

**TOWNSHIP OF EGG HARBOR  
PLANNING BOARD**

**May 19, 2014**

**Solicitor:** Christopher Brown, Esq., (Theodore Strickland, Esq., in attendance)  
**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)

A rescheduled regular meeting of the Planning Board of Egg Harbor Township was held on the above date, 5:00 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 Follow(s):**

Manuel E. Aponte, V-Chairperson, present	Robert Levy, present
Committeeman John Carman, present	Mayor James J. McCullough, Jr., * See Below
Milas Cook, Alt. #I, arr. @ 6:49 p.m.	Peter Miller, Township Administrator, on vacation
Charles Eykyn, present	Paul Rosenberg, 2 <sup>nd</sup> V-Chairperson, another engage.
James Garth, Sr., Chairperson, present	MD Shamsuddin, Alt. #II, unexcused absence
Frank Kearns, present	

**\*May the record reflect:** Mayor James J. McCullough, had another engagement, therefore, he has sent Township Committeewoman, Laura Pfrommer, in his place.

**PUBLIC HEARING(S):**

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| <b>1. SPPF 03-14</b>                                    | <b>Preliminary/Final Major Site Plan</b> |
| <b>JTD Reality Group, LLC</b>                           | <b>701/4</b>                             |
| Zone: M1, 4.54 acre site, septic/water,                 | 6626 Delilah Road                        |
| Applicant is proposing to construct four (4) buildings. | Waiver of Time – <b>Granted</b>          |
- Each building will have 800 sq. ft. of office space and 5,200 sq. ft. of warehouse space for a total of 6,000 sq. ft. of building area. Other improvements include 44 paved parking spaces, stormwater management, lighting and landscaping. CAFRA.

**Checklist Waiver(s):**

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|----------------------|--|
| <b>1. Item #1c:</b>  | <b>Digital Format on CD</b>              |
| <b>2. Item #6:</b>   | <b>Certified list of owners</b>          |
| <b>3. Item #16:</b>  | <b>Wetlands area confirmed by NJDEP</b>  |
| <b>4. Item #18f:</b> | <b>Groundwater recharge calculations</b> |
| <b>5. Item #19:</b>  | <b>Sewer and water report</b>            |
| <b>6. Item #20:</b>  | <b>Traffic report</b>                    |
| <b>7. Item #21:</b>  | <b>Fiscal impact report</b>              |
| <b>8. Item #22:</b>  | <b>Modification report</b>               |
| <b>9. Item #32:</b>  | <b>Sight triangle</b>                    |
| <b>10. §198-15E:</b> | <b>EHT MUA Letter of no interest</b>     |

Nicholas Menas, Esq., introduced himself as attorney for the applicant, JTD Realty Group, LLC, a NJ Limited liability company. Attorney Menas advised the property in question is located within the M1 light industrial zone and is currently wooded. He advised the applicant is proposing four (4) new buildings for an office and warehouse type use. Attorney Menas explained the applicant is in

compliance with the proposed use of the site as well as the bulk standards. He indicated there are no variance(s) being requested. He also noted the applicant is seeking a phasing plan for the property. Attorney Menas advised phase I will consist of 12,000 sq. ft. of building area and phase II will consist of the remaining 12,000 sq. ft. of building area.

Charles "Chuck" Endicott, P.E., 319 E. Jimmie Leeds Road, Galloway, NJ, New Jersey Licensed Engineer, and Planner was duly sworn. Engineer Endicott referred to **Exhibit A1**: site plan submitted with application advising the site is located at 6625 Delilah Road. He further noted the Garden State Parkway is just to the west of the site and Fire Road is to the east. Engineer Endicott advised the applicant is proposing to construct 24,000 sq. ft. of contractor office and warehouse space. He advised the applicant is proposing the construction of the site in two (2) phases and explained the first phase will consist of two (2) buildings located along Delilah Road. Engineer Endicott explained each building will be 6,000 sq. ft. for a total of 12,000 sq. ft. He then noted phase II will also contain two (2) buildings whose total square footage will also be 12,000 sq. ft.

Engineer Endicott advised the applicant currently has an office in Hammonton but will be moving to this location. He advised there will be a single access to the facility off Delilah Road into a main driveway that will facilitate all units. Engineer Endicott noted each of the buildings will have an 800 sq. ft. of office space and 5,200 sq. ft. warehouse space with overhead doors but noted this may change based upon the needs of the occupants.

Attorney Menas asked Engineer Endicott in terms of the use and site development if he had any problems with the standards in relationship to how the buildings were laid out or the storm water management. Engineer Endicott stated he did not have any issues. He indicated the applicant was able to provide and develop a site without seeking variance or design waiver relief from the ordinance.

Attorney Menas asked Engineer Endicott if he had an opportunity to review each report of the Board Professionals. Engineer Endicott stated yes. Attorney Menas asked Engineer Endicott if he would go over each individual checklist waiver being sought. Engineer Endicott stated each of the checklist waivers listed within the professional's reports the applicant can provide, therefore, the checklist waivers do not have to be requested either. Attorney Menas stated the applicant will require a waiver from providing a fiscal impact analysis based upon the proposed use being consistent with what is allowed in the zone. He further noted for the similar reason the applicant is seeking a waiver from providing a traffic impact analysis. Attorney Menas stated neither analysis enhances the Boards the ability to make a decision.

Board Planner Polistina stated the applicant will be seeking waivers for Item #20 Traffic Report, Item #21 Fiscal Impact Report and Item #35 Architectural, which is not listed on agenda but is referenced within his report. Attorney Menas asked Engineer Endicott if he can address any comments, concerns or conditions that are listed within the Board Engineer, Mott Associates report or the Board Planner, Polistina and Associates report. Engineer Endicott stated he can.

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

**May the record reflect no one came forward**

**Motion Aponte/Pfrommer to close public portion. Vote 7 Yes.**

Board Engineer Watkins stated he is suggesting the applicant proceed with preliminary on both phases at this time. He indicated there are still outstanding issues concerning drainage basin. He advised one is soil borings which were never witnessed and some calculations need to be provided. He stated unless the Board feels comfortable in granting final for phase I under the condition that they meet all the drainage requirements by our office.

Board Engineer Watkins stated the basin may change, under the phase I and become larger and the Board may not see this until the applicant returns for final with Phase II. He indicated the applicant also did not make the Board aware that there is an outdoor storage area for material storage and trailers.

Chairman Garth asked how much of the site will remain wooded. Engineer Watkins stated none. Engineer Endicott advised there will not be clearing in a back corner area of the site. He indicated it will remain wooded. He also stated there will also be selective clearing between the building and the street as recommended by the Board Engineer and Planner. Engineer Endicott stated the applicant will clear away the brush in this area and keep as many trees as they can.

Engineer Endicott stated the site is rather narrow and does not lend itself to preserve buffers. He indicated the Atlantic City Electric overhead power lines are located behind the property. Engineer Watkins stated it is also a unique grading site since it slopes from the south to the north. Bob: this is a unique site. Township Committeeman Carman stated he does not mind granting final for phase I because it is an industrial zone and there is no residence in area and he trust the Engineer to handle the issues. Board Engineer Watkins stated he just wanted to make the members aware in case when the applicant returns with phase II the basin may be a little larger or different.

Board Member Aponte asked the purpose of the soil borings is that the applicant is to perform them and you are to be there will it happens. Board Engineer Watkins stated yes and his office is to witness them. Engineer Endicott stated borings were done but did not realize they had to be witnessed. He advised the basin is designed based on those borings. Board Engineer Watkins stated as long as the board feels comfortable that his offices decision and review then place the condition that the applicant will meet all the drainage requirements.

**Motion Aponte/Levy to grant requested checklist waiver(s) #20, 21, and 35. Vote 7 Yes:** Aponte, Carman, Eykyn, Kearns, Levy, Pfrommer, Garth

**Motion Kearns/Eykyn to grant conditional preliminary major site plan approval phase I and II and conditional final major site plan for phase I. Vote 7 Yes:** Aponte, Carman, Eykyn, Kearns, Levy, Pfrommer, Garth

<p><b>2.     <u>SPPF 02-14</u>        <u>SD 02-14</u>        <b>Frontier Development</b>        Zone: HB, 19.9 acres, sewer/water, applicant        Is proposing to construct two (2) commercial buildings</b></p>	<p><b>Preliminary/Final Major Site Plan Minor Subdivision 1508/19 6048 Black Horse Pike Waiver of Time – <b>Not Granted</b></b></p>
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Located on proposed pad sites within the existing Lowes complex. The applicant is proposing to subdivide the pad sites into two (2) separate lots so there will be three (3) lots. Both commercial buildings will be 6,000 sq. ft. with one being a Verizon Wireless store and other a Mattress Warehouse store. Other improvements include additional parking for both stores, landscaping and drainage. Pinelands c/f: #99-0085.0004, dated 1/17/14.

**Checklist Waiver(s):**

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|----|-----------|--------------------------|
| 1. | Item #15: | Site characteristics map |
| 2. | Item #21: | Fiscal impact report     |
| 3. | Item #23: | Utilities plan           |

**Design Waiver(s):**

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|----|---------|--------------------------------|
| 1. | §94-8H: | Buffers                        |
| 2. | §94-14: | Environmental impact statement |

**Variance(s):**

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|----|-----------|----------------------------------|
| 1. | §225-7:   | Lot area                         |
| 2. | §225-7:   | Rear yard setback distance       |
| 3. | §225-7:   | Rear yard parking setbacks       |
| 4. | §225-7:   | Side yard parking setbacks       |
| 5. | §225-63A: | Number of building mounted signs |

Stephen Nehmad, Esq., introduced himself advising he is appearing on behalf of the applicant, Frontier Development, LLC. Attorney Nehmad advised this is an application for site plan approval and major subdivision approval. He indicated about fifteen (15) years ago both he and Mr. Dolcy were before the Planning Board seeking approval for the existing "Lowe's". He advised when the "Lowe's" site was designed it was contemplated two (2) pad sites with detached buildings would be developed along the "Lowe's" frontage of the Black Horse Pike.

Attorney Nehmad indicated these pad sites were included in the "Lowe's" design and the storm water management was also designed for them. He indicated this is the application for those two (2) pad sites. Attorney Nehmad explained they will consist of two (2) retail stores of which one (1) will be a "Verizon" store and the other will be a "Mattress Warehouse" store. He advised each store will consist of 6,000 sq. ft. and a subdivision is proposed so each can be independently financed. Attorney Nehmad stated "Lowe's" will convey the property to Frontier Development who will build out the sites to suite to the individual tenants.

Attorney Nehmad advised the applicant is requesting bulk variance relief mainly because the applicant is drawing lot lines in between the two (2) buildings to segregate them from the remainder of the parking field for the existing "Lowe's" so again the property can be deeded to his client. Attorney Nehmad stated the bulk variance(s) are mainly setbacks due to the lot lines even though this was a comprehensively planned development.

**May the record reflect:** Peter J. Dolcy, P.E., New Jersey Licensed Engineer, Galloway Township, New Jersey, was duly sworn

Engineer Dolcy advised his firm prepared the plans for the original "Lowe's" site that was approved by this Board in August, 1999 he indicated during the development of the plans there was a contemplation to have pad sites along the Black Horse Pike. Engineer Dolcy stated when the "Lowe's" center was designed they had provided storm water assuming there would be 70% coverage along the front and they had extended the storm water all the way through the property so when development occurred it would not have to be installed.

Attorney Nehmad asked Engineer Dolcy when he had designed the original plan were both the storm water and circulation designed to accommodate future flow from these site as well. Engineer Dolcy stated yes.

Attorney Nehmad asked Engineer Dolcy to take the Board through the proposal. Engineer Dolcy referred to **Exhibit A1**: colored rendering of landscaping plan for the project. Engineer Dolcy stated the applicant is proposing to develop a portion of the property located along the Black Horse Pike between "Lowe's" two (2) existing entrances. Engineer Dolcy advised the applicant is not proposing any access off the Black Horse Pike directly into each site. He indicated access to the sites will be from the existing driveway located in the "Lowe's" parking lot between the two (2) entrances on the property.

Engineer Dolcy stated the applicant has provided a circular motion to the properties so everyone drives slowly through them. He indicated both buildings proposed will be 6,000 sq. ft. He indicated the applicant tried to combine the functioning of both buildings such that there is a common loading area for both located in the middle between the buildings. The trash enclosure that is proposed is located along the property line and will be shared by both buildings. He indicated because of property line the applicant is creating a number of variances that are technical. Engineer Dolcy stated the site will function as part of one integrated entity and will function well with the "Lowe's" property.

Engineer Dolcy stated the storm water was extend through the property and the applicant will be connecting to. He also advised the applicant will be utilizing the existing sanitary sewer line located along the front of "Lowe's" (building), which will be extended to applicants building. He advised there is also a water main located along the front of the Black Horse Pike which the applicant will connect to.

Attorney Nehmad asked Engineer Dolcy if this site is located within the HB zone. Engineer Dolcy stated yes. Attorney Nehmad asked if the proposed use is a permitted. Engineer Dolcy advised this is correct. Attorney Nehmad asked if this site is located within the Pinelands regional growth area of the Township and if the storm water management and if all aspects of the development regulated by the Pinelands meet their regulations. Engineer Dolcy stated it does with the exception of one. He indicated the applicant received a letter of non-consistency from the Pinelands Commission because of water quality. He indicated as recommended by the Board Engineer grass swales are proposed before each inlet to address this issue. Attorney Nehmad stated proposal concerning the water quality feature is encourage by the Pinelands Commission. Engineer Dolcy advised this is correct.

Attorney Nehmad asked Engineer Dolcy if there is adequate parking on site. Engineer Dolcy advised yes and the parking for both proposed buildings exceeds the Township requirements. Parking requirements exceeds the Township Ordinance requirements. He indicated there are 50 spaces proposed for the Verizon store and 49 spaces for the mattress warehouse. Engineer Dolcy stated the stormwater management for this parking will be provided through the grass swales previously discussed and will be collected in the basin adjacent to the Rite Aid along English Creek Avenue.

Engineer Dolcy advised the applicant is seeking a waiver from providing the site characteristics map. He indicated the information for site characteristics is shown throughout the plan but not on one specific sheet. He stated the applicant is also seeking waiver relief from providing a fiscal impact. He indicated this is a commercial project and he does not foresee any fiscal impact on the Municipality.

Engineer Dolcy indicated the applicant is also seeking a waiver from providing a specific utility plan. He indicated again, the utilities are shown, but not on one (1) specific plan.

Attorney Nehmad advised the applicant is seeking bulk variance relief. He indicated the one (1) concerns lot area because the applicant must draw subdivision lines in order to convey property for financing purposes. Attorney Nehmad advised the lot area permitted for the zone is 80,000 sq. ft. He indicated one (1) lot totals 41,900 sq. ft. and the other is 27,759 sq. ft. Attorney Nehmad asked Engineer Dolcy if this is correct. Engineer Dolcy stated yes. He further noted the current parcel is 90,000 sq. ft. which exceeds the minimum lot size requirement. Attorney Nehmad asked if this is a technical variance. Engineer Dolcy stated yes and it is typical for what you see in other shopping centers.

Attorney Nehmad asked Engineer Dolcy to explain the other variances requested, again based upon the applicant drawing the subdivision line. Engineer Dolcy indicated He asked Engineer Dolcy to advise what is proposed. Engineer Dolcy explained there is a rear yard setback that is required behind the lots. He indicated the ordinance requires 30' ft. setback the applicant is requesting 12.2 ft. for the sidewalk to be placed against the parking. He indicated the applicant is seeking a side yard variance for accessory structures for the trash enclosures. He indicated they are on the common property line so they will have a -0- setback, again this is due to the subdivision line.

Engineer Dolcy advised there will be a rear setback for the parking it is the same issue because of the subdivision line. He indicated the existing parking for the "Lowe's" will have a -0- setback also. Engineer Dolcy explained also there is portion of parking in the rear to the applicant's site that requires a 10' ft. setback but it is not being met. He indicated this is based upon the request of "Lowe's" to match the property at the entrance so that the entrance can be controlled.

Attorney Nehmad stated the ordinance allows one (1) building mounted sign per building, however, the applicant is proposing two (2) for exposure onto the end of each building. Engineer Dolcy referred to **Exhibit A4:** building elevation plan. He advised the applicant is proposing to add two (2) signs on each building. He advised each building will have a sign facing the Black Horse Pike with another sign being proposed facing the driveway. Engineer Dolcy stated for the Mattress Warehouse the sign is proposed on the west side of the building and for the Verizon store the sign will be on the east side of the building. He also noted the ordinance allows for 250 sq. ft. of signage on each building, however, the total sum of the two (2) on each building will not exceed the ordinance requirements.

Engineer Dolcy stated **Exhibit A4:** shows the Mattress Warehouse being placed on the west side of the side and the Verizon store. Engineer Dolcy stated the buildings will incorporate the same type of brick and column lines. He advised there column lines and fake windows in back of the building(s) to help break the appearance of a blank wall. He indicated there will also be canopies and landscaping for both sites. Engineer Dolcy also noted there are parapet walls that will be higher than the roof line to screen mechanicals.

Engineer Dolcy indicated the applicant is seeking a waiver from providing an Environmental Impact Statement since the Pinelands Commission has reviewed this application and had no comments. He also noted the applicant is seeking a waiver from providing a buffer from another commercial entity since this is a shopping center.

Attorney Nehmad asked Engineer Dolcy if this plan meets the requirements of the Land Development Ordinance for the Township. Engineer Dolcy stated yes. Attorney Nehmad asked if the proposed advances the purposes of the Municipal Land Use Law on a whole by granting approval. Engineer Dolcy stated it yes. He indicated the proposed is a permitted use within the zone. He indicated the

development plan presented is similar to others in the vicinity and the development is along the Black Horse Pike which is a major corridor and lends to the appropriate development. Engineer Dolcy stated in 1999 it was anticipated that some type of commercial development would occur along the front of property. He indicated there is no extension of utilities or storm water based upon this proposal because again it was originally anticipated.

Engineer Dolcy stated he has reviewed the reports of the Board engineer and planner and he has no problem addressing their comments.

Board Planner Polistina advised because the applicant is reducing the frontage to the "Lowe's" site there is a question concerning the conformity to the existing free standing sign for "Lowe's". Engineer Dolcy stated when the "Lowe's" was originally developed their free standing sign was designed with a sign area of 230 sq. ft. He indicated because the applicant is subdividing the property "Lowe's" sign would only be permitted to have a sign area of 48 sq. ft. He indicated the "Lowe's" sign is not being moved nor is it changing, therefore, technically variance relief for the free standing "Lowe's" sign must be sought. He further noted there are two (2) small monument signs proposed for each new use (Verizon/Mattress Warehouse) and they will comply with ordinance requirements.

Board Planner Polistina stated the "Lowe's" sign did comply when it was originally proposed, however, with this subdivision plan it will not.

Board Member Eykyn asked if there are trees and bushes that are proposed along the back of the proposed buildings before you come into their parking lot. Engineer Dolcy stated there will be trees and lower shrubs. Board Member Eykyn stated the reason he asked is since they constructed the Chick-fil-a adjacent to the "Lowe's" many people are using driveway. He indicated the trees have gotten larger and when you are in a pick-up truck you can see around. When you are in a car you cannot. He asked if there is any low shrubs that can be placed in that will not grow more than two (2) or three (3) feet high.

Board Engineer Watkins stated the existing bushes in the islands need to be trimmed and that would be contacting "Lowe's" to have them trimmed out. He indicated these needs to be maintained. He advised the Zoning Officer should go out and ask this to be done. Attorney Nehmad stated this is a maintenance problem that all centers have. He indicated if Planner Polistina has a spec plant that does not grow high that he wants the applicant to place in they will do so and revise the plans.

Board Engineer Watkins asked what the height of the buildings. Engineer Dolcy stated the Mattress Warehouse is 27' and Verizon is 26' with parapets. Board Member Aponte the swales go into the storm water basin. Board Member Watkins stated yes and the inlets are existing and they are grading around he stated they do not have to make any changes to the drainage.

**No Motion Aponte/Levy to open public portion. Vote 7 Yes**

**May the record reflect no one came forward**

**Motion Aponte/Levy to close public portion. Vote 7 Yes**

**Motion Eykyn/Kearns to grant requested checklist waiver(s). Vote 7 Yes:** Aponte, Carman, Eykyn, Kearns, Levy, Pfrommer, Garth

**Motion Eykyn/Carman to grant requested design waiver(s). Vote 7 Yes:** Aponte, Carman, Eykyn, Kearns, Levy, Pfrommer, Garth

Attorney Nehmad indicated there are two (2) variances not referenced on the agenda. He indicated the first is the trash enclosure and the second is the ‘‘Lowe’s’’ sign. Township Committeeman Carman stated this site even though the variances seem great when looking at them must take into consideration this as a whole total site with the cross easements, access, and parking it functions as one (1) which would meet the criteria of the Township Ordinances, therefore, he will make the motion to approve the variance relief.

**Motion Carman/Eykyn to grant requested variance relief. Vote 7 Yes:** Aponte, Carman, Eykyn, Kearns, Levy, Pfrommer, Garth

**Motion Pfrommer/Eykyn to grant conditional minor subdivision approval. Vote 7 Yes:** Aponte, Carman, Eykyn, Kearns, Levy, Pfrommer, Garth

**Motion Carman/Eykyn to grant conditional preliminary and final major site plan approval. Vote 7 Yes:** Aponte, Carman, Eykyn, Kearns, Levy, Pfrommer, Garth

**3. SPPF 11-13 Preliminary/Final Major Site Plan**  
**S & S Gasoline 2202/5**  
Zone: RCD, 0.882 acre site, sewer/water, 6801 Tilton Road  
site is the location of an existing Sunoco Waiver of Time – **Not Granted**  
gasoline station. The site contains an existing one story building, asphalt paving and gasoline pumps. Applicant proposes to demolish the existing building and construct a new 3,184 sq. ft. building on site, the existing asphalt will be repaved with 19 new parking spaces. Applicant proposes to add additional fuel pumps and a canopy expansion with new stormwater management basin. CAFRA

**Checklist Waiver(s):**

**1. Item #15: Utilities approval notice**

**Design Waiver(s):**

- 1. §94-8: Buffers**
- 2. §94-22: Landscaping**
- 3. §94-22A(10): Landscaping – irrigation**
- 4. §94-37C(5)a: Street trees**
- 5. §94-44E(1)i(1)a: Stormwater management**
- 6. §94-44E(1)j(1)a: Stormwater management-basin top width**

**Variance Relief:**

- 1. §225-7: Minimum lot area**
- 2. §225-7: Minimum lot width**
- 3. §225-7: Front yard setback (building)**
- 4. §225-7: Front yard setback (canopy)**
- 5. §225-7: Rear yard setback**
- 6. §225-7: Accessory structure – rear yard setback**
- 7. §225-7: Accessory structure – height (canopy)**
- 8. §225-7: Minimum gross floor area**



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|-----|--------------|--|
| 9.  | §225-55(A):  | Driveway – separation from property line |
| 10. | §225-63(B)3: | Number of building mounted signs         |
| 11. | §225-63(B)3: | Number of freestanding signs             |
| 12. | §225-63(B)1: | Freestanding sign height                 |
| 13. | §225-63(B)2: | Freestanding sign area                   |
| 14. | §225-63(B)7: | Freestanding sign setback                |
| 15. | §225-66(M)7: | Parking – separation from building       |

David DeClement, Esq., introduced himself as attorney for the applicant. He indicated the applicant is here for the application to demolish of the current gas station and with garages. Attorney DeClement stated the applicant will than modernizing the site by removing the bays and reconfiguring to have a convenience store. Attorney DeClement advised the days of having motor fuels with garages have come and gone. He explained the applicant is proposing a 3,184 sq. ft. mini-mart and will be reconfiguring the corner lot, which is an odd shaped lot.

Attorney DeClement indicated this project has been back and forth with the Technical Review Committee a number of times and has been discussed with the professionals.

**May the record reflect** Brian Peterman, P.E., New Jersey Licensed Engineer, Peterman Maxcy Associates, 189 South Lakeview Drive, Suite 101, Gibbsboro, New Jersey, duly sworn and acknowledged by the Board as a professional expert.

Attorney DeClement advised since this application has been discussed between the professionals he would like Engineer Peterman to go over the project in more detail and discuss the issues.

Board Planner Polistina stated there will be an objector so mark exhibits. Engineer Peterman referred to **Exhibit A1:** architectural rendering of building elevations that was included in Board packages. He then referred to **Exhibit A2:** site plan that was submitted advising the only difference is the exhibit highlights the building envelope and existing frontages of the site. Engineer Peterman advised if need **Exhibit A3:** floor plan of proposed building is available as well as **Exhibit A4:** building elevations which match colored rendering. **Exhibit A5:** aerial that we will utilize for discussion concerning the proposed price only sign and its relationship to other signs in area (Tilton Road). **Exhibit A6:** Sheet 6 of 8 that was part of the package submitted will be referred to concerning the freestanding price only sign and **Exhibit A7:** Sheet 5 of 8 is the lighting and landscaping plan that will be used for reference during the course of testimony.

Engineer Peterman referred to Mott Associates review letter dated May 13, 2014, prepared by Robert Watkins. Engineer Peterman advised he would like to go over the checklist comments. He indicated the applicant has submitted an application to the Municipal Utilities Authority (MUA), but they had not heard back. Engineer Peterman indicated the applicant would like a deferral of submitting their MUA approval as a condition of any approval.

Engineer Peterman advised there are several variances associated with the application, however, they are driven by existing conditions of the site. He indicated the Township Ordinance requires 3 acres and the site actually contains .88 acres and with that a lot of the reduced setbacks, lot area, area requirements, and coverage which greatly effects the bulk.

Engineer Peterman requested the Board refer to page 4 of 6 from the Board Engineers report. He indicated item 1 references lot area. He stated the applicant has .882 acres versus the 3 acres required and a variance is needed for the existing non-conformity. Engineer Peterman advised the applicant has a lot width of 118' ft. rather than 300' ft. along Tilton Road, a front yard setback along Fire Road of 46.2' ft. rather than 80' ft., side yard setback of 11' ft. versus the 25' ft., and a minimum gross floor area of 5,000 sq. ft. is required but the applicant is proposing 3,184 sq. ft. for the retail store.

Engineer Peterman advised the applicant has a front yard setback for parking. He stated the distance is permitted is 20' ft., however, the applicant is proposing -0- to match the existing for both Tilton and Fire Road's. He indicated item #7 of Mott's report advised there is a minimum front yard parking setback from a property line of 15' ft. and the applicant is proposing 11' ft. in the south east corner of the property.

Engineer Peterman referred to Exhibit A2: advising the property is a triangular shape, which is irregular. He stated the exhibit has highlighted section in the middle of this site. He indicated this shows the area where development could occur if the applicant were to meet all the setbacks based on the ordinance requirements. Engineer Peterman stated it is only a few hundred square feet that would be allowed. He explained regardless if it is this proposal or something else it would need a number of variances due to the existing conditions and the shape of the parcel. He stated the applicant is seeking variance relief primarily due to the existing non-conforming shape and size of the property which is the reasoning behind the first seven (7) variances that are requested.

Engineer Peterman referred to item #8 within the report. He indicated the ordinance requires a parking setback from the building of 10' ft. with a 4' ft. landscaped area. He indicated the applicant is asking for 6' ft. again due to the configuration and the size of the property it does not provide for the landscape strip between the parking and the landscaping. Engineer Peterman referred to Exhibit A7: advised there is an existing free standing at the corner of Fire and Tilton Roads located within the R-O-W. He indicated the technical review committee requested the sign be moved back to 25' ft. in order to meet ordinance requirements. Engineer Peterman advised it could not be shifted back the 25' ft., however, the applicant was able to move the sign back 20' ft. to allow for circulation around the existing pumps. He also explained that the asphalt and curing in this area will be removed and replaced with landscaping to improve the look of the corner and provide better visibility.

Engineer Peterman further noted the applicant will be providing landscaping within some of the islands that existing on site and with the modernization of constructing a new building it will provide the visibility and the visual impact to this corner.

Engineer Peterman continued to reference Mott's report by stating item #9 discusses wall mounted signs. He explained the ordinance provides one (1) wall mounted signs on the building, however, the applicant is seeking approval for two (2). One sign will be located on the Fire Road façade and the other sign will be located on the Tilton Road façade. He indicated the applicant is seeking this relief to allow exposure to both road frontages. He advised each sign will have a sign area of 80 sq. ft. He noted the applicant is permitted 80 sq. ft.

Engineer Peterman stated item #10 within Mott's report addresses maximum sign height. He indicated the maximum height for a free standing sign is 15' ft., however, the existing sign that is being shifted back is actually 24' ft. in height. Engineer Peterman stated the free standing will remain the same and nothing will change other than moving it back which he indicated is an improvement.

Engineer Peterman referred the board to page 5 of Mott's report referencing item #11 indicated the maximum amount of square footage for a free standing sign is 1 sq. ft. for each 5' ft. interval of street frontage but no free standing shall exceed 250' ft. on any one (1) sign. He advised the applicant is proposing 317 sq. ft. of area for all free standing signs.

Engineer Peterman stated the existing sign is rather large so it actually creates the variance relief from the start with respect to sign area. He indicated the applicant could leave the existing sign in its current location and not seek variance relief for it, however, based the Technical Review Committee comments by moving the sign it improves the aesthetics of the corner. He indicated the applicant has actually increased the variance relief sought in order to improve the aesthetics of the site.

Engineer Peterman referred to item #12 from Mott's report advising the ordinance does not allow more than one (1) free standing sign for every 300' ft. of frontage. He indicated the engineer's report states the applicant will have 543' linear feet of street frontage, however, the applicant disagrees. He stated he believes the applicant actually has 613' linear feet. Engineer Peterman referred to Exhibit A2: referencing he has highlighted the applicant has 411' ft. of frontage along Fire Road, 132' ft. of frontage along Tilton Road and along the arc there is 69' ft. He stated he believes the arc was not calculated by the Board Engineer. He stated when you add the frontages it comes to 613' ft. of frontage which would allow the applicant to be permitted two (2) freestanding signs.

Engineer Peterman advised the main sign is existing and will be moved back. He indicated by moving it back there will be blockage of the sign based on the existing canopy and this is why the applicant is looking to place a second (2<sup>nd</sup>) free standing sign along Tilton Road. He advised the second sign will have a setback of 12' ft. He also added the applicant does meet the square footage requirements based on the frontage, however, variance relief for the total square footage between the proposed and existing free standing sign. Chairman Garth asked the purpose of the second (2<sup>nd</sup>) free standing sign. Engineer Peterman explained it is a price only sign and it will have the Sunoco emblem. He indicated it will not have representation concerning the proposed market it is strictly for the gas station.

Engineer Peterman stated when the applicant moves the existing sign back the existing canopy will block the visibility of it. He indicated the Township has a lot of visitors and with the proposed second (2<sup>nd</sup>) sign it will help people come in and out of site safely. Engineer Peterman further noted there is a lot of competition of with other signs in the area and the applicant has an obligation alerting customers of their pricing if they want to utilize the facility. He indicated the applicant also wants to give adequate time for the public to utilize the jug-handle.

Engineer Peterman advised item #13 within Mott's report references setback distance. He stated again the existing free standing sign will be setback 20' ft. versus the 25' ft. Engineer Peterman stated the price only sign will be set back 12' ft. He indicated the applicant competing with other signs in the area. He referred to **Exhibit A5**: Ariel of Tilton Road. He explained the Boardwalk Honda sign, Burger King, and CVS sign are all lined up as shown on the exhibit. He indicated the applicant feels if the price only sign were to be moved back it would not be consistent with the general area and it would present a problem with the proposed parking.

Engineer Peterman advised the applicant is seeking three (3) design waivers they are basin landscaping, basin setback and top width of basin. He indicated with the configuration of the site there is not much room for a basin, though there is currently one located on site. Engineer Peterman explained the site

currently has an overflow of vehicles from the service repair area and the site is unsightly. He indicated the applicant intends to clean this up and handle the storm water. Engineer Peterman explained the applicant is looking to place the basin at the lower end of the site along Fire Road and the applicant will be beefing up the landscaping along its frontage and rear so it will not be a visibility issue.

Engineer Peterman advised the applicant cannot meet the setback requirement for the basin because of the irregular shape of the site. He explained the ordinance requires a top width of the basin to be 10' ft., however, the applicant could only provide 5' ft., which is also based upon the request of the Board Professional's asking for additional volume so a retaining wall was added. Engineer Peterman stated with the additional design the basin is 3.32' ft. in depth and the applicant should be 2' ft. so the applicant needs relief for this proposal.

Engineer Peterman stated the applicant tried to be as conforming as they could with respect to the basin and based upon the configuration and lack of room for the basin itself. Engineer Peterman advised as a condition of any approval granted the applicant will revise the plan to show the price only sign will be 12' ft. from the edge of the sign to the R-O-W to be consistent with the other signs in this area.

Engineer Peterman advised the applicant is aware that all other outside agencies such as Atlantic County, Soil Conservation will be required to be submitted as a condition of any other approval. He indicated there are not many technical comments within the report of the Board Engineer, Mott Associates. He indicated when he goes through the report of the Board Planner, Polistina and Associates it is very similar with respect to the comments.

Township Committeeman Carman stated it is typical for these type of facilities to have deliveries made via tractor trailers. He asked how is this going to work with this site. Engineer Peterman stated it will be difficult. He advised there are four (4) parking stalls on the south east side of the site by the trash enclosure that will be designated employee only spaces. He indicated by doing so the applicant can monitor comings and goings and the employees will know when deliveries are made. He stated he tried to make this as a loading area. Township Committeeman Carman stated they still will have a problem getting the trucks in.

Engineer Peterman stated it will be tough. He indicated the site itself is of issue. Engineer Peterman stated even the tankers had to be considered. He explained this is why the 25' ft. setback could not be achieved for the existing sign. Township Committeeman Carman asked Board Engineer Watkins if he feels the tankers can make the proposed radius. Board Engineer Watkins stated they are making it. Engineer Peterman stated the applicant will try to keep the delivery of the gas off the peak hours. He stated with even having the tanker on site there will be a passage way for customers to get through.

Township Committeeman Carman questioned how the deliveries will be handled to the store. Engineer Peterman stated trucks will come off Fire Road and then back into the site. Township Committeeman Carman asked Board Engineer Watkins if he believes they will be able to make this movement. Board Engineer Watkins stated he is not sure. He advised they will have to block the entrance in order to do so. Township Committeeman Carman stated he does not want to see a tractor trailer sitting on Fire Road. Engineer Peterman advised he can work with the Board Engineer's office to make sure this does happen. He stated the applicant envisions a lot of beverage trucks coming to site and at times semi-tractor trailers.

Township Committeewoman Pfrommer advised she has noticed deliveries to other facilities occurring at peak time. She indicated this corner is brutal at rush time. Board Engineer Watkins stated he is not sure what the applicant can do about eliminating deliveries at peak times. Engineer Peterman stated the applicant is looking to brand this. He indicated this is the first but it will not be the last. Engineer Peterman stated this site is the first proposed in Egg Harbor Township. He stated the applicant does own several other gas stations in the area that they will be converting as well. Engineer Peterman stated there will be interaction between the stores and if something is needed one (1) of the other stores can supply without having semi's deliver something in the middle of rush hour.

Chairman Garth asked how many feet is there from the back parking space to the street. Engineer Peterman stated the parking spaces will be employees and whose cars will not move. He indicated the dimension he is taking the distance from will actually be the trash enclosure gate to the street and it will be 60' ft. Chairman Garth stated the trailers are 55' ft. and the truck is 20' ft. Engineer Peterman stated the applicant could seek more of variance and asked that the trash enclosure be moved further back. He indicated the ordinance requires a 50' ft. setback and the applicant is proposing 10' ft. by skewing the enclosure a little bit the semi could go deeper into the site.

Board Engineer Watkins asked how many extra parking spaces. Engineer Peterman stated there are four (4). Board Engineer Watkins stated maybe by eliminating some parking spaces or pushing the trash enclosure further south to the property line to make the area at least 70' ft. for the tractor trailer. Township Committeeman Carman stated he wants it larger so the tractor trailer can go further back. Engineer Peterman stated this can be tweaked and discussed with the Board Engineer. Board Engineer Watkins stated the applicant is seeking variance relief for this setback already. Engineer Peterman stated the adjacent parcel is Boardwalk Honda and they have cars up along this property line. Township Committeeman Carman stated it is not the best situation but it is better.

Board Member Levy stated he would like clarification. He indicated the Board sees the size of the variances and are grandfathered in, however, the applicant is changing the use does all the grandfathering go away. Board Engineer Watkins stated this is a brand new application so nothing is grandfathered. Board Engineer Watkins stated the applicant shows the buildable area is on the map and what is permitted. Board Planner Polistina stated there is a point when someone is putting too much on a parcel. He indicated the applicant is maximizing the site.

Board Planner Polistina stated the applicant did not discuss how many pumps currently exist, the size of the building that is actually there now nor did they explain that they are adding two (2) diesel pumps there that the proposed building is 3,100 sq. ft. He indicated there is a lot going on there and seemed to be glossed over. He indicated they need to advise the applicant went directly into the reports and did not advise the board that it is an already developed site and that there is no property available adjacent. Board Planner Polistina stated these are the things the Board needs to rationalize variance relief.

Board Member Aponte stated he agrees with Board Planner Polistina. He indicated he understands the applicant knows this application but the members do not. He indicated he wants more testimony concerning the signs. He stated he would like to know why the applicant is moving the existing sign from one place to another. He indicated it is pre-existing non-conforming and with moving a variance is being created. He asked why? Engineer Peterman stated at the request of the Technical Review Committee. Board Engineer Watkins stated it is already an existing variance and by moving we are making the situation better. He indicated the sign as it exist is on the R-O-W. He indicated they wanted the applicant to move back 25' ft., but they cannot make it work with the gas deliveries.

Board Member Aponte stated once it is moved the Board can make it conforming the Board does not have to grant variance. Engineer Peterman stated he understands. The applicant could have kept the sign at its current location but want to improve the aesthetics of this site. He indicated the applicant could have left the gas station in its fair condition and visibility of it but was not what the applicant wanted to do.

Engineer Peterman stated the applicant wants to improve the site to convert to what is coming now and that is gas and convenience stores together. He indicated the Board had not long ago recommended an ordinance to have those two (2) uses together because the Board saw these type of uses were a good marriage between the two (2). Board Member Aponte stated he understands but there is a point when there is too much on one (1) lot. He indicated there are a number of variance(s) requested and he would like to hear more testimony on the rational.

Attorney DeClement referred to Exhibit A5 he advised this shows the current building and canopy as it sits. He stated the idea was to take this site and modernize it and turn the proposed building perpendicular on site. He indicated the property is problematic by virtue of its shape, however, there is nothing the applicant can do concerning this. Attorney DeClement advised the applicant could have converted the existing building which is just shy of 2,000 sq. ft. into a convenience store. He indicated with the proposed it allows for a modernization of the site and allow for better circulation. Township Committeeman Carman stated the proposed now increases the size of the building on site by 50%. Attorney DeClement stated by turning the proposed building it sets it back on site and keeps it with a look of a traditional convenience stores that are modern and up to date rather than to convert an old service station and the bays does not accommodate this type of use. He also noted by proposing the new the applicant is providing a basin which is not currently there and again it is modernizing site and traffic pattern.

Board Planner Polistina asked if the 3,184 sq. ft. convenience store absolutely needed as part of the business plan for the applicant and how did they come about proposing this size. Engineer Peterman: stated the applicant wanted a 5,000 sq. ft. building but it does not work on this site and a reduction had to be considered because of the confines of the site. He indicated the applicant does have other sites and the Board will see different size buildings but again this site does not accommodate because of the existing pumps, the required parking and the basin everything is crunched down.

Attorney DeClement referred to Exhibit A3: floor plan. He indicated one of the reasons for the size of the facility is to allow for a men's and woman's bathroom on the interior and it is great value to the neighborhood. He indicated bathrooms are no longer on the outside due to the vandalism and the non-desirous activities that go on. He stated the proposed bathrooms also are large enough for handicap access. He stated yes the applicant could reduce the square footage some but comes to a point where it would create a problem.

Board Planner Polistina stated there are four (4) existing pumps are any being added. Engineer Peterman stated two (2) more pumps are being added. He indicated one (1) pump will be gas and the other will be diesel. He indicated their addition is to allow them to be competitive with other facilities. He added this will also require the canopy to be extended. Attorney DeClement stated the diesel represents the new car market such as Voltzwagon, BMW and Jeeps are also coming out with a new diesel line so there is a greater demand. He further noted that the diesel pumps are proposed at the

end because you are never sure who is going to use diesel and it also helps that there will be no co-mingling.

Board Planner Polistina stated so from the applicant's standpoint to redevelop site a 3,100 sq. ft. store and two (2) additional pumps is necessary. Attorney DeClement stated it is the applicant's desire. Township Committeewoman Pfrommer advised the site will be very tight. She stated it is a very busy corner and there are a lot of accidents. She stated there are a lot of problems and this is a lot of use then what was there.

Board Planner Polistina stated it is a difficult site. He indicated they are making some improvements with the circulation and the access to the site. He stated shifting the location of the proposed building against the property line improves visibility of the whole area. Vince: is a difficult site and we are making better for the circulation. He indicated compared to what is there now the proposed does make it better. Attorney DeClement he indicated the applicant feels it is a great improvement by turning the proposed building rather than redeveloping a mini-mart within the existing facility and would create a concern to traffic patterns. He indicated by moving the building perpendicular it is better visibility to Tilton Road which will be helpful to the people existing the Garden State Parkway.

Engineer Peterman stated there are a number of comments within the Board Planner's report that are different then the Board Engineer. Again, he stated this is a rough corner and there is no other property available to purchase to expand the site to eliminate variances. He stated the square footage of the retail provides aesthetics and better traffic flow on site. He indicated the applicant tried to accommodate the Technical Review Committee by moving the sign back. However, if the Board would like it to remain in the current location it can be done. The variance relief would be to allow a pre-existing non-conforming setback and sign area. Engineer Peterman advised the applicant can then withdraw their request for the price only sign because the applicant will maintain the visibility with the existing sign. He indicated there is a lot of latitude and the applicant is trying to be accommodating to the Board and the Board Professional's.

Board Planner Polistina stated the Board should keep in mind the existing building that is there with the existing improvements would need basically all the same variances. He indicated the applicant presented to the Board the triangle in which they can build in. He indicated variances to build exactly what is there currently. Board Engineer Watkins stated we have worked with this applicant for numerous months and the layout proposed is the best without making the building smaller that will not work with business plan. Township Committeewoman Pfrommer stated this works for the applicant but how does it work for the roads in front of it. Board Engineer Watkins with the building as existing you cannot see if the pumps are backed up or filled until you get past the building. With the proposed building being moved you will see this from at least 150' ft. away from Fire Road. Will see more visibility. There is variances for parking setbacks because there is parking being created. He stated currently there is really no parking. He indicated the most unsafe movement is the tractor trailer parking and if we can move the trash enclosure out of the way the entrance drives will be more visible.

Township Committeewoman Pfrommer asked how far apart are the entrances along Fire Road. Engineer Peterman stated they are 80' ft. Board Engineer Watkins stated the entrance you cannot really use currently because it is the back entrance to the auto shop and the other is the one you enter in. Believe the new design is safer. He indicated maybe better circulation would occur with reduction in the size of the building but the applicant has indicated this does not work for them with respect to their building plan.

Board Engineer Watkins stated concerning the sign variance relief his office does not have any issues with the proposed signs on the building. He indicated this is typical for corner sites. He stated the setback variance for the corner was made conforming as possible in order for the tanker trucks to make deliveries. He indicated the price only setback he does have a problem with. He indicated the Board does not normally permit setback variances for a new sign per say. He indicated the applicant can move the sign back to the 25' ft. by removing a parking space. He indicated the existing sign, even when it is moved back, it is 24' ft. in height and when you come upon it you will be able to see some of the pricing.

Board Engineer Watkins stated the ordinance calls for one (1) sign every 300' ft. and they have 617' ft. however where the signs are located there is not a 300' ft. separation between the signs, therefore, he believes variance relief is still required. Township Committeewoman Pfrommer asked what the height of the signs were. Board Engineer Watkins stated the proposed price only is 15' ft. and the existing sign proposed to be moved over is 24' ft.

Engineer Peterman stated if the price only sign is made to conform to see it will not be seen. Board Engineer Watkins stated the applicant could remove the Sunoco Emblem and move the prices up higher and setback the sign to 25' ft. and by doing so there will be a 300' ft. separation and that variance will be eliminated. Attorney DeClement stated this is fine.

Engineer Peterman advised he is referring to Board Planner Polistina's report dated May 13, 2014. He referred to page 3 at the bottom advising the variance(s) requested are listed and they are consistent with those outlined within the Board Engineer's (Mott Associates) report. He then referred the Board to page 4 of Polistina's report referencing item #1 which concerns the lot area. Again, he stated the applicant is not able to add any additional land. He advised the second item concerns lot width the applicant has 132' ft. in lieu of the 300' ft. on Tilton Road side. He referenced item #3 advising this is front yard setback the applicant is required 80' ft. but are proposing 46.2 ft.

Engineer Peterman stated item #4 of Polistina's report discusses a variance for the existing canopy. He advised it is a pre-existing non-conforming as far as setback and the applicant is proposing to expand that structure. He stated the canopy is 1.5' ft. from Tilton Road and 46' ft. from Fire Road were 80' ft. is required. Engineer Peterman advised item #5 discusses rear yard setback. He advised the existing building is 27.1' ft, the applicant is proposing 11' ft. for the new building.

Engineer Peterman stated item #6 within Polistina's references minimum rear yard setback for accessory structure. He indicated 50' ft. is required the applicant needs 10' ft. for the trash enclosure, however, subject to the truck circulation of the loading and unloading zone a new number had to be established. Board Engineer Watkins stated maybe 5' ft. Engineer Peterman advised if the trash enclosure is moved over and the parking space eliminated it will accommodate the tractor trailer. He

Engineer Peterman referred to item #7 the maximum height for an accessory structure is 15' ft. and the applicant has 18.4' ft. for the canopy, which is pre-existing non-conforming. He stated item 8 deals with the minimum gross floor area. He indicated the ordinance requires a minimum of 5,000 sq. ft. and the applicant is proposing 3,184 sq. ft.

Engineer Peterman stated item 9 within Polistina's report advises a driveway must be at least 15' ft. from any property line. He stated the applicant is seeking relief for the pre-existing non-conforming driveway on Tilton Road. Chairman Garth asked if all four (4) driveways will remain the same. Engineer



Peterman advised this is correct. Engineer Peterman stated item #10 with the report addresses the building mounted signs that were previously discussed with the Board. He indicated item #11 deals with the "price only" sign as a second sign within 300' ft. of street frontage. He indicated the applicant's interpretation of the ordinance was that if you have more than 300' of street frontage you may have two (2) signs, however, based on Board policy it is a 300' ft. separation between the signs. The applicant cannot make the separation requirements.

Engineer Peterman stated item #12 states a freestanding sign cannot be more than 15' ft. or the maximum height of the principal building or whichever is greater. The applicant existing freestanding sign has a height of 24.2' ft. the building will be 21.33' ft. so variance relief is needed for this. Engineer Peterman referred to item #13 within Polistina's report which advises the requirements for sign area. He indicated the applicant existing free standing sign has a sign area of 278 sq. ft. and the proposed "price only" sign has an area of 14 sq. ft. for the logo which exceeds the 108 sq. ft. that would be permitted. Engineer Peterman stated with the removal of the Sunoco emblem from the "Price only" sign it does reduce the variance relief sought for sign area.

Engineer Peterman referred to item #14 of the report advising the setback for the pre-existing sign will be 20' ft. versus the 25' ft. required and the "Price Only" sign will be conforming to the setback requirements of 25' ft. Engineer Peterman stated also the applicant is required to have a setback for parking to the building of 10' ft. He indicated the applicant cannot accommodate this setback due to the size and the configuration of the property nor will they be able to provide the landscape strip.

Engineer Peterman stated the reason for the variances is because of the exceptional narrowness of the property, the physical features, and the topography which are based upon the proof the applicant must meet toward the granting of the variances. He stated in this case you have the irregular shape of the property, it is undersized and the applicant cannot obtain additional lands in order to increase the square footage, length or width due to the existing size. He indicated the applicant has tried to accommodate the Technical Review concerns which had generated some variance relief request.

Engineer Peterman stated the positive criteria to this request for approval concerns the increased visibility, modernization and beautification of the corner which includes the building, grounds and landscaping. He indicated the applicant believes this will be a positive benefit to the community even with the listing of variances that have been requested.

Engineer Peterman stated he would like to go over the design waivers listed within Planner Polistina's report. He indicated the applicant is requesting six (6) design waivers. He indicated the first waiver concerns buffers. He indicated the applicant is required to maintain a 20' ft. buffer setback for front yard and a 10' ft. buffer setback for rear yard. Engineer Peterman advised the applicant is proposing to construct the basin within the required buffer due to the configuration of the site.

Engineer Peterman stated the applicant is seeking waiver from providing landscaping around the basin perimeter. He indicated the applicant has worked with the Board Planner to modify the plantings the applicant is providing and within the Planner's report he has deemed these modified plantings acceptable. Engineer Peterman stated the applicant is not proposing an irrigation system in. Township Committeewoman Pfrommer asked why place the plantings in if the applicant is not going provide an irrigation system. Chairman Garth stated the site will be dug up so place it in now. Board Member Aponte stated he will vote no for the waiver relief. Engineer Peterman advised the applicant will place irrigation in, therefore, this waiver has been withdrawn.

Engineer Peterman stated the next waiver concerns street trees. He indicated based upon the visibility and the street scape that is at this location the applicant is looking to supplement with more low growing plantings. He stated the applicant has placed more landscaping within the islands than required in order to offset the absence of the shade trees. Township Committeewoman Pfrommer asked if the shrubs will be along the driveway exit and entrance areas. Engineer Peterman stated yes. Township Committeewoman Pfrommer stated she is concerned with safety want to make sure they are maintained.

Engineer Peterman stated the applicant has a basin bottom of 3.32' ft versus the 2' ft. required, which was discussed, as well as the basin width of 5' ft. proposed in lieu of the 10' ft. required. He indicated also under general review comments within Planner Polistina's report it discusses the number of trees within the basin landscaping that cannot be provided but is acceptable. He advised the applicant will provide the MUA approval upon receipt and the applicant understands any approvals granted to them is subject to all other outside agency such as County Planning Board and the affordable housing fee.

Engineer Peterman stated there are not many technical comments the only items remaining concern the relief sought. Board Member Eykyn asked if the applicant will be keeping the existing entrances along Fire Road. Engineer Peterman stated yes. He indicated all four (4) entrances will remain. Board Member Eykyn asked if the island will remain at the entrance of Fire Road. He indicated he has seen cars get hung up on it. Engineer Peterman stated based upon the comments that have come back from the County the entrance will be amended for handicap accessibility so it will be removed.

Board Planner Polistina stated if the Board agrees the applicant must provide the façade sign details which were not provided. He indicated the applicant is proposing 40 sq. ft. for each sign. Engineer Peterman stated the applicant is seeking approval for each façade sign to be 80 sq. ft. **May the record reflect:** after a brief discussion between Board Planner Polistina and Engineer Peterman it was determined that each façade sign was in fact 40 sq. ft. for a total overall square footage of 80 sq. ft.

Board Engineer Watkins stated he does not believe the applicant has to go through Mr. Vogt's letter from Remington, Vernick and Walberg. Engineer Peterman asked that as a condition of any approval granted by the Board the information concerning vapor intrusion be deferred until time of building permit. He stated he does not believe this is the prevue of the Board will have to submit to the Construction Official because it really is a State issue.

Attorney DeClement stated the vapor issue concerns the permeation of contamination within the soil. He indicated this site was an original Sunoco Corporate site and they remain in charge with any remediation of this site. Board Engineer Watkins stated this is a State requirement.

Engineer Watkins stated there is a letter from Mr. Peterman that addressed Brian Walters, of the Atlantic County Planning and Development Department. It appears they (County) do not have any major concerns with respect to the existing drives. He asked Mr. Peterman if this is correct. Mr. Peterman stated this is correct. Engineer Watkins stated everything that is on the plans they saw and approved. Engineer Peterman stated this is correct.

Engineer Peterman stated he received a letter from the County dated May 15, 2014. He stated he is not sure if the Board has received this letter since he just received himself but he will provide to the Board. He stated the County is requiring a traffic study. He indicated they also want the plans to show that Fire

Road is under a Road Opening Permit until January, 2019, which he advised the applicant has no objection in doing. Engineer Peterman advised they also want R-O-W dimensions and construction details showing stop bars and they will be asking for deed restrictions, covenants, cost estimates and performance bonds. He indicated this is an administrative letter and it is not requesting any changes or amendments to the driveways.

Board Member Levy asked if there is anything that says "No Left Turn" onto Fire Road. Engineer Peterman stated no. Board Engineer Watkins stated they did not require. Engineer Peterman stated they did not require.

Engineer Peterman stated there is an existing fire hydrant on Tilton Road that will facilitate this site. Attorney DeClement stated with the movement to the building on the back property line increase the site visibility and allow more time for the motoring public to queue up for turns. Engineer Peterman stated yes it will.

**Motions Kearns/Pfrommer to open public portion. Vote 7 Yes.**

Nicholas Menas, Esq., introduced himself with the law firm of Fox Rothschild, stated the property operator Joe Canals who is the tenant at the property across the street. Attorney Menas stated he would like to discuss this clients concerns and that is safety. He indicated just because the applicant believes they can aesthetically enhance by building a larger building and placing this massing on the site does not mean it is a good idea.

Attorney Menas stated the proposed is also contrary to the Municipal Land Use Law. He indicated this is a pre-existing non-conformity as it relates to all the bulk requirements. He advised the Municipal Land Use Law tells when an opportunity such as this comes before the Board should take the opportunity to reduce and eliminate the non-conformity. He indicated the Board should not allow the applicant to build something to further enhance the non-conformities.

Attorney Menas stated the applicant would have you believe they are modernizing an operation and enhancing the aesthetics by building a bigger building. He indicated they can do the same thing by staying within the existing footprint and just rehabilitating the existing and reducing or not seeking anymore non-conformities or they could build a smaller building.

Attorney Menas stated Planner Polistina indicated if they stayed within existing foot print they would not need variances they would be pre-existing non-conforming and there would not be noticeable variances where they would require relief from a technical perspective. He indicated if they did trigger site plan there may be some additional variances from a technical aspect that they may require, however, the building itself would not require any new variances.

Attorney Menas stated within the last twelve (12) to eighteen (18) months the Township adopted an ordinance that allowed uses such as this to be permitted. He indicated when you look at this ordinance you cannot look at in a vacuum. He stated if the Governing Body thought it was a good idea to take undersized sites they would have modified the bulk requirements instead they took the use and made it permitted instead of two (2) principal uses and but kept in the ordinance site requirements that they felt it was necessary in order to make sure sites function safely.

Attorney Menas stated there was no information from a traffic engineer nor a traffic report. He stated there was no visual impact analysis the Board were told this proposal will look better and there is a better line of site, however, he asked if a photo simulation was produced. He asked how the Board can say this is a better line of site without one or without a traffic report or without queueing in order to determine how the site functions.

Attorney Menas asked if a traffic count was done to see what the existing count and if this proposal would cause additional flow to an area that is already congested. The growth in Egg Harbor Township that has been dumped upon you has been taxed between your ratable based and infrastructure. Attorney Menas stated the Township can only develop so much and roads can accommodate so much. He indicated being an individual that utilizes this intersection each day it is practical to say this proposal does not make sense.

Attorney Menas stated the Township has sixteen (16) bulk requirements for this zoning district within the Ordinance. He indicated of the sixteen (16) the applicant cannot meet eleven (11) of those requirements which is 2/3 of the requirements. He indicated this is tantamount to a re-zoning of this parcel, which is something not contemplated by the Governing Body because if they wanted to they would have.

Attorney Menas stated during the testimony it was discussed that no other land is available to purchase by the applicant. He indicated has copies of the application correspondence that was submitted by did not see any type of certified letters seeking to purchase property or any type of inquiry as to if property was available to purchase to help mitigate the request. Attorney Menas stated this is a requirement that must be addressed by the applicant and is there obligation to do especially since this is an undersized lot case and this parcel is not even 33% of your lot area requirements in this zone.

Attorney Menas stated he does not know how the flow will be with respect to this site since there is no traffic report. Attorney Menas stated earlier it was referenced "the most unsafe movement" which characterized movements at a site this size in the context of "most unsafe" then why are we entertaining this application without a traffic impact analysis, visual impact analysis, line site analysis in the form of a photo-analysis.

Attorney Menas advised some members have raised issues concerning the tractor trailers or the concerns of relying upon another store within the franchise, if it happens, bringing goods to this site. He stated he does not see how placing a site with this type of massing on it. Attorney Menas stated the applicant's professionals discussed how difficult it was in developing this site, however, he indicated he would disagree. He stated the site is developed. It may not be as the applicant wants however and it has functions for years.

Attorney Menas stated this site is undersized and he does not understand the presentation and believe there is a lack of information based on the eleven (11) variances they are requesting of the sixteen (16) bulk standards. He further noted the applicant stated they want modernize the site. This Sunoco station looks the same as every other Sunoco station. Attorney Menas asked what does this mean. He indicated there are two (2) Sunoco stations one on the Expressway heading into Atlantic City and the other at the Farley Plaza and the look the same as this site.

Attorney Menas advised the applicant is proposing an expansion of the foot print and the Municipal Land Use Law says this is something we should not do. He indicated this is an opportunity to fix what is

wrong there but not by granting 66% of the variances within the zoning district. This is too much in one (1) bag. Attorney Menas stated his client a good neighbor and corporate citizen in Egg Harbor Township for years. They have two (2) sites currently and they are pro-development. They have worked very well with the Lowe's site where Chick-Fil-A. They want to continue to be good corporate citizens. He stated what about the Lone Star site it may be better choice due to the marginal roads and can free up the flow of traffic. He asked the Board not to consider this application tonight because not enough information based upon traffic concerns. Attorney Menas stated if the Board does decide this application he would ask they deny the application based upon the reasons he had outlined.

Attorney DeClement stated the applicant is not expanding the footprint of the current building. He advised the proposed building is being turned perpendicular and he does not believe there is any study that needs to be submitted to show better visibility. He indicated this has been a gas station site for a long time and there is no reason to take that use out of it. He further noted that there is no reason to keep a building where it is so that it continues to block the He indicated the lot is odd. We do not have to keep a building that blocks all the visibility to the pumps.

Attorney DeClement stated that by making the proposed building smaller does not cure everything on site either. He stated what cures it is taking down the existing building and turning the location of the proposed building, which makes the site better and is part of the requirements of the Municipal Land Use Law. The County Planning Board did not have any objection with regard to the application and the Board's review committee worked out the details with the applicant's professionals. Attorney DeClement stated the applicant spent eight (8) months with the Board professionals and the County's professionals and they are fine with this.

Attorney DeClement stated the applicant is beautifying this site. He indicated the applicant could have come with a mini-mart within the existing building instead of investing within the community. He advised the applicant is making an effort to make this corner better and the plans represent this as well as the reports from the Board professionals.

Attorney Menas stated it is impossible for the applicant's representatives to say the County is fine with this. He indicated and can represent this, the County Executive has stated time and time again regarding any application, any improvement on a County Road anywhere in this County there is no such thing as a County Road there in municipalities first so what the Counties position is from a policy perspective is very simple they defer to the municipality. You are the age keeper it is your community the road has to function for you and your citizens. He indicated once the municipality acts then the County Planning Board will take its action. He stated he stated he can absolutely represent that is the policy of Atlantic County because he has heard it countless times whether it is from the Engineer's Office, the Business Administrator, the Chief of Staff, or the County Executive.

Attorney Menas stated maybe he misunderstood the application. He indicated he thought he heard they are taking an 8,000 sq. ft. building and turning it 3,100 and they wanted 5,000. Township Committeeman Carman stated the applicant is taking a 2,000 sq. ft. building and increasing to 3,100 sq. ft. Attorney Menas stated they are not only just turning the building but they are also increasing the size. He stated he does not believe enough information has been submitted for safety and he does not believe the application was presented in a clear manner to show what they are doing.

Board Member Levy stated this is not just about turning the building but bringing in a whole new use. Turning the building looks a lot better but not the same. Engineer Peterman stated a comment was

made about certified mailings from adjoining property owners. He stated the applicant had requested discussion and the mail was returned unopened and undeliverable to the address the applicant has. Attorney Menas stated it was not submitted as part of an exhibit. He indicated this is why the issue was raised. Attorney DeClement stated when the objector called his client this was discussed.

Stuart Stromfeld, property owner directly across the street from the project they are proposing, J. Alexander Realty and he is the managing member, sworn in: Mr. Stromfeld stated he did have a chance to reach out and call the applicant and was just as quickly hung-up on. Mr. Stromfeld stated his main concern is safety. He indicated when you come off of Fire Road and you are forced to make a right turn to get to the gas pumps. He stated after you gas up if you may be lucky enough to back up and get back on Fire Road, however, you more than likely are forced onto Fire Road and then take whatever method you need such as a jug handle or go to another street to get back onto Fire Road.

Mr. Stromfeld stated they are taking a facility facing Tilton Road and bringing it on to Fire Road with two (2) major entrances. He indicated it will force people out onto Fire Road who may not be familiar with the area and who will not pay attention to no left turn signs. He said this lends to safety issues. Mr. Stromfeld stated he called the applicant to see what they were doing in the convenience store. He indicated people will be coming for coffee, lottery tickets, donuts and whatever else and there will be a lot more people coming to site than just to get gas. Mr. Stromfeld stated consequently whatever the density of traffic is during the currently peak times will be even more with the proposed and more importantly you will have people using Fire Road as a left turn. He indicated the traffic is terrible now and this will kill the corner.

Mr. Stromfeld stated if the applicant had the three (3) acres required for the zone and not asking for the 2/3 of the variances maybe there would be a better way to set up the property. He indicated when he proposed his property across the street he had to purchase additional property in order accommodate circulation for tractor trailers and he had to make his building smaller because of this. He indicated when they spoke of bringing tractor trailers, tankers and other trucks it would be impossible. He indicated he has a problem with doing this on his own sites and they are at least 2 acres and with sharing parking on five (5) or six (6) acres on both his properties. He stated when the tractor trailers leave his properties now they are breaking up the curbs both across the street from this site and the one adjacent to Lowes. Not sure the circulation of the tractor trailers with this site. He stated this is a safety concern there will be accidents and traffic jams from the ton of people coming and going from this location. Do not believe what they are doing is best interest of the Township.

Board Engineer Watkins asked if the Board had any questions. Chairman Garth stated he did not see a traffic report. Board Engineer Watkins advised the applicant is not required to submit one because they do not have 75 or more parking spaces. Board Engineer Watkins stated with response to what Attorney Menas stated about the County and whether or not we can dictate what the County can show is incorrect. He stated they are required to look at those entrances and give their comments and concerns and as the Board saw in the applicants report they have it.

Board Engineer Watkins advised what the Board will make them do is to make the tractor trailer to fit in the area discussed. They will remove the trash enclosure from its present location and move it closer to the building so the tractor trailer can fit into the back space. He further noted the parking spaces proposed in this area will be warranted to the employees only.

Board Engineer Watkins stated the truck turning movements have been reviewed. Township Committeewoman Pfrommer indicated she has a concern with two (2) trucks being on site at the same time. She asked where the other would go. Attorney DeClement stated the applicant has the ability to make sure this does not happen. Chairman Garth asked when the fuel delivery will be. Attorney DeClement stated the fuel is delivered generally in the early morning hours. Chairman Garth stated he has seen the fuel trucks at 3:00 a.m. is this the time. He also asked if the other deliveries could happen at this time. Attorney DeClement stated it is easier to schedule fuel at this time. He stated the applicant can move the food deliveries to off-peak hours.

Attorney DeClement stated the only other tractor trailers coming to site are for soft drinks. Chairman Garth stated they have straight trucks too. Attorney DeClement advised they can also make a request for them we will. Township Committeewoman Pfrommer indicated this is a request not a requirement. She asked what would happen if they could not. Board Engineer Watkins stated this can be made as a condition of approval. Attorney DeClement stated the fuel trucks will be the normal size, however, trucks that deliver coke, etc...are not as long so the turning radius will be different from an articulated truck.

Board Member Aponte asked if the applicant were to keep the same foot print of the building exactly as it is today. How many variances would still be necessitated? Board Engineer Watkins stated at least 90% of them. Board Planner Polistina if it were a raw site and you constructed as it currently sits you would need all variances that are requested. Board Member Aponte asked if they converted the foot print of it now still need variances. Board Planner Polistina stated the exhibit shows a yellow triangle. He stated this triangle is the only area where you can building in to be in accordance with the current zoning. Chairman Garth stated at one time the property was larger but with the intersection improvements along both Fire Road and Tilton Road that property was taken.

Board Engineer Watkins stated the Board must realize the function of the gas station does not work as it currently is. Township Committeeman Carman stated he does not see it getting any better. He indicated the applicant is expanding the gas aisles by 50% and expanding the foot print of the building by 50% even though the applicant is moving it. He indicated you are using that much room. He stated he sees conflicts on the western portion of the site, people will be backing in and out on the entry aisles. He stated he sees conflicts at the end of the pumps where people will be backing out from parking spots because everything is so tight. Believes there too much activity on too small of a lot.

#### **Motion Aponte/Kearns to close public portion.**

Township Committeeman Carman stated he appreciates what the applicant would like to do with cleaning up the site, but he believes it is too intense and too much there for this site. Board Member Aponte stated he believes the applicant is trying to shoe horn something in where it does not belong. He stated he personally does not agree and will be voting no.

Board Planner Polistina stated while going through deliberations realize that the proposal is a permitted use and that the Township made gasoline and retail a permitted use and articulate why the variances are not appropriate for this site. He indicated specifically even though the use is permitted for the site the applicant is introducing a new use into this site and why you think the site can handle everything they are proposing.

**Motion Carman/Aponte to grant requested design waiver(s) 1, 2, & 4-6. Vote 7 Yes:** Aponte, Carman, Eykyn, Kearns, Levy, Pfrommer, Garth.

Chairman Garth asked for a motion to grant requested variances. Board Member Levy asked if they should be put all together. Board Solicitor Strickland stated the Board should grant all variances at one time, however, for some reason the Board does not have too.

Township Committeeman Carman stated for the purpose of moving the variance(s) forward he will make motion.

**Motion Carman to grant requested variance.**

Board Planner Polistina stated if the Board wants to give the applicant some direction the members could do each variance individually. Board Member Levy suggested lumping some together and keeping others out. Board Planner Polistina stated if there is a consensus to grant a number of them then can do so. Township Committeeman Carman withdrew his motion for variance relief.

Board Planner Polistina stated there was some discussion concerning change with the Governing Body for this site. He indicated you cannot through your regulations zone this site into inutility so it cannot be used for anything. He stated it currently has development you cannot end up with a site that cannot be developed except within the tiny triangle. He advised in terms of lot width and lot area they are pre-existing non-conformities and you should probably grant them at the least. He stated if the Board wants to discuss the layout and some of the facilities on the site and some of the variances that they want to do with the site does make sense. He stated in terms of the existing the Board cannot sit here and say the applicant cannot do anything with the property.

Township Committeeman Carman stated he agrees with the Planner's assessment. Township Committeewoman Pfrommer stated she believes all of the members concerns are basically the same. Board Planner Polistina stated this is related to how they laid everything out and how much they are putting on the site. In terms of that piece of property you cannot as a Board say they can only development in the triangle area or else you would have to go back to Governing Body and develop regulations for the applicant to fit into something because you cannot zone the property to not be used for anything.

Attorney DeClement he stated the applicant would like to continue the application especially in terms of bifurcating the approval process for the variances so the applicant can understand. Board Planner Polistina stated the applicant is asking the Board to continue the application to a further date and provide them some information on the variances associated with what they are proposing.

Board Member Levy stated the site is not unusable. He indicated it is a gas station and it is currently being used. He stated he feels uncomfortable with saying you have 25% in a necessary area. Board Member Levy asked what does this board say to the next applicant or the one after that. Board Member Levy indicated the applicant does not have 50% of the required frontage. He indicated he is not going to grant a variance for that size. He stated he does not want to set a precedence. He indicated he has been through a lot of application. The property is not unusable it currently has a gas station. He believes it is just too much. He asked what are you going to say the next guy who has one (1) acre and he needs three (3) and he says you granted it to this person.



Board Planner Polistina stated it really does not mean anything, but he hears what is being said but what it becomes is following your zoning regulations. He stated he understands it is a developed site and it can be used exactly as it is being used for today but part of your zoning regulations you can do absolutely nothing with that site. So if the Board does not want to grant variances it has to go back to Governing Body to develop the zoning.

Township Committeeman Carman stated variances would have to be granted, however, in his opinion it is too intense. He indicated there is too much on the site and it is a safety aspect and he sees a lot of conflicts with traffic movements. He stated he knows there is some now and he sees other problems.

Attorney DeClement indicated the reason they are asking to be continued is to have a better understanding because a lot has been taking in tonight. He advised the second portion is that many of the variances are pre-existing non-conformities. Again, the applicant could have placed lipstick on the existing but would be pre-existing and not improve the site at all. Stated this will give them a chance to speak with the Board Professionals and better understanding and lay out the variances in a different method so the Board can be shown how they are between the changes that are proposed.

Township Committeeman Carman stated he has no problem continuing the application if the applicant would like to go back and re-group. Attorney DeClement stated it would be helpful. Board Engineer Watkins stated using the existing building was visited when they first came in. He indicated for them to do this they would have bifurcate site and use the back half for a parking lot for the convenience store and the front parking for the gas station. He indicated by doing so the circulation does not work.

Township Committeeman Carman stated he cannot see what is proposed working. **May the record reflect:** Board Engineer Watkins approached the site plan exhibit he then advised the Board of the existing circulation pattern on site and went over what is proposed. He stated he is not supporting their application, however, he indicated the Board Professionals have worked with the applicants to make sure the traffic circulation would work. He indicated the Board has worked with the applicant tonight to make sure the tractor trailer will be out of the drive aisle. Township Committeeman Carman stated they will over hang when off-load goods. Board Engineer Watkins stated the applicant will be required to continue the curb and sidewalk to the rear of the building, therefore, they will off-load and the whole trucks front end will be out of the entrance drive.

Township Committeeman Carman stated there are tight parking spaces at the end of the pumps. Board Engineer Watkins stated it is similar to WaWa's parking. Township Committeewoman Pfrommer stated there is more space at WaWa. Board Engineer Watkins stated the Board Professionals have worked with the applicant. He indicated having them go back and revise based on the existing building he does not like. He indicated he does not like the circulation of the existing building, therefore, if anything the applicant should propose a smaller sized building than 3,200 sq. ft. in order to provide a buffer and circulation if the Board would like.

Board Member Eykyn asked if the Board could force how the traffic will go north bound on Fire Road without making a left hand turn. Board Engineer Watkins stated that is the County. Board Member Aponte stated he thinks the new building looks good and the applicant has worked with the Board professionals for eight (8) months not more, but believe the building is too big for the space.

Attorney DeClement stated the applicant may be able to work with the building size if the Board feels more comfortable the applicant can show this. He stated a continuance of the application of application would be appropriate.

Board Planner Polistina stated by proposing a 2500 sq. ft. and six (6) pumps does not make it better. He stated he does not want to waste the applicant's or the Boards time. Township Committeewoman Pfrommer stated by reducing the building size is not going to be enough. She indicated this is her perspective. Attorney DeClement stated the applicant hears the Board and they will need to look at a layout that would be more appropriate He indicated this is not something they can do tonight.

**Motion Aponte/Carman to continue application.**

Board Secretary Wilbert advised the next available meeting date to continue this application will be Monday, July 21, 2014, 5:00 pm. Board Member Aponte stated he was amending his motion to continue application to Monday, July 21, 2014, 5:00 p.m., with no new noticing required.

**Motion Aponte/Carman to continue application until Monday, July 21, 2014, 5:00 p.m. no new noticing required. Vote 7 Yes:** Aponte, Carman, Eykyn, Kearns, Levy, Pfrommer Garth.

**SUMMARY MATTER(S):**

**SECTION I:**

**Discussions of matters pertaining to the Board:**

**SECTION II:**

a. **General public discussion: Motion Carman/Eykyn to open public portion. Vote 7 Yes**

**May the record reflect no one came forward**

**Motion Kearns/Eykyn to close public portion. Vote 7 Yes**

Board Member Aponte asked Board Secretary Wilbert of her conversation concerning obtaining transcripts with respect to the Seaview Harbor matter. Board Secretary Wilbert advised the Attorney for the applicant has spoken with his clients and they will not be submitted transcripts to the Board Members due to the associated cost.

**Motion Aponte/Pfrommer to adjourn at 8:15 P.M. Vote 7 Yes:** Aponte, Carman, Eykyn, Kearns, Levy, Garth

Respectfully submitted by,

Theresa Wilbert, Secretary

