

**Township of Egg Harbor
Zoning Board**

August 1, 2011

Solicitor: George K. Miller, Jr., Esquire, present
Engineer: Matthew F. Doran, P.E., present
Planner: Edward Walberg, P.P., Joseph Johnston, P.P., present
Zoning Officer: Patty Chatigny, present

A 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:

John C. Amodeo, Class IV, working late	Norma Lombardi, Class IV, present
Leonard Dagit, Jr., Class IV, 2 nd Vice-Chair., present	Chrissy Martin, Alt. #I, present
Anthony DiDonato, Alt. #II, present	Andrew Parker, Alt. #III, on vacation
Beth Epstein, Class IV, present	Laura Pfrommer, Class IV, present
John Haines, Class IV, Chairman, present	Paul Savini, Class IV, Vice-Chair, present

PUBLIC HEARING(S):

- 1. SPPF 14-10/R2 “D” Variance Relief
Cedar Bay, LLC **Conditional Use Variance**
Block/Lot: 3226/9 **Preliminary/Final Major Site Plan**_____
Ocean Heights and Virginia Avenue **Waiver of Time – Not Granted**_____
Zone: NB, .953 acre parcel, private well/public sewer, Cedar Bay, LLC is proposing to construct a 3,713 square foot, five bay automobile repair facility with 37 parking spaces. The Board previously granted ‘d’ variance relief to allow for an automobile repair facility building within 87.19 feet of a residential zone boundary line as opposed to 100 feet and to allow for an automobile repair facility with a 15 foot front landscaped buffer along the front and side property lines where 50 feet is required.**

Major Site Plan Checklist Waiver(s):

- 1. Item #3: Surrounding areas within 2,000 feet shown on the key map**
- 2. Item #5: North arrow and graphic scale contained on the architectural plans**
- 3. Item #10: Existing contours within 100' of site**
- 4. Item #23a: Utilities within 200' of site**
- 5. Item #26: Loading areas and truck movement plan**

Design Waiver(s):

- 1. §94-5(A)3: Providing architectural perspective views**
- 2. §94-8(F): Providing a buffer between uses**
- 3. §94-8(H): Providing the buffer as required in the Neighborhood Business District**
- 4. §94-8(I): Providing a buffer in the Neighborhood Business Zone**
- 5. §94-9: Providing a Community Impact Statement**
- 6. §94-14: Providing an Environmental Impact Statement**
- 7. §94-22(E)4(a): Providing a 10 foot planting width around the basin**

- 8. §94-44(E)1(i)1: Allow basin in front yard setback
- 9. §94-44(E)1(i)14: Providing a 6' high chain link fence as opposed to a 4' high split rail fence around the basin
- 10. §94-44(E)1(j)1(b): Providing the top embankment width on the basin
- 11. §94-44F(3)h(7): Providing a basin perimeter access way
- 12. §94-44IIC-1: Topographic Base Map
- 13. §94-55(A)i: Public water connection
- 14. §225-50.6(D): Providing a Cultural Resource Survey
- 15. Environmental Impact Statement
- 16. 10' Planting around basin
- 17. Street Trees

“D” Variance Relief:

- 1. Conditional Use Variance to allow for the previously approved landscaped buffer to be reduced from 15 feet to 13 feet on the side yard.

“C” Variance Relief:

- 1. Freestanding Sign Area: 34.99 sq. ft. permitted on Ocean Heights Avenue; 44 sq. ft. is proposed.
- 2. Freestanding Sign Setback: 25 feet required; 20 feet is proposed from Ocean Heights Avenue.
- 3. Front Yard Basin Setback: 50 feet required; 15 feet is proposed from Virginia Avenue.
- 4. Side Yard Basin Setback: 20 feet is required; 13 feet is proposed.
- 5. Rear Yard Basin Setback: 10 feet is required; 8 feet is proposed.
- 6. Rear Yard Buffer: 10 feet is required; 8 feet is proposed.
- 7. Parking Location: Parking is to be a minimum of 10 feet from the building with a 4 foot landscape strip; Parking is proposed within 5 feet of the building with no landscape strip.

James Robertson, Esq., introduced himself as attorney for the applicant. He advised the site in question is known as block 3226 lot 9, and is located at the intersection of Ocean Heights and Virginia Avenue’s. He advised the applicant was granted a conditional use approval last year and in February, 2011 the applicant presented a full case to the Zoning Board with respect to the site plan proposal and the public portion of the hearing was opened.

Attorney Robertson advised the Board allowed the applicant to “table” this application based on commentary from the board and the public. By “tabling” this application it allowed the applicant to submit revised plans and address the concerns and issues raised. Attorney Robertson stated it appears that everyone who was present during the February meeting is also present this evening. Therefore, he would like to discuss the changes to the plan and if there are items that need to be rehashed they can be.

Attorney Robertson explained that Engineer Rami Nassar had appeared before the board previously for the applicant, however, Engineer Nassar is out-of-town, so Engineer Andrew Schaeffer is in attendance to discuss this application. Attorney Robertson also noted that Mr. Robert Conway, the owner and applicant is also present.

Board Solicitor Miller swore in Andrew Schaeffer, P.E., New Jersey licensed Engineer, Cantillon Boulevard, Mays Landing, New Jersey and Mr. Robert Conway, owner and applicant was also sworn in.

Attorney Robertson advised Engineer Schaeffer has presented many applications to this Board and he asked if he can be considered an expert witness. Chairman Haines stated yes. Engineer Schaeffer advised he prepared the physical design of this project and he has discussed the issues that were raised by the Board and the public with Engineer Nassar.

Attorney Robertson stated one of the items the prior site plan did not honor was the 15' ft. landscaped buffer. He indicated the plan stretched the boundaries and there were basins proposed at 2' ft. deep within the buffer areas. He indicated this was a concern to the Board because there is a bus stop for children located at the intersection. Attorney Robertson also noted the previous plan presented limited buffers and concerns with drainage were raised by the adjacent land owner.

Engineer Schaeffer indicated the Board during the conditional use process, requested a 15' ft. buffer. He explained the plan presented to the Board currently has areas of landscaping, as requested, but there are some scaling at 13 ft. Engineer Schaeffer advised this will be amended on revised plans, if the applicant receives approval. He indicated they will properly reflect 15' ft. He further explained the applicant is proposing underground storage of storm water, thus eliminating the basins that were proposed along the front of the property. He stated the underground storage has allowed additional green areas which are more in tune with the neighborhood.

Attorney Robertson asked how much more will it cost the applicant to propose underground storm water storage? Engineer Schaeffer indicated it will cost another \$80,000.00. He advised this includes the increase to the buffer area and the underground storm water storage.

Attorney Robertson stated the Board Planner's report is dated June 13, 2011, which is based on plans being last revised on April 12, 2011. Engineer Schaeffer advised the plans were revised after April 12, 2011. He indicated this was based on comments contained within the approval granted by Atlantic County. Engineer Schaeffer explained the County Plan revisions change nothing with respect to the on site conditions.

Attorney Robertson explained when the conditional use was approved. The applicant was granted relief in order to provide a 15' ft. landscaped buffer in lieu of a 50' ft. landscaped buffer required by ordinance. Again, Engineer Schaeffer advised this is correct. He stated the applicant will maintain the 15' ft. buffer, explaining the plans currently are file dimension incorrectly in some areas. Board Planner Johnson advised if the Board approves project his office will receive amended plans correctly showing the 15' ft. buffer.

Attorney Robertson stated during the February hearing the proposed sign area and setback were

discussed. As well as, relief of the 50' ft. setback from Virginia Avenue, which is proposed at 15' ft. Attorney Robertson explained the applicant is proposing a black chainlink fence around the basin. He indicated it will be 6' ft. in height. Board Planner Johnston advised the ordinance has recently changed and it now calls for a 42" split rail fence, backed with chicken wire. He indicated even though the applicant is proposing a fence around the basin. They still need design waiver relief for providing the black chainlink fence versus the 42", which is more pleasing to look at.

Attorney Robertson advised during the February meeting the applicant proposed a side yard setback for the basin. Engineer Schaeffer advised this is correct, however, the plans currently on file show the basin moved and the applicant will not be seeking the side yard basin setback. He also noted the rear yard basin setback will be maintained at the required 10' ft., therefore, this variance relief has been eliminated, as well as, the rear yard buffer setback.

Engineer Schaeffer advised the applicant has placed parking spaces behind the building which will be used for the cars already on site. Attorney Robertson advised the applicant is seeking approval for the freestanding sign to be 44 sq. ft. sign in lieu of 34.99 sq. ft. required. He indicated the sign is about 3' x 3' ft. .

Board Solicitor Miller advised the applicant is referring to a colored rendering of the site plan which will be marked as Exhibit B1. Board Member Savini indicated the sign appears to be three (3) separate panels. Engineer Schaeffer advised the applicant would like to keep the proposed sign out of the parking area, therefore, the applicant is proposing a sign that can be seen at a 20' ft. setback versus the required 25' ft. setback. He also explained that the sign will not be internally illuminated but it will have external lighting

Attorney Robertson indicated there are a series of waivers requested by the applicant both checklist and design waivers. He asked Engineer Schaeffer to outline them. Engineer Schaeffer advised the applicant does show properties within 2000' ft. but it is provided in a different scale. He also advised the applicant is seeking a waiver from providing a north arrow on the architectural plans, since it is not needed. He further noted the applicant has provided contours but they are within 50' ft. of the site not 100' ft. as required.

Engineer Schaeffer advised there are not many utilities, so they were not looked for beyond 200' ft. Engineer Schaeffer advised the applicant does provided truck movement on plans, therefore, a waiver is not requested for this. He indicated most of the deliveries to the site will be by United Parcel Service (U.P.S.) Trucks. Engineer Schaeffer advised there will not be any deliveries from tractor trailers. Board Member Lombardi asked how the tires will be delivered? Mr. Conway stated the tires are delivered via small vans. Engineer Schaeffer indicated there is no loading area, so a waiver still needs to be sought.

Engineer Schaeffer stated the applicant is seeking a waiver from providing architectural Plans. He indicated views and photographs have been given showing the buildings that the applicant

currently owns. He indicated the proposed building will have the same concept. Engineer Schaeffer indicated a waiver is sought for the buffer between uses, however, he not sure why. Board Planner Johnson indicated the applicant does not comply with the ordinance requirements, however, when the applicant received “D” variance relief the Board granted a 15' buffer. Board Planner Johnston advised the applicant does not meet the ordinance requirements per say, but they were granted relief. He further noted, this relief would be inclusive of §94-8 (F), 8(H), and 8(I).

Engineer Schaeffer advised the applicant is seeking a waiver from providing a community impact statement. He advised this is not a residential impact this is a commercial entity that will be providing jobs and will provide taxes. Engineer Schaeffer advised the applicant is seeking a waiver from providing an environmental impact statement. He indicated the removal of the auto motive fluid has been addressed by the applicant’ s attorney. He also advised environmental issues are considered by the Pinelands Commission especially with high pollutant uses. Engineer Schaeffer indicated all work performed on the automobiles will be done inside the facility and any spills will be through a clean-up plan within the building.

Engineer Schaeffer indicated the applicant is seeking variance(s) for buffering of the basin along Virginia Avenue and the applicant is seeking relief for the parking lot plantings along the basin. Engineer Schaeffer stated the ordinance required a 15' ft. access way around the perimeter of the basin, however, this ordinance has recently been amended by Township Committee and it is no longer required, especially when the basin is maintained by a private owner. Board Planner Johnston concurred with Engineer Schaeffer’s representation.

Engineer Schaeffer stated he did show a topographic map on the revised plan. Board Engineer Doran advised the applicant did not go far enough off site. He stated they only went 50' ft. versus the 200' ft. Engineer Schaeffer indicated he has walked the applicant’s site and he knows how the water flows.

Engineer Schaeffer stated there is no public water in this area to connect too. He advised this use does not need a large amount of water to exist. Board Member Lombardi asked if the water is more then 200' ft. away from the applicant’s site. Engineer Schaeffer stated yes. Board Planner Johnston stated he believes water availability is by Ocean Heights Avenue and English Creek Avenue, thus the applicant does not need a waiver, since it is to far away.

Engineer Schaeffer indicated the Pinelands Commission did not raise any issues with respect to submitting a cultural resource survey. Again, Engineer Schaeffer advised the Pinelands Commission did not raise any issues concerning environmental impact associated with this site. Board Planner Johnson advised the applicant has not met the street tree requirements. Attorney Robertson advised if the applicant does not meet the street tree requirements then the applicant will plant them across the street, if the neighbor’s would like them or any other area of the Township if it is deemed necessary.

Engineer Schaeffer explained to the Board that he is familiar with the ordinance requirements of the Township, the Municipal Land Use Law, and the Master Plan of Egg Harbor Township. Attorney Robertson asked if by granting any of the relief sought will it be an issue? Engineer Schaeffer indicated this parcel is a corner lot and is encumbered by two (2) street frontages, with an existing zone boundary down the middle of Virginia Avenue, which he indicated is one of the worst scenario.

Engineer Schaeffer continued by advising the shape and size of the lot in question is unusual, however, the underground storage proposed for storm water allows the applicant to provide additional landscaping. Engineer Schaeffer advised the applicant's proposal is a permitted condition use, however, because the lot is on the cusp of the zoning boundary, relief must be sought. Engineer Schaeffer also reminded the Board that the applicant meets the lot area and lot width requirements for the zone. He also noted the applicant is willing to buffer across the street for the neighbors and the applicant will also buffer his site.

Engineer Schaeffer explained drainage will come off Virginia Avenue and Ocean Heights Avenue. He advised the drainage then goes to the corner of the applicant's property and flows off onto lot 8. Engineer Schaeffer indicated the plan marked as exhibit B1 addresses the run off. He indicated the New Jersey Storm Water regulations are similar to what is outlined in the Township Ordinance, however, the Pinelands Commission and the County do have regulations which are slightly different. Engineer Schaeffer indicated the rate of run-off will be reduced, from what it is today, after the applicant's facility is constructed.

Engineer Schaeffer gave the example of: instead of 20 buckets of water running off the site, as it now does after a rain, there will be 15 buckets when the applicant constructs. Engineer Schaeffer referred to the storm water report that was prepared by his office. He referenced specifically Page 30 in which it discusses a volume of 29,000 gallons pre-construction for a 100 year storm event and post construction it will be 21,000 gallons for a 100 year event. Engineer Schaeffer advised there is a rate reduction with a 100 year event and he further noted that lesser storm events will take greater volume amounts. Chairman Haines asked if these reductions are because the applicant is proposing underground storage? Attorney Robertson stated yes, this would be correct.

Board Member Lombardi asked if landscaping would not help collect the storm water run off? Engineer Schaeffer stated yes. Board Engineer Doran advised he has spoken with the adjacent neighbor. He advised he explained that currently the run off coming from this site goes down the property and onto their site. Board Engineer Doran indicated with what has been proposed there will be a 15' ft. buffer, before the property line, which will help with the run-off onto their property.

Engineer Schaeffer advised the applicant proposes a grinder pump station for the sewer which will go down Ocean Heights Avenue to English Creek where there is sewer.

Board Engineer Doran stated the applicant has reduced the run off coming from this site and they have met the criteria. Board Engineer Doran advised if the adjacent neighbor had developed first they would have to take into account the run off from this site. Board Engineer Doran stated the applicant has proposed placing volume underground in order to reduce the run off. He explained to the Board that the storm water will be stored in the ground and it will release at a slower rate. Engineer Schaeffer advised the proposed storm water basin is higher then the underground storage. He indicated these systems are based upon the Pinelands Commission and Atlantic County requirements. Engineer Schaeffer indicated the basins will fill up and then go to the underground storage. Again, he indicated the applicant meets the requirements of the Township Ordinance.

Board Engineer Doran advised that the applicant's professional must place some more grades on the plans for along Virginia Avenue. He indicated he wants to make sure the water from Virginia Avenue goes somewhere and it does not puddle. Attorney Robertson stated the applicant does agree. Board Engineer Doran informed the Board that the applicant will be widening a portion of Virginia Avenue. He also indicated other comments he had were addressed with revised plans. Board Engineer Doran advised the waiver(s) being requested are fine and he would recommend they be waived. Board Solicitor Miller asked how much more information does the applicant have to provide for the grades. Board Engineer Doran advised another 250' liner feet should be provided along Virginia Avenue.

Board Planner Johnston stated he would like to see some additional evergreens planted along the front of Virginia Avenue (along basin) and in front of the parking area. Engineer Schaeffer advised the applicant will provide. Board Planner Johnston advised the applicant is subject to County approval along Ocean Heights Avenue, however, he would like to recommend a no left turn signal from the facility. Board Planner Johnston also advised there are no street lights on the utility poles in this area. He indicated he would recommend the applicant to install one. He advised it is based upon the visibility and protection. Engineer Schaeffer asked if Board Planner Johnston wants the applicant to install the light and then turn it over? Attorney Robertson asked if Board Planner Johnson wants the applicant to pay for the installation? Board Planner Johnston stated this is correct. He further noted the variance(s) requested are up to the Board to decide if they should be granted. Board Planner Johnston indicated the waiver relief requested was not of issue.

Attorney Robertson advised the applicant has spent a lot of time and money on this project. He indicated if the Township wants to place a utility light at this location they should be the one's to install. Attorney Robertson suggested the applicant make a \$400.00 contribution for the light. Chairman Haines asked if the Zoning Board could bound the Township to accept this light? Attorney Robertson advised he is not sure and he is concerned on how much it would cost.

Board Solicitor Miller advised the biggest expense for the installation of the light is the pole. Chairman Haines stated he does not believe the placement of this pole will create a situation where the project would not occur because it would be too costly. Board Planner Johnston

advised the acceptance of this utility pole would be up to Township Committee. They would have to see if they would want to pay for the electricity. Mr. Conway advised he would place the pole in, only if Township wants it. Board Solicitor Miller advised this is a public safety issue and again, it is up to the Township Committee to decide if they want.

Zoning Officer Chatigny stated she has no issue with the proposed. She further noted that she sees how the applicant is operating at their Galloway and Somers Point facilities and they are very clean. She indicated this is a good project.

Chairman Haines asked if any of the Board Member(s) have any questions? Board Member Epstein asked what time Mr. Conway will be closing in the evening. Mr. Conway advised the facility will be closed at 6:00 p.m., however, sometimes the employees will not be done until 7:00 p.m. or 8:00 p.m., he also indicated the facility will be open six (6) days a week. Board Member DiDonato asked if the public will hear any of the pressure machines. Mr. Conway stated no, they will not hear.

Motion Lombardi/Epstein to open public portion.

Marsha Barth, 178 Huntzinger Road, Wernersville, PA, sworn in: Ms. Barth advised she is the property owner of lot 8, which is the adjacent parcel. Ms. Barth stated she still does not understand the recharge system proposed. She indicated she does not believe the applicant has explained how the water, due to the impervious cover, will go to into the basin. She is concerned with the gravity flow of the water.

Ms. Barth also stated she does not understand why the applicant is seeking waiver of topography and contours. She advised that on the plans submitted to the Board office it shows a contour of 59 on Virginia Avenue and on Ocean Heights Avenue it shows 54. Ms. Barth indicated the applicant needs to show how the water comes down. She advised she is being open minded and she stated that it does not hurt that someone is building beside her. She indicated she feels it increases the value of her property, but she is concerned. Ms. Barth advised she has been present during the WaWa hearings, the restaurant public hearings, the storage bin public hearings and they have all placed on the record that they do not impede my rights.

Ms. Barth explained that she knew Mr. Purcell whom was the property owner of the applicant's parcel prior to the sale to Mr. Conway. She indicated she knew him because she was coming down to this area and checking in on their property. Ms. Barth advised that by what has been submitted she can not tell the water is going into the grates and it is very hard to understand them when they say the system is going to work.

Again, Ms. Barth stated she is open minded, but she further noted that what is getting lost is the fact that the applicant is seeking a conditional use and they do not have the same privilege criteria of the Township Ordinance. Ms. Barth advised she is not against the project, but she is not happy with the way it has been done. Ms. Barth advised the drainage flow and the safety of the basins

are a concern. Ms. Barth stated she would have spent time, if she was the applicant advising how the retention basin is going to work. Ms. Barth indicated she has not heard the applicant or the professional's say how the storm water will work.

Attorney Robertson advised he would have explained the recharge basin if it were necessary, however, the basin is not going to have a problem. Chairman Haines advised the applicant's professional's have advised the basin will work and he indicated the Board looks at their professional's for guidance and the Board professional's have also indicated the basin will work. Chairman Haines explained the Board does not go into detail concerning every pipe that is part of the system. Chairman Haines stated the Board listened to Ms. Barth previously concerning this applicant and the drainage situation. Chairman Haines indicated he believes the applicant has addressed many of Ms. Barth's issues with these revised plans.

Chairman Haines indicated the applicant proposed an underground system, again, due to comments previously provided. He indicated he and the Board trust their professionals that the information submitted by the applicant has been reviewed and each of the Board professional's have indicated the system will work.

Board Member Lombardi stated the storage facility at English Creek Avenue and Ocean Heights Avenue was the first application where she dealt with an underground system. She indicated this system works. She advised when it rains the water comes down and it is collected into the system where it has to go. Board Member Savini advised that as a lay person sitting on the Board the members listen to everyone. He indicated Ms. Barth has the property next door and she has raised grave concerns, as well as, other neighbors. However, based on what has been said by the Board Engineer he has determined the applicant meets the requirements of the ordinance. He indicated this is Board Engineer Doran's responsibility.

Board Engineer Doran advised that in a one-hundred year storm the amount of run off onto Ms. Barth's property will be 25% less with the construction of this facility than what it is today without it. He indicated there are other significant storm events and each one has a percentage which is less than what occurs today. Board Member Savini indicated Board Engineer Doran represents to the Board that everyone making an application does what they are supposed to do. He indicated that it is Board Engineer Doran's responsibility and the Zoning Officer, Patty Chatigny, to make sure the applicant's do what they are supposed to. Board Member Savini advised he is concerned with someone questioning the integrity of the Board and the Board Professional's.

Ms. Barth indicated she is not an engineer or lawyer. She indicated her questions deal with gravity of the water running onto her property. She advised she would like the applicant's professionals' to explain. She also noted that she does not need to know every nut and bolt proposed but she would like to know how it will operate..

Board Solicitor Miller asked if Ms. Barth has an objection concerning the site. Ms. Barth advised she is trying to ask questions, however, she feels her words are being twisted. Chairman Haines

advised Ms. Barth that she must relate the positive and negative issues concerning this site. Ms. Barth indicated there are storm water grates close to the common property line. She asked if the applicant or the applicant's professional could show her how the water goes into these grates?

**** May the record reflect:** Applicant's Engineer, Andrew Schaeffer, showed Ms. Barth via sheet page six (6) of the applicants site plan last revised April 12, 2011, how the water would be collected on site. (the explanation was not provided via an exhibit, but by the site plan brought to the meeting by the applicant. This was done by Engineer Schaeffer speaking with Ms. Barth and pointing onto the plan sheet).

Engineer Schaeffer advised there are swales proposed that will take the water into the basin. Ms. Barth asked if the applicant's professional can assure her that her property will not be adversely effected by this development. Engineer Schaeffer advised there will be less storm water on Mrs. Barth's site then what is there currently. He further noted that during the construction of this development he will be on site with the property owner and the Board Engineer so if she has concerns she may approach them. Ms. Barth asked who bites the bullet if something should happen to her site? Board Solicitor Miller indicated that State Law requires when something is developed it can not place more storm water in the area then what currently exist without the development. Ms. Barth stated, yes, if it works.

Engineer Schaeffer advised that based on his professional reputation he knows the proposed storm water system for this applicant will work. Board Engineer Doran advised if Ms. Barth were to develop her site the water that comes from this property will be designed on her site and she must reduce her run off onto adjacent parcels. Ms. Barth indicated she had spoken with Board Engineer Doran and she would like to make sure, for the record, that there is one (1) weir along the common property line with the applicant and herself not three (3). Board Engineer Doran advised there is one (1) weir proposed. He indicated this is based on the plan of record. He indicated Ms. Barth noticed a plan within the storm water management calculations that did show three (3), however, that was a work sheet plan, not the plan of record.

Ms. Barth advised she is under the impression the applicant has increased the size of the buffer. However, she is not clear as to how tight the buffer will be and is the buffering the same as basin landscaping. She also asked what kind of plants will be proposed and how much will be placed in? Board Planner Johnston advised the buffer landscaping and the basin landscaping are different and they have been split as such. He indicated that item #12 within his report discussing the buffer requirements was waived. He indicated the basin landscaping is where the applicant is deficient and does not meet the requirements of the ordinance, however, the applicant does meet the buffering requirements. Engineer Schaeffer advised the number of plants that have been provided are shown on the plans. He indicated the basin landscaping has been reduced based on the room available. Board Planner Johnston advised the applicant is given an option to either plant on their site or to plant in other areas of the Township. .

Ms. Barth advised she was under the impression the applicant was not waived from their buffer.

She indicated the applicant could provide the buffering landscaping to the neighbor's in order to help them with drainage and privacy. Engineer Schaeffer indicated the does not have a substantial amount of plantings, however, they will go the neighbors. Board Planner Johnston again, stated perimeter basin landscaping and buffer landscaping are separate items. He further noted the numbers that have been provided to the Board is for specific basins landscaping not the buffer landscaping, by doing it this way the site will have more landscaping. Board Member Lombardi suggested that maybe some plantings go on Ms. Barth's property. Chairman Haines advised this should be worked out with the applicant's and the neighbor's. Ms. Barth stated this was an issue brought up at the previous meeting. Board Member Savini indicated during the hearing this evening the Board Planner did seek placement of more evergreens along Virginia Avenue where the parking area is.

Ms. Barth indicated this is the first time that she has been before a Board within the Township where she has been picked apart. She indicated everyone has been critical of her questions and with her questions she finding answers such as "it will be worked out later" . She stated she has to ask these questions and she does not want to be condemned for doing so. Engineer Schaeffer indicated site plan sheet #9 is the landscaping plan and it outlines what is being proposed by the applicant.

Ms. Barth indicated the positive criteria does not mean it is a positive development. She indicated she has concerns with this project. She indicated if everything works as it is suppose to she will have no problem, but she advised she has concerns with the impervious coverage and she believes too much is going onto the property. Ms. Barth advised if it does not work out she will have to deal with the fall out.

Ms. Barth indicated there is a hazardous risk to this facility and she wants to make sure everything that is offered by the applicant is done inside and not outside. Engineer Schaeffer stated the lubricants, antifreeze, etc..will be stored inside and work will be done on the inside of the building. He indicated this is not only a requirement of Egg Harbor Township but the Pinelands Commission also.

Mrs. Barth advised this facility is a conditional use not a permitted use and the true positive criteria has not been addressed. She indicated she is here tonight because she has concerns with respect to the applicant proving positive and negative criteria.

Alan Oswald, 107 Virginia Avenue, Egg Harbor Township, New Jersey, sworn in, Mr. Oswald advised that he does not feel the positive criteria has been addressed. He indicated that within a five (5) mile radius there are several repair shops, thus the applicant does not meet the requirements of the ordinance.

Mr. Oswald also advised the 50' ft. buffer is a concern. He indicated he does not feel the proposed 15' ft. buffer is enough. Board Member Epstein asked where Mr. Oswald lives in relationship to this proposal? Mr. Oswald indicated that he lives across the street. He further noted that the

driveway for this facility is along Virginia Avenue and there will be more traffic. Mr. Oswald also indicated the trees the applicant is proposing to place in are very small. Engineer Schaeffer indicated the trees will have a 3" dbh and will be 10' to 12' feet tall. He also explained that the trees are being planted close together. Board Planner Johnson also stated he has asked for additional evergreens. Mr. Oswald advised he would like to be given trees to block the view of the facility.

Board Member Epstein asked if this facility will be doing alignments to vehicles? Mr. Conway stated yes. Board Member Epstein asked if there is any one close to this area, other than a dealership, that does alignments on vehicles? Mr. Oswald indicated Deltona Tires does alignments. Board Member Epstein advised Mr. Oswald is presenting this service is not needed however, not many facilities perform alignments. Mr. Oswald stated this facility should not just be approved because it performs alignments. Board Member Epstein advised the other uses that are permitted in this zone could cause more of an impact. She advised banks and restaurants are permitted. She asked what would an alternative be to the community as a whole. She advised she is always concerned with the community as a whole. Board Member Epstein indicated she did drive to the applicant's other facilities in order to determine if the applicant is a positive member to the other communities where they operate.

Mr. Oswald asked what was the need for a light at the end of the street? Board Planner Johnston stated this applicant is proposing an application at an intersection where there is no street light. Therefore, he indicated he is recommending one be placed in. Mr. Oswald advised he is against the placement of a street light at Virginia Avenue and Ocean Heights Avenue.

Mr. Oswald asked where the sewer is? Attorney Robertson advised the sewer is available down by the WaWa at English Creek and Ocean Heights Avenue's. Mr. Oswald again advised he would like to see more plantings on his side. Board Planner Johnston indicated the excess buffer landscaping could be planted by Mr. Oswald. Mr. Oswald asked if the buffers are from where the widening of the road will occur. Attorney Robertson indicated yes. .

Mr. Oswald advised he is concerned with the buffering and he hopes the oils from this facility and the drainage will be taken care of. Mr. Oswald indicated he wants protection for the residential area.

Roberta Oswald, 107 Virginia Avenue, Egg Harbor Township, New Jersey, sworn in: Mrs. Oswald stated she has lived on Virginia Avenue for 35 years and she pays \$5,000.00 a year in taxes. She indicated when this application was originally approved she and Mr. Oswald were in South America, however, a letter of objection was written, but the applicant's attorney objected to it being read.

Mrs. Oswald indicated her picture windows will be looking directly onto this site. She indicated the property is too small for this facility and she is concerned with the traffic coming to this site including the trucks coming in and out. Mrs. Oswald asked where on the plan presented (exhibit

B1) are the basins. Board Engineer Doran advised the basins are shown on the plan as the light green areas.

Mrs. Oswald indicated she is concerned with kids in the area who get their bus on this corner. She advised this is a dangerous intersection with the school buses currently. She indicated now there will be cars turning into this business.

Mrs. Oswald indicated her husband was against the street lighting being installed and she noted that she is also concerned. Mrs. Oswald asked if the sign will be lit 24 hours a day? Engineer Schaeffer indicated the sign will be externally light. He indicated the lights will be facing up onto the sign. Engineer Schaeffer explained to Mrs. Oswald that based on the location of the sign she will not be able to see it from her property.

Mrs. Oswald stated she is also concerned with the site lighting. Engineer Schaeffer stated the site lights will have shields on them and will not spill onto adjacent properties. Mrs. Oswald advised in this area there is a business known as "Red Rose Garage". Zoning Officer Chatigny stated "Red Rose" is an auto body shop not a repair facility. Mrs. Oswald also indicated there is another garage at Leap and Ocean Heights Avenue's. Again, she advised there will be a lot of traffic on Virginia Avenue.

Engineer Schaeffer stated further down Virginia Avenue there was an approval for Shore Memorial Hospital. He stated Virginia Avenue will be going through and will end at the parking area to Shore Memorial. He also explained that based on the hospital approval you will be able to access their facility from both English Creek Avenue and Virginia, therefore, additional improvements and widening will be done on Virginia Avenue. Mrs. Oswald also noted she is concerned about landscaping for herself.

Paul Guyermelli, Ocean Heights Avenue, Egg Harbor Township, sworn in: Mr. Guyermelli indicated his property is one in from Virginia Avenue along Ocean Heights Avenue. Mr. Guyermelli indicated he was not notified of the meeting. Board Secretary Wilbert reviewed the noticing provided by the applicant. She indicated she has a white certified mailing showing the applicant noticed Mr. Guyermelli within the legal time frame, however, there is no green card signed by Mr. Guyermelli, which is not a requirement for the applicant to provide. .

Mr. Guyermelli stated this is a hazardous facility that is in the middle of a residential district. There will be antifreeze, oil leaking etc... He indicated this material will be in this area and he is not sure what it do to the underground storage. Mr. Guyermelli stated if it works then it will be great. However, he indicated he sees water going down into the drainage system through the grates along with grass, oil and antifreeze.

Mr. Guyermelli stated the applicant is shoe horning this project onto a lot that is too small for it. He indicated this type of business needs more space. Mr. Guyermelli suggested the applicant purchase the vacant lot adjacent to him. Mr. Guyermelli also stated when the original application

was approved a traffic study was required, however, he indicated he has not seen one. He asked how can this happen. He asked since he has not seen anything come through should the first variance be null and void?

Mr. Guyermelli advised he has no problem with placing a street light at the Virginia Avenue intersection, however, he suggested the light be proposed as solar so payment for the electric does not come from his tax dollars.

Board Planner Johnston clarified for both the Board and Mr. Guyermelli that the applicant did submit a traffic report.

Motion Epstein/Lombardi to close public portion.

Attorney Robertson advised the applicant has complied with all conditions of the conditional use granted in January, 2010, which was based on the reliance of auto repair facilities within the area. He also noted this issue was addressed in February, 2011 when the applicant returned with the site plan application. Attorney Robertson indicated the applicant and the applicant's professional's have worked very hard to get as close as possible to the concerns brought forward in February, 2011. He advised the variance and waiver(s) can be granted without detriment to the residents, and the master plan. He advised there are very few negatives concerning this application, he advised there are more positives. Attorney Robertson asked the Board to grant the relief proposed so the applicant may move forward with this project.

Board Solicitor Miller indicated he would like to go over the conditions of approval and all motions made by the Board should be posed in the affirmative. He also advised the waivers can be all grouped together as one motion, as well as, the "C" variances.

Board Solicitor Miller advised all the Board professional reports are conditions of approval, the applicant must provide more grades along Virginia Avenue, which will be another 250' linear feet out. He also noted that on Exhibit B1 showing the applicant's site along Virginia Avenue, the applicant has agreed to place more landscaping in (evergreens) as requested by the Board Planner, the applicant has also agreed to place additional landscaping in along the opposite side of Virginia Avenue, if the resident's desire, and the applicant has agreed to affix a light to a pole on Virginia and Ocean Heights Avenue if the Township Committee approves.

Board Solicitor Miller indicated the Board must give reasons for the positive and should the Board not like the project must place on the record the negative aspects. He further noted if a member agrees the same as another member before them; they may advise they also agree.

Board Opinions:

Norma Lombardi: indicated she would like to see the address included on the sign. She indicated this application has improved from what was submitted in February. She indicated things change

and the Township grows. She has seen the applicants operation in Somers Point and it is a classy operation. Board Member Lombardi advised this proposal will be conducive to the area. She further noted the applicant will extend the landscaping around him. She advised the lighting from the sign will not be seen on Virginia Avenue. She stated zones change and this parcel will be a liaison between the commercial and residential areas especially with the hospital being constructed.

Beth Epstein: advised that based upon what the Board Professional's have indicated she believes the applicant has met the drainage criteria. She further noted that children are always her concern. She indicated with the applicant placing landscaping around the site she feels it will deter children from going into the basin. Board Member Epstein also noted she is concerned with the lighting. She is conflicted with requiring its installment on a business owner. She also advised she believes the applicant will be consistent with proper clean up and she does not see oil on the outside of the facility. She indicated she is familiar with the applicant's other facilities and they are clean establishment.

Chrissy Martin: stated her heart goes out to the residents concerning commercial and she understands how they feel. She indicate change is always difficult, however, this is a good family business and the drainage upgrades that have been made are very expensive.

Anthony DiDonato: indicated the applicant has done a good job with the proposal and has addressed the concerns previously raised. He further noted the applicant has spent a lot of money in order to do so. He indicated this facility will be a beautiful addition to Egg Harbor Township. Board Member DiDonato advised he does have concern with telling the applicant to place a street light up. He advised he likes the project and it will be an asset to the community.

Laura Pfrommer:: advised she would like to address neighbors. She indicated no matter what the outcome of this application, what the neighbors have said during the last two (2) meetings have been reflected on the plans presented to the Board. Board Member Pfrommer indicated many things have changed in the last 30 years between the residential and commercial businesses. She advised she has been at the applicant's business in Galloway and it is efficient. Board Member Pfrommer advised she is in favor of placing a light at the intersection especially with people coming down Virginia Avenue. She advised it is important for people to see where they are going at night. Board Member Pfrommer advised the Township needs rateables. She also asked the applicant to continue working with the neighbor's.

Paul Savini: advised previous members have said everything he wanted to. Board Member Savini advised that being involved in an expansions takes much time and effort. He indicated the applicant is placing another \$80,000.00 into this project in order to propose underground storage. He stated he hopes the applicant becomes involved in the community with the same involvement shown with this project. He advised it would be appreciated. Board Member Savini stated he did not think the project, when originally submitted, had much of a chance because of the shore horn theory, however, the applicant listened to the neighbors in order for this to work right. Board

Member Savini advised that the applicant may be at this facility ten (10) to(12) hours a day, but the resident's are here 24 hours. He suggested the applicant do what he can for them.

Chairman Haines: thanked the Barth's, the Oswald's and Mr. Guyermelli for taking the time and effort to discuss this application with the Board. He advised the applicant came back with this plan which reflected concerns of both the Board and the neighbors during the previous meetings. He advised he believes the positive and negative criteria has been addressed.

Chairman Haines advised he would also like to thank the Board Professional's and the Board Member's for listening too.

Conditions of Approval:

- 1. Applicant will address comments and concerns within the Board Engineers report dated June 13, 2011**
- 2. Applicant will address comments and concerns with the Board Planners report dated May 18, 2011.**
- 3. Applicant must provided more grades along Virginia Avenue, which will be another 250' liner feet out, as required by the Zoning Board Engineer, Matthew Doran.**
- 4. The applicant has agreed to place more landscaping in (evergreens), along his property facing Virginia Avenue, as requested by the Board Planner.**
- 5. Applicant has also agreed to place additional landscaping along the opposite side of Virginia Avenue, if the resident's desire.**
- 6. The applicant has agreed to affix a light pole on Virginia and Ocean Heights Avenue's, if the Township Committee approves.**
- 7. At the recommendation of the Board Planner, Joseph Johnston, the applicant will discuss with Atlantic County placement of sign within their facility advising no left hand turns onto Ocean Heights Avenue.**

Motion Lombardi/Savini to grant requested major site plan checklist waiver(s). Vote 7 Yes: DiDonato, Epstein, Lombardi, Martin, Pfrommer, Savini, Haines.

Motion Lombardi/Savini to grant requested design waiver(s) Items #1-9, 12, & 14 (as listed on agenda) . Vote 7 Yes: DiDonato, Epstein, Lombardi, Martin, Pfrommer, Savini, Haines.

Motion Lombardi/Savini to grant requested "C" Variance Relief: Freestanding Sign Area: 34.99 sq. ft. permitted on Ocean Heights Avenue; 44 sq. ft. is proposed, Freestanding Sign Setback: 25 feet required; 20 feet is proposed from Ocean Heights Avenue, Front Yard Basin Setback: 50 feet required; 15 feet is proposed from Virginia Avenue, Parking Location: Parking is to be a minimum of 10 feet from the building with a 4 foot landscape strip; Parking is proposed within 5 feet of the building with no landscape strip. Vote 7 Yes: DiDonato, Epstein, Lombardi, Martin, Pfrommer, Savini, Haines

Motion Lombardi/Savini to grant conditional preliminary/final major site plan approval with a recommendation that the applicant install a street light at the intersection of Virginia Avenue and

Ocean Heights Avenue upon approval from the Egg Harbor Township Governing Body and a recommendation to Atlantic County that a no left hand turn sign be placed within the facility for Ocean Heights Avenue. Vote 7 Yes: DiDonato, Epstein, Lombardi, Martin, Pfrommer, Savini, Haines

MEMORIALIZATION OF RESOLUTION:

- | | | |
|----|---|--|
| 1. | V 02-11 | “D” Variance Relief |
| | SPPF 03-11 (Phase I & II) | Preliminary/Final Major Site Plan (Phase I) |
| | Atlantic City Jitney Association, Inc. | Preliminary Major Site Plan (Phase II) |
| | Zone: M-1, 3.82 acre parcel, water/sewer | 903/13 |
| | | Delilah Road |

Motion Lombardi/Pfrommer to memorialize resolution granting all checklist waiver(s), “D” Conditional Use Variance relief to allow for a compressed natural gas fueling facility within the M - 1 Zone and to allow for more then one (1) principal use on a parcel (two (2) proposed), “C” Variance relief for number of building mounted signs: one (1) sign permitted for fuel facility canopy; six (6) are proposed, and building mounted sign area: 72 sq. ft. permitted in lieu of variance relief not to exceed 250 sq. ft. fuel facility canopy. Conditional Preliminary/Final Major Site Plan approved Phase 1 and Conditional Preliminary Major Site Plan approved Site II. Vote 5 Yes: Epstein, Lombardi, Martin, Pfrommer, Haines.

SUMMARY MATTER(S):

1. Discussion of matters pertaining to the Board.

MOTION DiDonato/Epstein TO ADJOURN AT 9:40 P.M.: VOTE: Vote 7 Yes: DiDonato, Epstein, Lombardi, Martin, Pfrommer, Savini, Haines

_____ Respectfully submitted by,

Theresa Wilbert, Secretary