asked how Engineer Zepponi accounted for the lights from Atlantic City, the other billboards, the lights from Margate.

Engineer Zepponi advised this would be ambient light. He advised he went to the right and left of the billboard to establish the ambient light then it was the meter was directed at the billboard for a direct read. Again, he advised he was not at the height of the billboard board and it was not all white, but it was exceeding the .3 maximum. He indicated this is referenced within his report.

Board Member Aponte asked for clarification is the reading 0.3 or is it 3.0. Engineer Zepponi advised the reading is 3.0. Board Member Eykyn asked the readings from the Levitt's house. Engineer Zepponi stated he took readings from the Levitt's house where the photographs were taken and where he observed the light on the wall. He indicated he also took readings from the property line of the billboard, which was some 200' feet. He advised from the Levitt's it was .1 inside the property, as referenced in his report.

Board Engineer Watkins stated the ordinance says you cannot go over a .5 lumens of intensity. , therefore, if it is .1 it is meeting the Township requirements of .1 lumens at Mr. Levitt's property line. Engineer Zepponi stated the property line is 3,000 ft. way.

Engineer Zepponi stated he measured the billboard from its property line about 250' ft. away and it was over 3. He stated the intent of the ordinance is to read it at the property line. He indicated he went beyond. Township Administrator Miller stated Engineer Zepponi is interpreting the Township Ordinance standards for a parking lot lighting as a standard for sign lights. He indicated that by applying this standard any shopping center that has a sign that is lit and it exceeds .5 where it crosses the property line is in violation.

Engineer Zepponi stated this is possible. Attorney Hankin advised these are design standards under Section 94-23H and not just for subdivisions or parking garages. He then read into the record this section of the ordinance.

Chairman Garth asked if the billboard is illuminated to its full power. Engineer Zepponi advised this billboard is manufactured by Watchfire. He indicated to his recollection during the daytime hours it is at full power and nighttime they run at 10%, as a default. However, he is not sure what this particular sign is at. Chairman Garth asked than Engineer Zepponi is not aware at what power range it was running the night of the observation. Engineer Zepponi stated this is correct. It could have been 10%, 5% or even 2%.

Attorney Hankin asked Engineer Zepponi to again explain the weather conditions when he performed his observation. Engineer Zepponi advised there were some high clouds and conditions were not ideal. He advised there was mist and some light bouncing off. He further noted that unless he has control of the billboard and the weather conditions are ideal it is not precise.

Board Member Cook stated going back to what Engineer Zepponi stated about the Billboard being bright this is his opinion. Engineer Zepponi stated it was overlit. Board Member Cook asked what is it substantiated by. Engineer Zepponi stated by the meter readings and his professional opinion and experience.

Board Member Cook asked if the engineering department believes this is correct or incorrect. Board Engineer Watkins stated they did not perform any readings. He indicated based upon the testimony of the applicants professional does not coincide. Board Engineer Watkins stated the applicant Bob Watkins: we did not take any readings.

Attorney Hankin asked Engineer Zepponi with the light meter did the limit exceed what is referenced in section of 8 of 94-23. Engineer Zepponi stated yes it did. Attorney Hankin asked Engineer Zepponi if he is familiar with 94-23k. Engineer Zepponi read this section before responding. Attorney Hankin asked if that section applies to all site plans. Engineer Zepponi stated yes it does. He advised it discusses direction/location of illumination, the intensity in foot candles, hours of illumination, specifications of light fixtures.

Board Engineer Watkins advised everyone to look at letter E in section 94-23. He stated it speaks of a maximum height not to exceed maximum building height of 25' ft. He asked would this not be a lighting standard for a pole mounted light in a parking lot or street. Engineer Zepponi stated this is correct. Board Engineer Watkins advised it does not state it is a lighting for a sign or billboard. Engineer Zepponi stated this is establishing what is found objectionable. Board Engineer Watkins stated prior Engineer Zepponi advised he could not find anything in our ordinance and the report he prepared did not reference this information.

Board Engineer Watkins then referenced section 94-23 F and G: that speaks of shielding and spotlighting being pointed to buildings not on them. He then referred to 94-23H which speaks of exterior lighting. So this section goes to spotlights, pole-mounted lights. Engineer Zepponi stated this is correct.

Township Committeeman Carman asked if lighting is addressed within the signage section of the ordinance. Board Engineer Watkins stated the only lighting discussed for signs is in section 225-60(A) 6: he stated it speaks of rotating or moving signs are permitted. He then advised in 225-59D it also speaks of no signs having flashing lights or exposed flashing lights or high intensive illumination. He advised this is the only address of lighting.

Attorney Hankin asked section 225-61 states illumination devises such as floor lights or spotlights shall be placed or shielded to prevent rays of illumination from being cast in neighborhood dwellings and approaching vehicles. Board Engineer Watkins stated there is no requirement what the illumination could be. Attorney Hankin advised it is general. Engineer Zepponi stated it is the only expression of what the town has of what they think light should be crossing a property line.

Attorney Hankin referred Engineer Zepponi to section 225-76C and asked Engineer Zepponi if it applies to illumination, billboards. Engineer Zepponi read into the record Article X item C. Engineer Hankin clarified this is exhibit GG in volume II and then asked if the billboard violates this provision. Engineer Zepponi stated from the intent of the ordinance and what he saw in the Levitt's bedroom the billboard would be in violation.

Board Member Aponte asked where this section that was just discussed come from. Township Administrator Miller stated it comes from the Township Ordinance under general performance standards. He advised if you look at this section and refer to B it discusses Fire Hazards, if you look at section D it says uses shall not smoke, chemicals or odors. He advised these are general requirements.

Township Administrator Miller asked Engineer Zepponi if he took a measurement at the end of this sites property line. He indicated 200' ft. was discussed, however, the property is wider than 200'. Engineer Zepponi indicated he took the measurement from the other side of the street within the R-O-W.

Attorney Hankin asked if Engineer Zepponi found glare within the Levitt's bedroom. Engineer Zepponi advised he would be hesitant to say glare, however, he would call it a nuisance since it bounced off the back wall. Township Administrator Miller advised by taking a measurement across the street 200' ft. and it is above your head how would it provide glare. Engineer Zepponi stated the measurement was taken at this point because the standards recognizes this is where it needs to be in order to determine if it exceeds .3 foot candles above the ambient light.

Engineer Zepponi noted this point is also to see whether the sign exceeds the standards and as previously advised based on the coloring, the vertical and horizontal sweeps he would have expected it be less than .1 foot candles. Township Administrator Miller indicated last month Engineer Zepponi advised the measurement from 200' ft. the sign was .23 or .231, but light was over 3 foot candles. He asked if this is still Engineer Zepponi's testimony. Engineer Zepponi stated it is still the same, however, it also depended upon the advertisements with the white background. Township Administrator Miller asked when there was no white board was it below .3. Engineer Zepponi stated this is correct.

Board Member Eykyn asked if it is Engineer Zepponi's opinion if the billboard needs to be turned down. Engineer Zepponi stated it could be a lot less than what he saw the night he made his observation if they just turned it down. Board Member Aponte stated so if the white was cut out completely that would cut

out the .3. However, it seems the color is also too high. Engineer Zeponni indicated this is correct, but it is his understanding the applicant could crank it down. Board Member Aponte stated he understands, however, Engineer Zeponni still does not know what setting it was on when he took his readings. Engineer Zeponni stated this is correct.

Board Member Aponte stated he has concerns that Engineer Zeponni did not use his own pictures within the report but someone else's. Engineer Zeponni advised the pictures represented what he saw when he was at the site. Engineer Zeponni advised he was there and he saw the conditions and in his opinion what he saw was the sign was over lit from both the Levitt's home and under the sign.

Township Administrator Miller advised Engineer Zeponni has advised he is an advocate for the billboard installers. He advised if he had a client that was .23 how would you get them to the .1. Engineer Zeponni advised they can access the software and take it down. Township Administrator Miller asked if you cut in half what would the reduction be 2%, 5%. Engineer Zeponni stated it could 2% or 3% power. He also advised it needs to be kept in mind that at night it is cut to 10%.

Attorney Hankin asked if the difference in the readings between Engineer Zeponni and Dr. Tobias is because Dr. Tobias was not in the bedroom on the 2nd floor, but at the street on a different angle. Engineer Zeponni stated yes. He also noted there is a substantial body of water between the home and the sign and there are reflections off water but not on the ground. He advised when the light coming from the billboard is turned down the light bouncing off the water will also be turned down

Township Committee Carman asked if the difference between .24 and .26 is that great. Engineer Zeponni stated it is not that great. Township Committee Carman asked if the average person be able to discern .24 or .26. Engineer Zeponni stated no. Township Committeeman Carman asked if .31 would be from .24. Engineer Zeponni stated yes, if you line a number of items up it would jump out.

Attorney Talvacchia stated at the last meeting Engineer Zeponni was asked what type of meter he used. Engineer Zeponni advised it is a Gossen Luna-Pro, which is photography based. He indicated what Dr. Tobias used is a tenth of a foot candle and his model has a needle that sweeps. He further noted it goes down into the hundredths of a foot candle.

Attorney Talvacchia asked if Engineer Zeponni's meter was calibrated. Engineer Zeponni stated no. He indicated this was not a precision test because he did not have control of the billboard. He indicated he was looking at this in order of its magnitude. Attorney Talvacchia quoted an area in Engineer Zeponni's report concerning constraints and analytical purity. He asked if the numbers presented were not precise. Engineer Zeponni stated again, to have a precise number for the standards he would have needed the Board to be turned off and he could not do so.

Attorney Talvacchia stated the industry standard is also what Dr. Tobias applied. Engineer Zeponni stated he and Dr. Tobias agreed on almost everything. Attorney Talvacchi asked that because you could not control the board on and off you could not obtain an accurate reading of the ambient light. Engineer Zeponni stated because he could not turn the billboard off he swept to the right and left and averaged the side readings to consider the ambient light levels.

Attorney Talvacchia asked Engineer Zepponi if he read Dr. Tobias' report. Engineer Zepponi stated yes. Attorney Talvacchia stated Dr. Tobias indicated the applicant meets the industry standards even with a white board. He asked if this is correct. Engineer Zepponi stated yes. Attorney Talvacchia asked if Engineer Zepponi's readings were done on May 7, 2012. Engineer Zepponi indicated this is correct.

Attorney Talvacchia asked if Dr. Tobias' readings were performed on April 21, 2012. Engineer Zepponi stated yes. Attorney Talvacchia stated obviously in Engineer Zepponi's mind he can provide the theory on the difference. He asked if he could explain. Engineer Zepponi explained there were a number of reasons why it could be different. He indicated one is the fact he was in the Levitt's bedroom and Dr. Tobias did not have access, he advised he had a different elevation, he had the impact from the water and he was at a lesser angle away from the perpendicular.

Attorney Talvacchia asked how much further was Dr. Tobias' measurement from Rosedale Avenue than where Engineer Zepponi was. Engineer Zepponi indicated he believes it would be around 150' ft. Attorney Talvacchia advised Dr. Tobias had a foot candle measurement of .008 and you had .26. He asked what the magnitude between these measurements is. Engineer Zepponi advised Dr. Tobias is in the thousands and he is in the tenths so it's a hundredfold difference. Attorney Talvacchia asked what this could be attributed to. He asked if it could be the difference in location between Rosedale and the bedroom? Engineer Zepponi stated the difference between the Rosedale location and the bedroom would be a few decimals and not significant. Engineer Zepponi stated he is not sure what the view from the street was. He indicated he does not know if it was unobstructed.

Township Committeeman Carman asked if Engineer Zepponi had an actual meter reading or was it above the ambient. Engineer Zepponi advised it was an actual meter reading. Attorney Talvacchia advised Dr. Tobias' report indicated we had control of the sign and it was shut off, therefore, Dr. Tobias has the true ambient light. He asked Engineer Zepponi if this is correct.

Attorney Talvacchia stated Engineer Zepponi indicated the standard for measurement is to stand in front of the sign. Engineer Zepponi stated yes, he advised they determine the .3 at the front. Attorney Talvacchia advised within Engineer Zepponi's report, specifically, page 6 he indicated the meter reading was taken 250' ft. north of sign, on the ground, from the southbound shoulder. He stated, as referenced in the report, the display was dark and it was .5 and a display with white as 3.5. He asked if this includes ambient. Engineer Zepponi stated yes. Attorney Talvacchia asked if the ambient is an assessment. Engineer Zepponi advised it is not the assessment of ambient, but the reasoning of the readings.

Attorney Talvacchia asked if Engineer Zepponi's statement concerning him being able to see the light change on the wall of the bedroom are within the industry standards. Engineer Zepponi stated he was shocked to see light on a back wall 3,000 ft. away.

Attorney Talvacchia read into the record Section 94-23 A asking Engineer Zepponi if this paragraph deals with signs in his opinion. Engineer Zepponi stated no. Attorney Talvacchia referred to Section 94-23 B-E and asked Engineer Zepponi if any of these sections have any to do with billboards? Engineer Zepponi stated no. Attorney Talvacchia then read into the record Section 94-23 F and G and asking if they are standards having anything to do with billboards. Engineer Zepponi stated no.

Attorney Talvacchia stated Attorney Hankin referred to a standard within the ordinance that stated all exterior lighting shall be designed to have a minimum lighting intensity, it shall be soft and glare-free and not cast, etc., he asked if this has anything to do with billboards. Engineer Zepponi stated not as a normal billboard but a digital he indicated yes, because it discusses the trespassing of light over the property line. He indicated it is not the billboard but the light that is the objection.

Attorney Talvacchia then asked that section 94-23 is not limited to street lighting but it goes beyond. Engineer Zepponi he does believe so in his opinion. Attorney Talvacchia asked he has Engineer Zepponi discuss the illumination at the property line. He asked what property line. Attorney Talvacchia asked Engineer Zepponi if he is familiar with the New Jersey Noise Code as a Planner? Engineer Zepponi stated yes. Attorney Talvacchia stated it is not the measurement for noise emanation are to the receiving property line. Engineer Zepponi stated yes, however, if you were building a shopping center parking lot you would place the lights up you have to make sure the lights are not directed to exceed a tenth at the property line.

Attorney Talvacchia asked if there is a section in the Township Ordinance that discusses signs. Engineer Zepponi stated yes. Attorney Talvacchia asked if this is Article VIII which deals with billboards and signs. Engineer Zepponi stated yes. Attorney Talvacchia asked if illumination standards for sign discussed. Engineer Zepponi stated yes. Attorney Talvacchia stated there is a standard sign and it is not ignored. Engineer Zepponi stated yes, but they are subjective.

Attorney Talvacchia asked if there is a standard that billboards must be 500' feet from a residential district. Engineer Zepponi stated yes. Attorney Talvacchia advised tonight is the first time he heard the argument concerning the design standards with vibration, glare or noise shall not emanate beyond the lot lines of the property where it originates. He asked Engineer Zepponi if this means light can be prohibited from the property line it emanates from. Engineer Zepponi stated the .1 is reasonable, however, he does not believe -0- is reasonable.

Attorney Talvacchia asked if the fact the applicants sign is visible from Levitt's does not mean it is in violation. Engineer Zepponi stated no. Attorney Talvacchia referred to section 225-37 D(4) subsection E2 advising it discusses foot candles and that it shall not exceed .2, therefore, it is a doubling. He asked Engineer Zepponi if he reads this provision that .2 foot candles is measurement made at the property line of where the light is created. Engineer Zepponi stated it is from the parking lot and the ordinance is specific in this situation.

Township Administrator Miller asked what the width is of the Levitt's property. Engineer Zepponi stated he does not have the specific width but would guesstimate it is 150' ft., which is based on the character of the neighborhood. Township Administrator Miller stated then measurement he took and what Dr. Tobias took could not have been more than 150' ft. Engineer Zepponi stated it could be.

Township Administrator Miller stated there should only be about a 5 to 6 degree angle difference. Engineer Zepponi stated it is a small number, but would be a technical difference. Township Administrator Miller asked when the last time your meter was calibrated. He advised through the Levitt's attorney he would like Engineer Zepponi to provide to the Board the certificate of calibration of the meter and when was it last done. He also noted for the record that he would like Attorney

Talvacchia to have their expert provide the same information.

Attorney Hankin stated Engineer Zepponi has advised what the impact is be eliminating the white light intensity. He asked what would happen if the sign was lowered to height of 25' ft. Engineer Zepponi stated the impact would be significant. Attorney Hankin asked if all the other billboards on Margate Boulevard are pre-existing in the Marine Commercial zone and 25' ft. high. Engineer Zepponi stated this is correct. Chairman Garth asked if the 25' ft. is the top or the bottom? Engineer Zepponi stated they are 25' ft. to the top.

Motion Kearns/Eykyn to open public portion.

John Scott Abbott, Esq., was duly sworn, Attorney Talvacchi stated he would lodge an objection. He indicated the resolution is an exception to the hearsay rule and he advised he would be entitled to cross-examine the three (3) people on governing body that signed it. He did, however, note, that he has no doubt the resolution is an authentic document.

Attorney Abbott advised as a planning and zoning board attorney for over 30 years, as well as the city solicitor for Margate for a number of years, strict rules of evidence do not apply to planning and zoning board matters. Board Solicitor Bergman advised not everything is admissible. Attorney Abbott stated yes, but it does not mean that a resolution adopted by the governing body of the City of Margate is not admissible as part of your record. Board Solicitor Bergman stated he agrees.

Township Administrator Miller stated the resolution speaks for itself and testimony cannot be provided by Attorney Abbott as to what the commissioners were thinking when they voted on it. Attorney Abbott advised this is a unanimous opinion. He indicated he disagrees with Township Administrator Miller. He indicated he has a sealed, certified resolution being presented and he would like to read into the record the resolution because his governing body asked him to present it to the Board so that they know their feeling is towards this application.

May the record reflect: John Scott Abbott read into record the resolution from Margate City opposing the electronic billboard and CAFRA permit (in its totality).

Attorney Abbott advised this is what the governing body of Margate unanimously feels. He stated they are very concerned as to where it will stop. He asked when will an electronic billboard on the other side of the road be installed that faces the City of Margate. He indicated elected officials have expressed their concerns and feel this is detrimental to the Environment and their welfare, as well as the Township's, and Northfield.

Attorney Hankin advised this resolution is marked as Exhibit N within his exhibits. Board Solicitor Bergman accepted the Margate City resolution from Attorney Abbott and marked it as Exhibit Margate 1.

Claire Moyer, 9 Henry Drive, Northfield, New Jersey, sworn in: Ms. Moyer stated she did not come to the meeting tonight with prepared remarks. She stated she has lived in Northfield her whole life and uses the Margate Bridge and has enjoyed it for years. She indicated one date she started over it and

could not believe this obscenity that greeted her. Ms. Moyer advised she could not believe something like this could be placed on this lovely stretch of road.

Ms. Moyer stated she was happy for Lady Bird Johnson and her efforts at Scenic America. She stated the signs stopped on the Boulevard because they were allowed anymore and then this happens. She stated this billboard is not scenically compatible with the rest of the roadway and it is objectionable to not just her but others also.

James M. Robertson, Esq., 203 Infield Avenue, Northfield, New Jersey, sworn in: Attorney Robertson stated he has been an attorney for 26 years and he was born and raised in Northfield. He has had hundreds of applications before the various planning and zoning board's. He indicated he is here as a citizen so when billboard went up he was concerned and questioned who allows this to go up.

Mr. Robertson stated he has never met the Levitt's and he met Mr. Hankin only one time and they did not know I was showing up tonight. He indicated he knows, as an attorney, that they have taken on a huge financial burden and they have to take whatever is thrown at them. He indicated the Levitt's deserve someone to stand with them. He indicated he gives them credit.

Mr. Robertson stated the Township has taken a scenic ground and allowed someone to place a commercial billboard on it and it is offensive. He indicated over the holiday's he saw "it's a wonderful life" and he thought of the billboard being Pottersville personified.

Mr. Robertson stated as a citizen of Northfield and as an attorney he would asked the Board to reject this application and preserve the sacred ground. He indicated he would implore the Board to stand up for right. He indicated don't let Pottersville on the road way.

Janet Mallin, Ocean Heights Avenue, Egg Harbor Township, New Jersey, sworn in: Ms. Mallin read into the record a prepared statement. She advised in the statement if the sign is allowed to stay on the road the character of the wetlands will be changed irrevocably and something of beauty will be lost.

Michael Mallin, Esq., Ocean Heights Avenue, Egg Harbor Township, New Jersey, sworn in. Mr. Mallin advised he is an attorney but he is not here as one. He advised this is an emotional situation for him. He indicated he has been a resident of Absecon Island for 65 years and he has lived in Egg Harbor Township for the last 25. He stated he travels this road. He stated when he came here he thought he would be the only one saying certain things, but others have referenced his thoughts, therefore, he is not going repeat them.

Mr. Mallin stated this road is very special. He advised it is about boats, birds and turtles. He stated this sign changes things on the road that are not beneficial to this area. He indicated he was here in December and no Township residents that were present. He indicated he is present because this is his Township, this Planning Board is his board and this sign should not stand.

David Bowen, 19 East Floral Avenue, Pleasantville, New Jersey, sworn in: Mr. Bowen advised the issue of LED signs is not difficult, however, this technology was not anticipated in the Land Use Law.

Mr. Bowen advised he was on the Pleasantville Planning Board for a number of years. He stated they recently revised their Land Use ordinance in order to deal with issues with these kind of signs. He stated he agrees with the other people that there is a place for these but Margate Road is not it.

Mr. Bowen advised his concern is that these signs move and they change ever seven (7) to eight (8) seconds. He indicated there is a very large one on expressway going into the Atlantic City and he is drawn to it and it is distracting. Mr. Bowen stated on the Margate Boulevard it is even more distracting because it is a stark area especially in the evening.

Mr. Bowen stated he has a challenge to Township Administrator and the Board. He indicated they need to work on their land use ordinance to deal with this kind of thing. He stated most billboards are static and the lights discussed are for parking lots. He stated this billboard moves, it is distracting and it is a different issue. He stated he would ask the Board to think about how they want this to be in the Township.

Steve Jasiiecki, 112 N. Lancaster Avenue, Margate, New Jersey, sworn in: Mr. Jasiiecki stated he is a former resident of Egg Harbor Township. He stated he believes this is a dangerous sign. He indicated the sign grabs your attention and distracts you from your driving. He indicated the flashing and bright element does it.

Mr. Jasiiecki advised he is an electrician. He has changed bulbs in street lights. He indicated he has experienced how dangerous it is to be on road with truck. He indicated this is why they use the yellow flashing lights to create attention. He stated the flashing lights is distracting to drivers.

Mr. Jasiiecki stated we are trying to fight people who text, use cell phones, and radio's when their driving. He indicated he thinks this sign is wrong and dangerous. Also, he stated it is cold today and he does not need a calibrated thermometer to know this. He indicated everyone can see this sign is too bright.

Motion Kearns/Aponte to close public portion.

Attorney Hankin introduced Gerson Alexander, who was duly sworn by Board Solicitor Bergman. Attorney Hankin asked Mr. Alexander to provide his educational background. Mr. Alexander advised he has a BA in psychology from Penn State University and did graduate work in psychology at Temple University in Philadelphia.

Mr. Alexander advised for a number of years he did research on driver behavior issues and testified before Congress in 1968 on these issues. He advised he worked for the Federal Highway Administration as head of their human factors operation from 1969-1985. He advised in 1985 he left the government to do seminars and provide expert testimony throughout North America, South America and some countries in Europe.

Mr. Hankin asked when Mr. Alexander worked for the Federal Highway Administration was he responsible for the development of procedures that engineers use to estimate how drives respond to hazardous situations? Mr. Alexander stated yes. He stated he used research on the things drives do

well and on the things they do poorly and relate to the information we provide on the highway to make task happen and be safe.

Mr. Alexander stated he wrote a book called "Positive Guidance and Traffic Control". Mr. Alexander stated the positive guidance is a term used to so that drivers get information positively so they can avoid hazards.

Mr. Alexander advised under the Federal Highway Administration "hazard" is defined as an object, condition or situation where a driver fails to respond successfully and results in an accident. He advised the highway becomes a source of information that a driver needs.

Attorney Hankin asked that since 1985 what has Mr. Alexander been specifically doing. Mr. Alexander advised since 1985 he has conducted seminars in every state in the union, Canada, Brazil and some countries in Europe on what is called the "human factors component". He also stated he has worked with attorneys for either a plaintiff or defense where someone claimed the highway itself was the cause of an accident. He stated he would testify on either side.

Attorney Hankin asked what professional organizations Mr. Alexander is involved with. However, he advised he was a member of the Human Factors and Ergonomics Society, a member of the Institute of Transportation Engineers, though he is not an engineer, a member of the Transportation Research Board and lead different committees with each of the organization with respect to driver behavior issues.

Attorney Hankin stated Mr. Alexander has mentioned several times human factor, he asked what a human factor is. Mr. Alexander stated for simplicity sake it is how people relate to their environment. He indicated it is an interaction between the human being and the system designed for the human use. Whether it is the environment you're in when driving a car, sitting in front of a computer or a typewriter.

Attorney Hankin asked if these seminars Mr. Alexander has conducted in human factors are for highway departments both State and Federal. Mr. Alexander stated yes. Mr. Hankin asked if Mr. Alexander could provide a quick explanation of the human factors that are talked about in these seminars.

Mr. Alexander stated the primary information provided is at any given point of time some information on the highway is more important than other information. It is a priority and it has to deal with safety. He stated this is major criteria and explained that information on the highway that relates to safety is more important than it relates to the convenience of the drive. Mr. Alexander provided an example. He stated a "stop" sign is more important than a sign that says turn right for WaWa .

Mr. Alexander advised the second issue is expectancy. He stated as human beings we expect certain things. He provided as an example when you walk into a dark room you expect to find a light switch next to the door. He stated when the expectancy is met the operators performance is rapid and without error. He stated when we are surprised and it is not what you expect it takes longer to figure out and increases your likelihood of making an error.

Mr. Alexander stated as a highway guy he would like to give drivers everything they can expect, but that cannot happen, so we try to tell you what to expect in enough time for you to adapt to it. He indicated hazards are not something expected, however, we either need to eliminate the hazard or give you enough information to handle it.

Mr. Hankin asked if Mr. Alexander has ever dealt with digital lighted billboards. Mr. Alexander stated peripherally yes. He advised he looks at what information is in the area where the billboard is located and whether it is digital or not. He stated this is priority information.

Mr. Alexander stated with respect to this billboard he stated you have something that is a double reverse blind curb. He indicated if you are traveling eastbound then you have a horizontal curve which is followed by a vertical curve and then a hill. He stated the priority in this area is the height of the roadway itself and he stated through his conclusions drivers get more information from the road way than any other source. He indicated because of this double reverse blind curb the driver has to maintain visual contact with the roadway in that area. He stated by placing a digital billboard in the middle of the first curve is not providing the driver the information they need to maintain visual of the road way.

Mr. Alexander stated for the driver coming westbound this is true also. He indicated even though they do not have a digital billboard they cannot see the driver coming eastbound until they are over and around the curve.

Attorney Hankin asked when Mr. Alexander was hired by Dr. Levitt he was in retirement. Mr. Alexander stated this is correct. Mr. Hankin asked if Mr. Alexander has handling any other cases? Mr. Alexander stated no. Attorney Hankin referred to Exhibit Z. He stated this is a report prepared by Mr. Alexander on August 25, 2013, concerning this case. Mr. Alexander stated yes.

Board Solicitor Bergman asked what type of expert is Attorney Hankin offering Mr. Alexander as. Attorney Hankin advised he is a Human Factors expert. Board Solicitor Bergman asked for a description of this. Mr. Alexander stated when he originally started this field years ago it was called human engineer, then engineering psychology, then human factors and now it is called ergonomics, which all mean the same. He advised it is people who walk the line between psychology and engineering so that the design of systems regardless of what the system is and designed to maximize what we do well and minimize what we do poorly.

Attorney Hankin asked if Mr. Alexander has testified in New Jersey Courts and before federal and state agencies, as a human factors expert. Mr. Alexander stated yes. Township Administrator Miller asked in what way does Mr. Alexander testify. He asked if it is in an accident situation where you gave reason why one car drove into another or was it because of road design. Mr. Alexander stated he provided testimony for both plaintiffs or defendants concerning the information created by the highway, traffic control devices, its environment to the task motorist face and whether the information caused in any way the accident.

Township Administrator Miller asked if he testified to engineering or design of the road? Mr. Alexander stated only as it related to its effect on behavior because he is not an engineer. Attorney Hankin asked if Mr. Alexander has testified to the impact of a billboard on roadway safety. Mr. Alexander stated very

rarely. He stated it was years before digital billboards and it was an issue because it was struck by a vehicle. Attorney Hankin asked if he was accepted as an expert in this case. Mr. Alexander stated he was.

Township Administrator Miller stated while reviewing Mr. Alexander's curriculum vitae there is a report done in April of 2001 for Department of Transportation Delaware, which says "A guide sign review for the State of Delaware". He asked if in this guide sign review billboards were added on highways. Mr. Alexander stated no.

Township Administrator Miller asked when Mr. Alexander worked for the Federal Highway did he have involvement with developing billboard standards for the Federal Administration. Mr. Alexander stated directly no, but indirectly yes. He advised all the standards that were proposed during this time period came pass his desk for review and recommendation. Township Administrator Miller stated than Mr. Alexander is familiar with federal highway standard for billboards. Mr. Alexander stated he has not been with the federal administration since 1985, so he is not familiar. Township Administrator stated what about the standard between 1971 and 1985. Mr. Alexander stated somewhat but this was a long time ago.

Township Administrator Miller stated he will leave up to the Board Solicitor and Members. He stated he has reservations about Mr. Alexander's expert testimony. He stated Mr. Alexander has a degree in psychology and he has done work on the psychology of a driver but it does not seem to be a direct relevancy to billboards or the impact billboards have on a driver or that he found billboards to have an impact on anyone.

Board Solicitor Bergman asked if Mr. Alexander has a degree in traffic safety engineering. Mr. Alexander stated he does not. He stated his has degrees in the field of psychology. He advised however, he has worked in the field of traffic safety from 1968 until present and he has worked with the people who had developed the standards and he worked on the committees that developed the standards and he has reviewed and made recommendations on the standards. He advised when it comes to billboards it is not his area. He stated his area is the highway and when you read the analysis it is more about the highway than the billboard.

Board Solicitor Bergman advised he would allow Mr. Alexander to testify as an expert and the Board can weigh that for the field it is. Board Member Kearns advised he is reviewing pictures submitted in Exhibit Z. He asked what time of day were they taken on August 24, 2012 and if he took the pictures when he was in his car or standing in the Road. Mr. Alexander stated he was in the road, however, he had Dr. Levitt take them. He advised he gave Dr. Levitt his camera and told him where to stand and he took the pictures.

Board Member Kearns stated he read the report and it is well done, however he stated he is confused. He stated the first picture, Attorney Hankin advised this is Exhibit I, shows he billboard in the distance. He indicated the person taking the picture is in the left lane and it would be the wrong lane to be in when you are driving towards Margate. Mr. Alexander stated it was not for driver perspective, but to see what the roadway looked like from where it was taken.

Board Member Kearns stated there are a series of additional pictures that were taken in the afternoon including Gifford's Marina that appears to be lit up and the billboard can barely be seen. Mr. Alexander stated he does not have the picture in report. Board Member Kearns stated he is looking at report and it is in it. Mr. Alexander stated this is not one of the pictures taken that day. He advised when he got to the site there was nothing on the billboard. He stated the purpose of this picture is show the billboard had information on it at some point in time.

Attorney Hankin asked if Mr. Alexander relied on this picture in any of his findings. Mr. Alexander stated he did not. Board Member Kearns stated the information next to the picture states it is a distraction to the driver. Mr. Alexander stated he lives in Philadelphia and has for years. He indicated he knows digital billboards and what is referenced in the paragraph next to his picture what he knows about digital billboards as a driver.

Board Member Kearns stated he was confused since the pictures were taken at different times of day. Mr. Alexander stated they were also taken in a different time of year.

Attorney Hankin proffered that Mr. Alexander is an expert in psychological factors of a driver driving on this roadway with safety devises and with this billboard existing on the ability to drive a vehicle safely, which includes what impact this billboard will have on a driver. Attorney Talvacchia objected to Mr. Alexander and the extent of his expertise on the impact the billboard has to safe driving because he admitted he has no experience in this area.

Board Member Cook stated the first picture shows a white building. He indicated his eye goes to the building versus the billboard. Would a driver, psychologically not be looking at the white building. Mr. Alexander stated at some point in time maybe, however, the billboard and the brightness is more conspicuous especially at night or in bad weather. He advised the building will attract but the billboard would do first.

Board Member Aponte stated there is a proffer and an objection that needs to be addressed. Attorney Hankin advised the Board can accept Mr. Alexander's testimony and let it go to weight. He stated there may be things that may not be agreed to, however, he is qualified. Attorney Hankin advised he has experience to testify as a human factors expert. He is highly educated and experienced and has come out of retirement for a reason. Board Solicitor Bergman stated again, because of the order the Board is under, accept him as an expert in the field he is stating he can testify to. If he testifies to something he does not have qualifications for than do not weigh it as evidence.

Board Solicitor Bergman stated his recommendation would be not to bar him as an expert testifying. Chairman Garth noted yes. He also stated there is an objection. Board Solicitor Bergman advised it is on the record and preserved. Board Member Cook stated he sees the picture and the white building and it is a distraction. Mr. Alexander stated the billboard has greater conspicuity before the building.

Chairman Garth asked when the picture in the top center taken. Mr. Alexander stated he does not know. Township Committeeman Carman stated it was illuminated (billboard) so it had to be last summer. Mr. Alexander stated the problem with photograph is that you do not get the various differences. He stated the picture does not reflect what you will see on the roadway. Chairman Garth

asked when was the picture in the center taken? Attorney Hankin advised it was sometime in April and Dr. Levitt will testify to this.

Chairman Garth stated he had to go do Gifford's Marine some time the first day of April or end of March and he never saw the billboard. He indicated his eye did not go to it. He went to the building because this is what he was looking for. Attorney Hankin asked if it was daytime or night? Chairman Garth advised it was daytime. Attorney Hankin stated he would like the Board to see it at night.

Attorney Hankin asked what Mr. Alexander's charge was in conjunction with this case. Mr. Alexander advised he would come to the site and look at the human factors of safety driving in this area eastbound and what has been discussed with him as Mill Road. He stated the billboard had no illumination, the structure is there, but nothing was on it.

Attorney Hankin asked Mr. Alexander what his findings were. Mr. Alexander stated regardless of the billboard the roadway is hazardous. He stated this is because the Department of Transportation put a no passing zone in this area. He stated no passing means it is not safe to for you to pull and pass. It also means you have to keep your eyes on the roadway in front of you. He stated there are two (2) curves and from his analysis there is no position before you get to the billboard. Attorney Hankin presented Exhibit T (eight photograph's) Mr. Alexander advised in the eastbound direction there is no passing in the westbound passing is allowed because you have sight distance after you come out of curb.

Mr. Alexander stated going towards Margate there is the beginning of a curve and the beginning of a vertical curb past the end of the horizontal and the shoulder is non-transversable. He indicated it is about twelve (12) feet which is standard. Township Administrator Miller stated Mr. Alexander is referring to a picture, however, in Exhibit T there are seven pictures and the Board you have placed up has eight (8). Mr. Alexander stated the picture he is referring to is within his report. Township Administrator Miller stated he sees it now.

Board Member Kearns stated he believes there is a no-passing zone because of the cars pulling out of the marina. He stated it was within information that Attorney Hankin presented last month. Mr. Alexander stated looking at the design of the roadway you cannot see the back of the curve from the front and that is enough reason for a no-passing zone. Then there is a hill curve which is similar.

Township Administrator Miller asked Mr. Alexander how far past the billboard was he to take the picture. Mr. Alexander stated he cannot provide how many feet, however, they were adjacent to the white building. Township Administrator Miller stated this picture was taken past the sign, next to Gifford's building looking at the road going east. Mr. Alexander stated yes.

Mr. Alexander stated from the pictures there is no vision of traffic coming the other way, which is the reason for the double solid yellow lines, no-passing. Board Member Kearns stated the vertical curve is the bridge. Mr. Alexander stated yes. Board Member Aponte stated he does not want to discuss engineering. He asked what makes this sign any different than the one on the left or the other one further down or the boats with respect to distractions. He indicated he wants to focus on the inputs.

Mr. Alexander stated it is the brightness of one source of information versus the others. He advised the

others will attract attention, however, they will not attract your attention from the roadway as this one does and will. Attorney Hankin asked if a driver is distracted and research shows if someone is distracted as little as two (2) seconds they have an increase to drift out of their lane. Mr. Alexander stated a distraction could be anything. It could be watching a rabbit or a billboard. He stated the more conspicuous the distraction the more it attracts your attention and distracts your focus on the roadway.

Mr. Alexander stated his conclusion that he drew was based on a hazardous roadway condition, a double blind curve with input from traffic coming from the right. He stated this is no place for a billboard. He stated a digital one specifically because you do not want drivers distracted when you are negotiating curve and traffic coming the other way.

Attorney Hankin asked if Mr. Alexander read Mr. Schropshire's report. He clarified for the Board that Mr. Schropshire is Jersey Outdoor Media's traffic engineer. Mr. Alexander stated he has. Attorney Hankin advised within this report there is discussion concerning a cone of vision. He asked Mr. Alexander what this is. Mr. Alexander stated a cone of vision is what is called foliar vision. He advised a driver has a 30 degree cone of vision this way and 30 degrees that way and it is the area where we tend to look. He indicated you actually turn your head. Mr. Alexander advised Mr. Schropshire's report states the billboard was placed at a height of 60' ft. so it would not be in the cone of vision and it is not the intent to distract drivers so it was placed this high not to.

Mr. Alexander stated this is absurd and incorrect because of the brightness of the billboard even in daylight, let alone in bad weather or at night. He stated the sign will attract attention. He stated it is not hidden from view. He stated people will look up at it and the cone of vision will not include the roadway. He stated it is dangerous to place this sign at this location. He advised it they want it at another that would be fine, however, it is as long as the roadway can handle it.

Township Administrator Miller asked if in Mr. Alexander's conclusion that the road is not safe based on an accident analysis being done? Mr. Alexander stated it is unsafe and is hazardous. He advised he did not get more than there have been some accidents in the area. He indicated what he is saying is the likelihood of accidents will increase with billboard being there than it would if it were not.

Township Administrator Miller asked how many other billboards are on this road when the study was done. Mr. Alexander stated there are other billboards but this is the only digital. Township Administrator Miller asked if they are not distracting also. Mr. Alexander stated a little but drivers are used to the distraction they create. He stated the digital billboard that changes ever eight (8) seconds is more distracting and attracts the attention of drivers. He indicated this is what is designed to do.

Township Administrator Miller stated so the cone of vision is 30 degrees and I look at the other billboards that are 25' ft. and I can see them they are not a distraction to a driver. Mr. Alexander stated they maybe, however, if someone drives the road regularly you will be used to seeing them. He advised the digital billboard changes and once you look away you will look back again. Township Administrator Miller stated so after driving the road for 30 days I will not pay attention to this billboard like I don't pay attention to the others.

Mr. Alexander stated he will pay less attention to the non-digital. Township Administrator Miller asked

if this billboard were non-digital then the hazard would not be there. Mr. Alexander stated the hazard will continue to exist because of the roadway itself and it is exacerbated by the digital billboard. He stated if it were a non-digital it would still be hazardous, but less so. Township Administrator Miller asked if the marinas are not a distraction. Mr. Alexander stated they may be.

Township Administrator Miller stated Mr. Alexander is the expert on human factors. He stated he is trying to determine if roadway is hazardous and it has three (3) marinas, at least seven (7) billboards, and scenic views, forgetting the new billboard, the roadway is hazardous or unsafe to drive. Mr. Alexander stated no. He advised it is the roadway itself, the location with the left curve and then the bridge curve.

Township Administrator Miller asked if Mr. Alexander knows what the posted speed limit is on the road. Mr. Alexander stated 45. Township Administrator Miller asked if this is because of the design and that it has curvature. Mr. Alexander stated this is an engineering questions.

Township Administrator Miller asked based on the cone of vision how close would he be to the sign before he no longer see it. Mr. Alexander stated he does not have an answer because he did not look at that specifically. He indicated however, it would less than 100' ft. He further noted that the sign does not leave the line of vision until you go past it. He stated the car roofline will obscure some of it but not all of it.

Township Administrator Miller stated the road does not rise until at least 100' ft. past the sign. He advised the road is completely straight up to that point and there is no curvature until after the sign is past, coming from Northfield. He stated Mr. Alexander's testimony is that there is curvature in the road and the sign is going to be a distraction and the rise in the road occurs after they pass.

Mr. Alexander stated this may be true but the issue is after you pass the sign and if you are busy looking at it you may miss traffic coming to you from the opposite lane. He stated this is what makes it hazardous regardless of the sign.

Township Administrator Miller asked if Mr. Alexander can tell him if the Federal Department of Transportation have height requirements for billboards related to the speed limit posted on the road. Mr. Alexander stated he does not know the answer to that questions. He did state that over the past several years the Federal Highway Administration has investigated what they need to do to control digital billboards. He advised a report was to have come out a year ago, but has not and he is not sure what the status is.

Mr. Alexander added there was a recent study done in Sweden and during a Transportation Research Board Meeting last week, they discussed that Sweden has turned down billboards they will not allow digital billboards in their country at all.

Township Administrator Miller again asked when Mr. Alexander was at the site on August 24, 2012, what time of day was it and was it his only visit. Mr. Alexander stated it was early to mid-afternoon and it was his only visit. Township Administrator Miller asked that of all the pictures in his report which are his. Mr. Alexander stated the four (4) pictures on Page 1 were taken with his camera by Dr. Levitt.

Township Administrator Miller stated the picture of the billboard lit up is not based on your observation of this billboard but other digital billboards in other parts of the country or the greater Philadelphia area. Mr. Alexander stated his conclusions are familiarity with digital billboards in general and their distraction, and the research that has been done, not what he has done, but what he has seen and the analysis of the hazard of the location itself.

Attorney Hankin advised he has no other questions for Mr. Alexander. Attorney Talvacchia asked if Mr. Alexander knows if this billboard violates any federal state or local standards for billboards in terms of safety standards. Mr. Alexander stated he did not look at this issue and he is not aware of any.

Attorney Talvacchia asked if Mr. Alexander's report submitted to the Department of Transportation with respect to the application submitted by Jersey Outdoor to obtain a second billboard permit. Mr. Alexander stated he did not submit the report, however, he understands it was. Attorney Talvacchia asked if he was aware the Department of Transportation, regardless of this report being submitted and also Mr. Horner's report being submitted the Department of Transportation issued a permit.

Mr. Alexander stated he is aware a permit was issued. Attorney Talvacchia asked if one of the factors in the Department of Transportation issuing an outdoor advertising permit safety. Mr. Alexander stated he would hope so, he stated he does not know specifically, but would be surprised if it were not.

Attorney Talvacchia asked if Mr. Alexander reviewed the crash data for this area. Mr. Alexander stated he did not. Attorney Talvacchia asked if he has done a study on safety impacts of digital billboards. Mr. Alexander stated he has not. He indicated he is aware studies have been done but he has not participated in any of them.

Attorney Talvacchia asked if he is aware of any studies that have concluded digital billboards create a safety hazard to drivers. Mr. Alexander stated he is aware of a study done by Jerry Wattle on the West Coast and he drew that conclusion, but he does not know much about it. Attorney Talvacchia asked about the Swedish study. Attorney Talvacchia stated he has read the abstract and asked if Mr. Alexander had. Mr. Alexander stated he had not. He stated it was brought up at a meeting last week that he did not attend. He stated it is his understanding the Country was outlawing digital billboards.

Attorney Talvacchia asked if this Swedish study found digital billboards created a traffic hazard. Mr. Alexander indicated he did not read the study. He indicated what he had heard is based on the study the Country outlawed digital billboards in the country.

Attorney Talvacchia advised Mr. Alexander has addressed all his questions. Township Administrator Miller asked if Attorney Hankin has any redirect. Attorney Hankin stated he does not.

Attorney Hankin advised he still has a planner, a traffic engineer and the Levitt's whom will be testifying. Attorney Talvacchia advised he will have a traffic engineer and of course he will cross examine and he may bring Mr. Barnhart back for rebuttal to their planner.

Motion Carman/Eykyn to continue this application to Special Meeting scheduled for February 25,

2013, 5:30 p.m. Vote:

**Motion Miller/Eykyn to change amended meeting date to Tuesday , February 19th, 2013, 5:30 p.m.
Vote:**

SUMMARY MATTER(S):

Discussions of matters pertaining to the Board:

SECTION I:

- a. **Discussion:** to set date and time for February 2013 Regular Meeting: Due to the observance of Presidents' Day the Regular Meeting date for the Planning Board has been cancelled and must be rescheduled:

May the record reflect: This was discussed during the setting of meeting times and dates. Please see motion for Item #9 referenced previously.

May the record reflect: The February meeting date was again changed at the conclusion of the application concerning Jersey Outdoor. The Board scheduled their February regular meeting for Tuesday, February 19, 2013, 5:30 p.m. and continued Jersey Outdoor a for a special meeting to be held on Monday, February 25, 2013, 5:30 p.m.

Motion Aponte/Eykyn to adjourn at 9:55 P.M. Vote 7 Yes: Aponte, Carman, Cook, Eykyn, Kearns, Miller, Garth

Respectfully submitted by,

Theresa Wilbert, Secretary

