

**Township of Egg Harbor  
Zoning Board**

**January 4, 2010**

**Solicitor:** George K. Miller, Jr., Esquire  
**Engineer:** Matthew F. Doran, P.E.  
**Planner:** Edward Walberg, P.P.  
**Zoning Officer:** \_\_\_\_\_ Patty Chatigny

A re-organizational and regular meeting of the Zoning Board of Adjustment of Egg Harbor Township was held on the above-date , 7:00 p.m., prevailing time, Egg Harbor Township Hall, Egg Harbor Township, New Jersey. The Chairman opened the meeting by reading the statement in compliance with the Open Public Meetings Act

**Call to Order/Flag Salute/Public Notice/Roll Call:**

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| John C. Amodeo, Alt. #I, present                      | John Haines, Class IV, present                     |
| Joe Cafero, Class IV, present, left @ 7:10 p.m.       | Chrissy Martin, Alt. #III, present, lft @ 9:32p.m. |
| Leonard Dagit, Jr., Class IV, present, lft @ 9:32p.m. | Norma Lombardi, Class IV, present                  |
| Beth Epstein, Class IV, present                       | Laura Pfrommer, Alt. #II, present                  |
| Latha Gilliam, Class IV, excused absence              | Paul Savini, Class IV, present                     |

**RE-ORGANIZATION:**

1. Motion Cafero/Dagit open nominations and appoint **Jack Haines** as **Chairperson** for the Zoning Board.

Motion Dagit/Cafero to close nominations and appoint **Jack Haines** as **Chairperson**. **Vote 6 Yes:** Amodeo, Cafero, Dagit, Epstein, Savini, Haines. **1 No:** Lombardi

2. Motion Dagit/Haines nominate and appoint **Paul Savini** as **Vice-Chairperson** for the Zoning Board. **Vote 7 Yes:** Amodeo, Cafero, Dagit, Epstein, Lombardi, Savini, Haines
3. Motion Cafero/Amodeo to nominate and appoint **Len Dagit** as **2<sup>nd</sup> Vice-Chairperson** for the Zoning Board. **Vote 7 Yes:** Amodeo, Cafero, Dagit, Epstein, Lombardi, Savini, Haines
4. Motion Lombardi/Epstein to nominate and appoint **Terry Wilbert** as **Secretary** to the Zoning Board. **Vote 7 Yes:** Amodeo, Cafero, Dagit, Epstein, Lombardi, Savini, Haines.
5. Motion Lombardi/Epstein to nominate and appoint **George Miller, Esq.** as **Solicitor** for the Zoning Board. **Vote 7 Yes:** Amodeo, Cafero, Dagit, Epstein, Lombardi, Savini, Haines
6. Motion Lombardi/Dagit to nominate and appoint **Edward Walberg, P.P., of Remington, Vernick and Walberg** as **Planner** for the Zoning Board. **Vote 7 Yes:** Amodeo, Cafero, Dagit, Epstein, Lombardi, Savini, Haines
7. Motion Lombardi/Cafero to nominate and appoint **Matthew Doran, P.P., of Doran Engineering** as **Alternate Planner** for the Zoning Board. **Vote 7 Yes:** Amodeo, Cafero, Dagit, Epstein, Lombardi, Savini, Haines

8. Motion Lombardi/Cafero to nominate and appoint **James A. Mott, P.P., of Mott Associates** as **2<sup>nd</sup> Alternate Planner** for the Zoning Board. **Vote 7 Yes:** Amodeo, Cafero, Dagit, Epstein, Lombardi, Savini, Haines
9. Motion Lombardi/Epstein to nominate and appoint **Matthew Doran, P.E., of Doran Engineering** as **Engineer** for the Zoning Board. **Vote 7 Yes:** Amodeo, Cafero, Dagit, Epstein, Lombardi, Savini, Haines
10. Motion Lombardi/Cafero to nominate and appoint **Edward Walberg, P.E., of Remington, Vernick, and Walberg** **Alternate Engineer** for the Zoning Board. **Vote 7 Yes:** Amodeo, Cafero, Dagit, Epstein, Lombardi, Savini, Haines
11. Motion Lombardi/Cafero to nominate and appoint **Vincent Polistina, P.E., of Polistina and Associates** as **2<sup>nd</sup> Alternate Engineer** for the Zoning Board. **Vote 7 Yes:** Amodeo, Cafero, Dagit, Epstein, Lombardi, Savini, Haines
12. Motion Savini/Cafero to adopt a Resolution setting the **Times and Days for Special and Regular Meetings**. **Vote 7 Yes:** Amodeo, Cafero, Dagit, Epstein, Lombardi, Savini, Haines
13. Motion Savini/Dagit to adopt a Resolution designating the **Official Newspapers** for the Zoning Board of Adjustment as **The Press of Atlantic City** and **The Mainland Journal**. **Vote 7 Yes:** Amodeo, Cafero, Dagit, Epstein, Lombardi, Savini, Haines
14. Motion Dagit/Cafero to adopt a Resolution concerning the **Fee to be paid by those wishing advance notice of meetings by mail as \$60.00 Annually or by fax as \$ 70.00 Annually**. **Vote 7 Yes:** Amodeo, Cafero, Dagit, Epstein, Lombardi, Savini, Haines

**PUBLIC HEARING(S):**

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| <ol style="list-style-type: none"> <li>1. <b><u>V 03-09</u></b><br/><b>Cedar Bay, LLC.</b><br/>Zone: NB, 41,513 sq. ft. site, sewer/well, applicant is seeking approval to construct a 3,860 sq. ft., five (5) bay automobile repair facility with 38 parking space(s), which is a conditional use within the NB Zone. Pinelands.</li> </ol> | <p><b>“D” Variance Relief</b><br/><b>Conditional Use Variance</b><br/><b>3226/9</b><br/>1178 Ocean Heights Avenue<br/>Waiver of Time– <b>Not Granted</b></p> |
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**Checklist Waiver(s) - General Requirement(s):**

1. **Item #10: Traffic impact report**
2. **Item #11: Letter from the NJDEP indicating there are no freshwater wetlands or transition areas within the subject property.**

**Checklist Waiver(s) - “D” Variance Relief:**

1. **Item #11: Graphic scale on the architectural plans**
2. **Item #45: Storm water management calculations**

**Variance Relief:**

1. **Conditional Use Variance to allow for an automobile repair facility building within 100' ft.**

- of a residential zone boundary line.**
- 2. Conditional Use Variance to allow for an automobile repair facility without a 50 landscaped buffer along the front and side property lines.**
  - 3. Principal Building Side Yard Setback: 20' ft. required; 15' ft. proposed.**

Jim Robertson, Esq., introduced himself as attorney for the applicant, Cedar Bay, LLC. He then presented Rami Nassar, of Schaffer, Nassar, and Scheidegg as the Engineer and Planner for the applicant, as well as Robert Conway, the managing member of Cedar Bay, LLC. Thus, Board Solicitor Miller had everyone sworn in:

Attorney Robertson advised this application is for lot 9 in block 3226, which is located at the intersection of Virginia Avenue and Ocean Heights Avenue. He indicated the applicant is seeking variance approval for the automobile repair facility. Attorney Robertson advised the property is located within the NB zoning district which allows automobile repair facilities as a conditional use. He indicated the applicant is before the Board tonight because they can not meet two (2) of the conditions required within the ordinance, therefore, the applicant is seeking "D-3" variance relief as outlined within the Municipal Land Use Law.

Engineer Nassar introduced himself. He indicated for the record the Board is aware of his qualifications as a professional engineer and planner, however, he will provide if necessary. He further noted he is familiar with the plan which was submitted to the Board for this application and the last revision date, of this plan, is December 8, 2009.

Engineer Nassar advised the applicant is seeking relief from not only the condition's but bulk variance relief as well. Engineer Nassar indicated the parcel in question is located at the intersection of Virginia Avenue and Ocean Heights. He stated Virginia Avenue is a dead end street further down from the intersection. He advised the property is located within the NB Zone as referenced on **Exhibit A1:** Ariel Map and **Exhibit A2:** colored rendering of site plan. Engineer Nassar stated west of the site there is an RG-1 zoning, which is residential and within the Pinelands Jurisdiction. He advised to the east of the site it is Zoned NB which is a commercial jurisdiction all the way to English Creek Avenue.

Attorney Robertson stated the applicant originally sought a waiver from preparing architectural's however, architectural's were then submitted with the plot plan and made as part of the overall submittal package.

Engineer Nassar indicated the proposed work bay's will be accessed off Ocean Height Avenue. Attorney Robertson advised there will be no access to the rear of the site along the side of the parcel that abuts adjoining lot 8. Engineer Nassar stated there will be no garage doors accessed off of Virginia Avenue either. He indicated there will be an office door facing Virginia but no repair doors.

Engineer Nassar stated the use proposed is permitted as a conditional use under the Township Zoning (section 225-35). He indicated that this section of the zoning also allows for principal uses such as restaurants, banks, food markets, liquor stores, shops for plumbers, etc., and personal communication towers. Attorney Robertson asked if these uses can be placed on the lot without any conditions? Engineer Nassar stated this is correct. He explained a conditional use is a use that is permitted, but there are conditions that are placed on that use within the zone. Engineer Nassar stated auto repair facilities are the only conditional use permitted in the NB Zoning District.

Engineer Nassar advised the conditions that must be met include landscape buffer at a minimum of 50' ft., all storage must be kept inside of building, all wrecked cars must be kept inside of building and the building must be 100' ft. from a zoning boundary line. He advised the applicant can not meet the 50' landscape buffer nor can the meet the requirement of keeping the building 100' ft. away from a zone boundary line.

Engineer Nassar stated if the applicant were to maintain the 50' landscape buffer along the property line it would make little of the parcel available for development. He also indicated the proposed building is actually 182' ft. away from the nearest residential parcel. He advised the building itself is actually 86' ft. away from the zone boundary line. Attorney Robertson asked in other NB zones within the Township does the zoning boundary lines run through R-O-W's? Engineer Nassar stated there is a parcel along High School Drive not far from this site where the NB zoning boundary is adjacent to a property line. He indicated within the NB zone near the Scullville Fire House, again, the boundary lines runs along the property line. Engineer Nassar stated the zone boundary lines typically run along property lines not within a R-O-W.

Engineer Nassar stated between the property boundary line and setback for residential there is a 110' ft. separation between the two (2), however, the applicant is proposing a 182' ft separate from the end of his building to the closest residential development, which should not create an issue. Engineer Nassar stated the residential side of Virginia Avenue will not hear noise from the building nor will they see cars coming in and out because access to the bay doors will be off Ocean Heights Avenue.

Engineer Nassar stated the applicant is proposing a landscaped buffer of 15' ft. along the front (Ocean Heights Avenue and Virginia Avenue) and the side (adjacent to lot 8), however, the applicant will meet the necessary landscaping requirements in the rear. He indicated the applicant will have some above ground storage, as well as, an under ground system.

Engineer Nassar stated a liquor store could be proposed for this site, which is a permitted use, without conditions. He advised the building could be around 5,000 sq. ft. and the parking would be the same amount as proposed with this facility, however, with a liquor store there will be more cars coming to and from and the hours of operation would be longer. Engineer Nassar advised the applicant will be conducting business between the hours of 7:00 a.m. to 7:00 p.m. with some shuttle service being offered to the clients. Engineer Nassar stated there will not be as much in and out traffic for this facility as there would be for a restaurant or a liquor store. Therefore, he noted the proposed would have less impact on the neighbors then other uses that are permitted in the zone.

Engineer Nassar stated a few months ago an approval was given to Shore Memorial Hospital, whom would like to be within their building by June of next year (2011). He stated Phase I of the Shore Memorial approval will have access off English Creek Avenue, however, Phase II of the Shore Memorial approval will have access off Virginia Avenue, which will be improved to 30' ft. wide. Engineer Nassar also added that the developer of the Shore Memorial also proposes additional development this would include extending the "dead end" portion of Virginia Avenue further down and eventually connecting this whole area to the Community Center with a traffic light being placed in at English Creek and Crane Avenue's. He stated this area will be breaking out and this section of the community will be a new town center.

Engineer Nassar advised there are other uses similar to the proposed that already exist in this area. He

indicated there is a self storage facility, which a detail shop at the intersection of English Creek Avenue and Ocean Heights Avenue. He advised there is also a WaWa that has a gas station on the opposite side of English Creek and Ocean Heights Avenue from the self storage facility. Engineer Nassar stated there is an auto related theme going in this area within the NB zoning district.

Attorney Robertson stated the applicant is also seeking variance relief from the bulk requirements of the NB zoning district. He indicated the applicant is requesting 15' ft. versus 20' ft. for a side yard setback. He indicated this is based on the location of the building on site. Attorney Robertson stated this relief is for the side yard with the adjacent parcel that is also located within the NB zoning district.

Attorney Robertson asked if the request for the 5' ft. relief significant? Engineer Nassar stated no. He indicated if the applicant were to change the location of the building it would not be parallel with Virginia Avenue. He advised that variance relief can be granted without substantial detriment to the adjacent parcel (lot 8).

Engineer Nassar advised that what the applicant is requesting is not a substantial detriment to the public good. Attorney Robertson asked Engineer Nassar what is the criteria for special reasons. Engineer Nassar stated one reason is to promote civic design. He indicated with the building facing Ocean Heights Avenue it is a better design then facing Virginia Avenue. Engineer Nassar stated if the applicant were to face the building along Virginia Avenue the side yard setback would be eliminated, however, the bays for the facility would be facing residential uses along Virginia Avenue. He stated by turning the building around to face Ocean Heights Avenue and seek the variance relief for the side yard variance it keeps the visual appearance of the facility down for the residential uses. Engineer Nassar stated it is really not proper design to place the facility facing Virginia Avenue, he added, as a commercial purpose would rather have business on main road.

Attorney Robertson advised the proposed building will be 3,800 sq. ft.. He indicated the facility will only be for personal vehicles. He further noted parking will be for low lying vehicles. Attorney Robertson advised landscaping will be provided along sides and rear of the property. He further noted the facility will look as a residential home. Chairman Haines asked what is the height of the proposed building? Engineer Nassar stated it will be 26 ½' ft. to the peak. Board Member Lombardi asked what the portion of "L" proposed at the facility. She asked if this is some type of show room? Attorney Robertson stated he will have Mr. Conway answer.

Engineer Nassar stated he believes the variance relief sought by the applicant can be granted without detriment and can be granted without impairing the zoning and/or the master plan. He indicated if the Board were to weight the positives against the negatives the positives do out weigh.

Engineer Nassar stated the applicant is seeking waiver relief from the general requirements. He indicated at this point the applicant is seeking relief from providing a traffic report, however, if the applicant is approved tonight a traffic report will be submitted with the site plan. He also advised this application is within the Pinelands Jurisdiction. He indicated when the Pinelands reviews this application it will be up to them to establish any wetlands issues, therefore, a waiver is sought until such time a pinelands letter is issued. Engineer Nassar further noted the graphic scale is not on the architect's, however, when the site plan is submitted it will be provided, as well as, storm water information.

Board Member Lombardi stated the applicant's attorney mentioned a set of plans that are not for this site. Attorney Robertson stated the applicant originally submitted architectural plans for another site. However, what the Board has in their packages is the architectural plan that will match the foot print of this building. He indicated the plans with the raised seal are the correct plans for this facility. Board member Lombardi asked if any signs are proposed. Attorney Robertson advised they will be submitted with the site plan if applicant receives approval.

Board Member Dagit asked for clarification. He asked if the improvements proposed along Virginia Avenue will be part of this application proposal. Engineer Nassar stated if Shore Memorial constructs Phase II prior to this applicant constructing they will do improvements if not then this applicant, Mr. Conway will construct the curb and sidewalk for his facility. Board Member Savini asked if the Board will be looking at a concrete walk and curb on a 15' ft. street. Engineer Nassar stated no, he indicated the curb and sidewalk will be from the center line and will be seamless.

Robert Conway, Cedar Bay, LLC , introduced himself. He indicated he is a managing member of Cedar Bay, LLC, along with his wife Roberta. He indicated he presently owns Galloway Auto and tire and he is the president of the corporation that owns the auto repair shops. He indicated he presently has a facility on Jimmie Leeds Road, in Galloway Township New Jersey, and another on New Road in Somers Point, New Jersey. He advised he has been in the auto repair business within Galloway for twenty (20) years and within Somers Point for fifteen (15) years. He indicated his facilities do in and out repair. He advised the vehicles he works are SUV's, F250 and F350 trucks, and passenger vehicles. He indicated he does not repair rack trucks or larger.

Attorney Robertson submitted **Exhibit A3**: which are two (2) pages of pictures, six (6) pictures in all. Mr. Conway advised on Page I the top photography is his Galloway facility, as well as the second (2<sup>nd</sup>) picture. He advised the third (3<sup>rd</sup>) picture is his Somers Point location. Mr. Conway advised on Page II the first (1<sup>st</sup>) photograph shows a mural located on his Galloway facility. He indicated the second (2<sup>nd</sup>) photograph is his Somers Point facility and the third (3<sup>rd</sup>) photograph is the proposed site within Egg Harbor Township.

Mr. Conway stated he has three (3) auto part stores within Ocean County, which were started in 1969. He indicated in 1990 he built his first (1<sup>st</sup>) repair facility within Atlantic County. He indicated he wanted to building something in Galloway that appeared as a colonial house. He advised the design of the Galloway facility includes rocking chairs in the lobby and toy area for the children of his clients. He stated he try's to make the facility comfortable for his clients. Mr. Conway did advised he provides a shuttle service if someone is in a pinch. He indicated this facility will be similar to the Somers Point facility which is shown on Exhibit A3, Page II, middle picture (second (2<sup>nd</sup>) one).

Mr. Conway stated he is familiar with Shore Memorial and he knows they are proposing to construct in this area. He indicated Shore Memorial will not only be great for him, but his business will also ge good for the workers of Shore Memorial. He indicated based on information giving by auto repair facilities there should be repair facility within five (5) miles from the location of a customer base. He indicated within this area of the Township there is about a seven (7) mile difference from the closet facility, which is actually in Hamilton Township. Mr. Conway stated he proposes a five (5) bay facility, which is actually less then his other sites. He indicated if he were to go smaller it would not pay to construct the facility.

Mr. Conway stated the layout and the parking proposed for the facility will work out well. He indicated he has owned the property for six (6) months and he paid \$160,000.00 for the property. Attorney Robertson stated if the Board does not grant approval of the facility the site will stay the way it is. Board Member Lombardi asked what the trailer on site was used for. Mr. Conway indicated it is a residential trailer and was occupied up to four (4) months after he purchased it. He indicated he approached the owner of this parcel about five (5) years ago and he was not interested. He indicated he almost missed out in obtaining this property. Mr. Conway stated he also approached, about five (5) years ago the owners of lot 8. He indicated they did not want to sell their parcel for the amount that was offered. He indicated their asking price was three (3) times more than what has been paid for this parcel.

] Mr. Conway stated he will have a waiting room, a lobby, and office area. He indicated he will have six (6) employees at the most for this site. Chairman Haines asked if used cars will be sold from this facility? Mr. Conway indicated he will not and the Board can make this as a condition of the approval. Board Member Dagit stated he has not met Mr. Conway, however, he does use his facility in Somers Point for his business cars. He asked if the proposed facility will be on par with the Somers Point site? Mr. Conway indicated the facility will be one (1) bay less than the Somers Point facility, but it will be the same operation as the Somers Point facility.

Board Member Lombardi asked if the horse farm across from this facility is residential? Engineer Nassar stated the horse farm is actually zoned residential. Board Member Lombardi asked how many days a week this facility plans to be open. Mr. Conway indicated the site will be open six (6) days a week. He indicated the site will be open from 7:00 a.m. to 7:00 p.m. He indicated on Saturday's the facility normally closes at 3:00 p.m, however, he sometimes does stay open until 7:00 p.m. Board Member Pfrommer stated she does not want to see cars parked all over the plans. Mr. Conway stated he agrees. He indicated this is why so many parking spaces are proposed. Board Member Amodeo asked if the parking for the facility is equal and rational to his facilities? Mr. Conway stated his Somers Point facility will have more parking, but this site will have more than the Galloway facility.

Chairman Haines asked if there is anyway parking can be cut down and still work? Mr. Conway advised he counted the spaces on both existing facilities and what is proposed is the number of spaces needed. He advised he usually repairs 25 to 30 cars a day. He indicated he will not do repairs to any cars in the rear of the facility and his facility does not do any auto body or detailing, however, he does vacuum every car that has an oil change.

Board Engineer Doran stated he would like to see during the site plan some additional buffering proposed. He indicated this type of use does have noise. Mr. Conway stated there will not be an excess of noise from this facility. He indicated his lifts are electric and there is not much as used. He indicated the lifts will be inside of the facility along with an air compression. He again added all repairs are done within the building and not outside. Board Engineer Doran stated a traffic report analysis should be submitted during the site plan process. He did indicate he has a concern with drainage, however, if the applicant does propose swales and underground drainage it should not be an issue.

Board Member Savini indicated he knows what the applicant will do with trash and recycling, however, what will be done about the oil? Board Engineer Doran stated trash and recycling will be taken away as regular, however, the recycling of the oil will be done inside the building not outside.

Board Planner Johnston stated the applicant has answered questions outlined within his report. He

indicated it does come down to the Board deciding if the positive criteria has been addressed and if the applicant has satisfied the negative criteria in that what is proposed will not be a detriment to the zone plan. Board Planner Johnston stated based on the testimony provided the applicant has indicated he needs the number of bays proposed. He indicated the Board must decide if the applicant could cut down the building and reconfigure in order to meet the buffering requirements. He stated from the testimony provided by the applicant they can not come down on the size of the building to meet the conditional use requirements. He indicated the only other thing the Board could consider if this lot is appropriate for this use and if not the applicant could seek another lot in the zone.

**Motion Dagit/Amodeo to open to public portion. Vote 7 yes.**

Paul Guyermelli, 1172 Ocean Heights Avenue, Egg Harbor Township, sworn in: Mr. Guyermelli stated he is the second house in from this facility along Ocean Heights Avenue. He stated with Egg Harbor Township growing the township sets up rules to moderate a commercial area from a residential area. He indicated the ordinance requires a 50' ft. buffer to keep the commercial from the residential.

Mr. Guyermelli stated he believes Galloway Auto Repair is great, but he believes they need a bigger parcel. He indicated he does not want to see 38 cars outside his window. He indicated he has lived in this area for 28 years and it used to be woods. He advised Ocean Heights Avenue is not set up for commercial development and he is scared of what will happen with Shore Memorial coming in. He indicated it may be great business wise, but when the township sets up rules they need to stick by them. Mr. Guyermelli advised the height of the facility will make it the biggest use in the area.

Attorney Robertson stated Mr. Guyermelli is concerned about seeing cars, however, the 50' ft. buffer requirement is for auto repair only. He indicated there is no condition on a restaurant, liquor stores, etc... to have a buffer so cars will be seen. Mr. Guyermelli stated the applicant is proposing a 15' ft. buffer, where a 50' ft. buffer is required, so build a restaurant.

John Peyndon, 105 South Clarion Avenue, Margate, New Jersey, sworn in: Mr. Peyndon stated he is friends with Allen, Roberta, and Stephen Oswald, whom own 107 Virginia Avenue. He indicated the Oswalds could not be present this evening, they are out of the Country but they asked if he could read a letter on their behalf concerning this project. Attorney Robertson objected to Mr. Peyndon. Board Solicitor Miller indicated Mr. Peyndon can not represent the Oswalds, however, he indicated historically the Board has allowed a letter to be read. However, the Board must take the weight of the letter into consideration since the individuals are not present. Attorney Robertson stated he again, objects. He advised the letter just submitted to him is not signed. Chairman Haines stated he is concerned, since the letter is not signed, that it can be credited, therefore, he would ask that it not be submitted to the Board or discussed.

Marsha Barth, 178 Huntzinger Road, Wernersville, PA, sworn in: Ms. Barth stated she and her husband, whom is present own adjacent lot 8, which is also zoned NB. Mrs. Barth stated she knew the previous owner of the parcel in question, Milton Percel, personally, before Mr. Conway purchased his parcel.

Mrs. Barth advised she has owned the adjacent parcel for 38 years (1976). She indicated it was purchased so a Garden Center could be constructed. Mrs. Barth stated she wanted to clarify that it was Mr. Percel whom, when they were approached, wanted much more than they did for his parcel. However, when Mr. Percel's parcel sold it actually sold for half (1/2) the amount that was offered.

Mrs. Barth stated she has been approached by many people concerning their site. She indicated she is not worried about selling to this applicant or to others. She indicated she and her husband are not against the development, however, she is concerned with the proposed setback to her property.

Mrs. Barth indicated the side of the building adjacent to her parcel will be where the air pressure hoses will be and noise is a concern. She indicated her husband and herself have owned the facility for 34 years and Mr. Conway has now owned his property for six (6) months. She stated he is a conditional use and he has a right to use his property but he is seeking relief from the very conditions that are placed on him for what he proposes.

Mrs. Barth stated what if someone wants to purchase her site and the applicant has the encroachment of his facility within the setback. This may be a concern. She indicated the 50' ft. landscaped buffer may be a little too much, however, the setback for the building should be met. Mrs. Barth also noted she is concerned with the waivers they are seeking with this application. She indicated not much is being explained and it is being stated it will be supplied with the site plan. She indicated there is a detriment to this area and the applicant did not prove why the variance relief should for the side yard setback can not be removed.

Mrs. Barth stated zoning is put into place to protect us. She stated she does not see what the undo hardship is. She indicated if the applicant could eliminate the excessive parking they proposed or a by then the 50' ft. buffer could be accomplished. She indicated the applicant's attorney has advised if the applicant proposed a restaurant there would be no need for the buffer. She indicated in her opinion that is not proof to grant a waiver on the buffering. She stated the guidelines are placed in the Township ordinance(s) to protect us. She stated either the applicant should remove certain proposals or purchase other parcels.

Attorney Robertson asked if Mr. and Mrs. Barth were willing to sell their property? Mrs. Barth stated she was previously under contract for this site, however, she asked if the applicant would be willing to pay fair market value. Board Solicitor Miller stated this is not the place or the time to negotiate a price. Attorney Robertson stated the applicant has decided not to seek "C" variance relief for the side yard setback. He advised the applicant will shorten the office area of the facility and meet the zoning requirements, therefore, the "C" variance relief has been eliminated.

Board Solicitor Miller stated there is a noise ordinance within the Township. He if Mrs. Barth is concerned with the noise coming from the facility she may follow up with the Police Department. He advised if the applicant does not meet the noise requirements then they will receive a ticket.

Mrs. Barth stated she feels there may be a drainage issue, therefore, waivers should not be granted. Board Solicitor Miller stated the applicant is seeking a waiver not to provide drainage with this application, however, if the applicant receives approval they must submit drainage information with the site plan. Engineer Nassar stated the applicant, if approved, will have to do bio-retention basins all around the facility. He indicated the applicant will provide landscaping requirements for the drainage and it will look nice. He also added the applicant will have an underground recharge system that will have to meet the requirements for the Pinelands and Department of Environmental Protection. He stated the applicant can not impact the Barth's property with any drainage.

Mrs. Barth states she would like to see the applicant's attorney work with the resident's other than

arguing a letter. She indicated this zoning district does not have special conditions on any other type of uses. She indicated auto repair facilities are the only use where the conditions are applicable. Mrs. Barth indicated she is not against the application, however, she advised the applicant should try very hard to meet the conditions of the zone.

**Motion Dagit/Savini to close public portion. Vote 7 Yes:**

Attorney Robertson stated he is not going to rehash what the Board has already heard. However, he would like to address two (2) points. He indicated the Board has heard from member's of the public concerning this site. He indicated the applicant is proposing an auto repair shop, which is a conditional use within the NB Zone. Attorney Robertson further stated, however, that auto repair facilities is the only conditional use permitted within the NB Zoning district. He advised there are no other uses permitted in the NB Zone that require conditions.

Attorney Robertson stated if the applicant were to propose a restaurant where there is a large amount of parking required and people coming in out constantly. The applicant would not be required to propose a buffer. He further noted that all other uses within the NB Zoning district are commercial and cars are going to have to park, however, those uses also do not require the necessity of a buffer. Attorney Robertson stated the ordinance allowing for auto repair in this zone was created in 1994, which since then a lot has changed in the auto repair industry. He indicated most of the equipment now used in the repair of vehicles is electric powered and very little air is used. Attorney Robertson stated the applicant does have an air compressor, however, it is located within the building within a block wall.

Attorney Robertson stated the parking proposed is a concern for the neighbor's, however, for other uses permitted it is not an issue. The other uses that could be placed on this site could be more intense. He indicated the proposed is not an intense use or traffic pattern then other use(s) permitted within the NB Zoning. He advised this is a commercial zone and other commercial property owners have plans. He indicated Ocean Heights Avenue will more then likely become commercial furthe rdown. He indicated the proposed use will not have any different effect on neighbor's then any other use allowed within the NB zone.

Attorney Robertson stated the applicant did not want to front the building onto Virginia Avenue. He indicated the applicant wanted to front the building onto Ocean Heights Avenue to help the residential property owners. He indicated the building will have a 38' ft. wall being exposed to the Virginia Avenue. This wall, building will have the appearance of house. Attorney Robertson stated the applicant has established they can satisfy the positive criteria. He indicated the applicant meets certain aesthetics, they will provide open space with their landscaping design and they will provide a service that is not within a five (5) mile radius. He further noted the applicant is proposing a use that is similar and complimentary to other uses in the area and does not go against the general theme of the area.

Attorney Robertson stated noise will not be an issue because of the noise reduction of the type of equipment now being designed and used for these types of facilities. Therefore, he indicated the applicant has met the positive criteria and the Board take this criteria into consideration. Attorney Robertson advised this is a good project and will be beneficial to the area. He indicated this is not a hardship application, but that if falls under the special reason section of the Municipal Land Use Law.

Chairman Haines asked after hearing the neighbor's and the board does the applicant still feel he must

seek approval for all he has requested? Mr. Conway indicated if he removes a bay from the facility the site will not work for him. Chairman Haines asked if the applicant can shave down on the building where the bays are not located. Mr. Conway indicated he needs a counter area, office area, waiting room and bathrooms. He indicated he has already agreed to reduce the building to eliminate side yard setback variance. Mr. Conway stated this will be the smallest facility he has built and he has condensed down. Board Member Lombardi asked if any dialogue with the owner of lot 4 to subdivide off some property? Mr. Conway stated that will not help with the buffering requirements. Attorney Robertson stated this application is not for an undersized lot so the applicant has no obligation to purchase additional property. He indicated if the applicant were to turn the bays around then you would create more noise and traffic within the residential district. Board Member Savini stated yes, however, the applicant would not need to seek the variance relief needed for the zone boundary line. Attorney Robertson agreed, however, landscaping buffer would still be an issue.

Board Member Lombardi stated the applicant needs a 50' ft. buffer, however, what are they proposing? Engineer Nassar stated there will be a buffer of 15' ft. off Ocean Heights Avenue, Virginia Avenue, the side yard with adjacent lot 8.

Board Solicitor Miller stated the applicant is seeking "D: variance relief. He indicated the applicant needs five (5) affirmative votes. He indicated the has agreed, as conditions of the approval, no used cars sales will occur, he will not run a body shop, that within Page II of Exhibit A3, the applicant will have the building look like the Somers Point Facility, the applicant has agreed his hours of operation will be from 7:00 a.m. to 7:00 p.m, Monday - Saturday, with the facility being closed on Sunday's. Board Solicitor Miller indicated the motion of the Board should also recognize the applicant will be increasing the amount of landscaping to make up for the buffering that can not be achieved.

Board Member Amodeo asked if the Township Ordinance is written in such a way that a hedge height is required for the buffering. Board Planner Johnston stated there are specific species that are placed in buffers. He indicated the ordinance requires you have a certain amount of trees, shrubs, and evergreens. Board Member Amodeo stated, therefore it really does not matter whether it is 15' ft. or 50' ft. the overall is based on what type is planted and how close. Attorney Robertson stated the applicant will be dealing with the landscaping at time of site plan approval. Board Solicitor Miller stated in another town he is aware of restaurant placing a decorative brick way up to help limit the appearance of vehicles with the residential neighbors. He indicated this may solve some issues that have been brought up.

Chairman Haines stated the applicant should strike an accord with the landscaping. Engineer Nassar stated there will not just be evergreens planted by the applicant. There will be trees also proposed. He indicated the applicant will also have to deal with the Pinelands Commission with regards to the landscaping. Board Solicitor Miller stated the applicant could also place some of the buffer landscaping on the other side of the street (Virginia Avenue) for the residential home owners. Attorney Robertson stated the applicant still needs to prepare a landscaping plan for specifications to the plantings. He indicated this will be presented with the site plan. Board Solicitor Miller indicated he believes the Board is saying to the applicant " we will waiver buffer, but you will still have place landscaping for that buffer somewhere else". He indicated this should be discussed with the neighbor's along Virginia Avenue.

Board Member Savini stated he is concerned there will be no compromise to the landscaping. Board Solicitor Miller stated by granting buffer, you are not granting the amount of plants they place in. He indicated the buffer must be dense and must be within the 15' ft. He indicated what can not be planted on

the applicant's property should be discussed with the neighbors and they may want the planting's on their property.

Board Member Lombardi stated the applicant has a great reputation. She indicated she would like to see the applicant within Egg Harbor Township. She stated she is concerned with the neighbors and she is glad to see the applicant made the building smaller in order to eliminate the side yard variance. She indicated the applicant should look at planting landscaping on adjacent neighbor's property, for which he can not plant on his own. She stated she wants to make sure the quality of those plant's will not be less than what he must plant. She indicated she is concerned with the location and type of business proposed especially with the horse farm across the street. She stated she is concerned with buffer, noise, and setback of the zoning boundary line. She stated she would like to reserve which way she will go on voting.

Board Member Epstein stated she is familiar with the applicant's work and the way the applicant's properties look. She stated she is confident the same will apply to this site. She indicated she believes landscaping can be worked out so that it can be seen versus the cars at the facility.

Board Member Pfrommer stated she appreciates what the applicant has done with his two (2) other businesses. She indicated that when any area goes from residential to commercial there is a concern. She stated she believes if landscaping is accomplished, as discussed, it will help the resident's of Virginia Avenue.

Board Member Amodeo stated it is the Board's responsibility to protect both resident's and properties. He indicated he has seen other businesses operated by this applicant and they are a class above other repair facilities. He indicated when the ordinance for the NB was created in 1994, along for this use to be conditional, the technology was different. He indicated he thinks during the site plan that landscaping should be taken into great consideration.

Board Member Martin stated she has nothing to add.

Board Member Dagit stated as a builder and coming from a family of architect's there is a great expense to design the way the applicant is proposing. He advised this area is up and coming and he welcomes the applicant to Egg Harbor Township. He also advised he expects the same level of service in Egg Harbor Township, as experienced in Somers Point.

Board Member Savini stated he appreciates Marsha and Paul's concerns and they gave the perspective of the resident's in the area. He indicated he is O.K. with application as long as conditions are put into play. He advised the buffer(s) and landscaping should be discussed at time of site plan.

Chairman Haines stated he would like to thank Marsha and Paul for coming this evening. He stated he must take into consideration the positive and negative criteria which he believes is answered. He stated he appreciates the work Attorney Robertson did with his client concerning the conditions of approval. He indicated he feels positive with respect to this project.

**Condition(s) of Approval:**

- 1. Applicant has agreed no use car sales will be conducted on site.**
- 2. Applicant has agreed no body shop work will be conducted on site.**

3. Applicant agreed architectural rendering of proposed building will resemble existing Somers Point Facility as referenced within Exhibit A3: Page II: middle picture.
4. Applicant has hours of operation will be from 7:00 a.m. to 7:00 p.m, Monday - Saturday, with the facility being closed on Sunday's.
5. Applicant has agreed to supplement landscaping of facility will planting's required for the perimeter buffer. Should not all planting's fit through out site applicant has agreed to discuss the planting of this landscaping on surrounding neighbor's parcels or to be dedicated to the Township and planted at their discretion.
6. Applicant will comply with all applicable comments and concerns outlined within Board Engineer Doran's report dated: December 10, 2009
7. Applicant will comply with all applicable comments and concerns outlined within Board Planner Johnston's report dated: December 18, 2009

**Motion Savini/Epstein to defer all checklist waiver(s) requested until time of site plan application. Vote 7 Yes: Amodeo, Dagit, Epstein, Lombardi, Pfrommer, Savini, Haines.**

**Motion Dagit/Savini to grant "D" Conditional Use Variance relief to allow for an automobile repair facility building within 100' ft. of a residential zone boundary line. Vote 6 Yes: Amodeo, Dagit, Epstein, Pfrommer, Savini, Haines. 1 No: Lombardi**

\* **May the record reflect:** Board Member's Dagit and Martin both left meeting at 9:32 p.m.

**MEMORIALIZATION OF RESOLUTION(S):**

|    |                      |                                   |
|----|----------------------|-----------------------------------|
| 1. | V 14-05 (Amended)    | "D" Variance Relief               |
|    | SPPF 22-05 (Amended) | Preliminary/Final Major Site Plan |
|    | Trocki Hotels        | 2118/5 & 11                       |
|    | _____                | 6812 Black Horse Pike             |

Board Solicitor Miller indicated there will be a correction on the first page, the first whereas, which is six (6) lines down, it states multi-family rate. It should include the wording stating "less COAH Units". He noted on Page V, it speaks of studios and efficiencies. He indicated he will eliminate the wording advising "studio" since it really means one and the same. Board Solicitor Miller indicated that with these corrections he would like the Board to Memorialize resolution.

**Motion Lombardi/Pfrommer to memorialize resolution granting requested checklist waiver(s): ("D" variance and preliminary and final major site plan), Amended "D" Variance relief for the application known as V 14-05 block 2118 lot(s) 5 & 11 to allow for market rate housing versus age restricted housing originally approved within a commercial zoning district (RCD) Regional Commercial District, "C" variance relief: §225-56(A): number of parking spaces: 337 spaces proposed; 426 required, and amended preliminary/final major site plan approval. Vote 6 Yes: Amodeo, Epstein, Lombardi, Pfrommer, Savini, Haines**

**MOTION Amodeo/Savini TO ADJOURN AT 9:40 P.M.: VOTE 6 Yes: Amodeo, Epstein, Lombardi, Pfrommer, Savini, Haines.**

Respectfully submitted by,  
  
Theresa Wilbert, Secretary



