

**WALL TOWNSHIP PLANNING BOARD
MINUTES - REGULAR MEETING
MUNICIPAL MEETING ROOM
APRIL 20, 2009**

Chairman Aromando called to order the regular meeting of the Wall Township Planning Board at 7:40 P.M. Members present were Ralph Addonizio, Laurie Aromando, second alternate George Bednarski, Timothy Clayton, first alternate Kristin Coman, Dominick DiRocco, Timothy Farrell, Mary Hearn, Todd Luttmann, George Newberry, Attorney Hirsch, Engineer Rooney, Planner Bergailo, Planning Board Secretary Lang, Planning Board Recording Secretary Schinestuhl and Court Reporter Arnone. Mayor Clayton was not in attendance.

Chairwoman Aromando announced the meeting was being held in accordance with the "Sunshine Law" and a resolution adopted on January 12, 2009.

SALUTE TO THE FLAG

Chairwoman Aromando announced the Route 70 Office will be carried to June 15, 2009. No new noticing is required.

NEW APPLICATION

SEA GIRT CENTER, LLC – PB#2-2009 – 2100 Highway 35, Block 723, Lot 2, HB-80 zone. Application complete: February 23, 2009. Applicant requests permission to renovate existing office/retail building to retail use only, parking lot improvements including restriping, new curb islands, pavement overlay and additional landscaping. Site with variances.

Peter Falvo, Esq. appeared for the applicant.

Attorney Falvo said this is an existing shopping center on 35.

Attorney Hirsch reviewed the file and stated the Board had jurisdiction to proceed.

Entered into evidence:

- PB-1 Jurisdictional Items
- PB-2 Preliminary and Final Major site plan drawings prepared by LGA Engineering dated February 9, 2009
- PB-3 Drainage summary prepared by LGA Engineering dated February 30, 2009
- PB-4 Colored renderings of the center
- PB-5 Traffic assessment prepared by LGA Engineering dated January 30, 2009
- PB-6 Limited LEIS prepared by LGA Engineering dated January 29, 2009
- PB-7 ADA accessibility report
- PB-8 Engineer's report and Technical Specifications prepared by LGA Engineering dated February 2009

- PB-1 Engineering plan review prepared by Charles Rooney dated March 20, 2009
- PB-2 Planning review prepared by Cheryl Bergailo dated April 9, 2009
- PB-3 WTEAC plan review dated March 25, 2009
- PB-4 Public Works plan review dated February 23, 2009
- PB-5 Bureau of Fire Prevention plan review dated March 9, 2009

- A-9 Colored rendering of site plan
- A-10 Colored rendering – various elevations of proposed sign and landscaping consisting of two sheets
- A-11 Rendering of retaining wall

Sworn by Reporter Arnone:

- Sean Savage
- Frank Miskovich
- Charles Dietz
- Cheryl Bergailo
- Charles Rooney

Sean Savage gave his credentials which were accepted by the Board.

Attorney Falvo asked Mr. Savage if he was the project engineer. Mr. Savage said yes.

Attorney Falvo asked Mr. Savage to take the Board through the development and what is being proposed.

Mr. Savage said the site is located at Route 34 and Ocean Avenue. There are two buildings on site. The buildings are for office and retail use. The larger building is 40,000 s.f. and the smaller one is about 12,500 s.f. We are proposing to change the larger building to 100% retail and leave the smaller as office. We are proposing major changes as far as site design. The southern portion of the entrances will be ADA compliant. On the western portion of the larger building will be a proposed patio with additional landscaping and sidewalks. In addition we are relocating the trash enclosure to the southeast portion of the parking area. We are proposing 270 – 278 parking spaces with eight spaces banked on the north parking area. Attorney Falvo said they will not be constructed only if needed. Mr. Savage said correct. Attorney Falvo said if needed they would generate a variance.

Mr. Savage explained a variance is needed for the proximity of the parking. The parking fronting on 35 also requires a variance for it's proximately to the roadway.

Mr. Savage said the island in the eastern parking lot we will add a few trees and ground landscaping. The triangle areas in the north parking we will provide additional landscaping.

Attorney Falvo said the imperious coverage will be reduced. Mr. Savage said slightly.

Attorney Falvo asked about the lighting fixtures on site. Mr. Savage said they will all be replaced. There are currently spotlights on the building. We will provide additional pole

mounted lights to bring it up to a safer condition.

Attorney Falvo asked about operating hours. After closing the lights will be off and there will only be security lighting on. Mr. Savage said correct.

Attorney Falvo asked about the dumpsters. Mr. Savage said one is being relocated and one is to remain. There will be one about midway along the southern property line and it will be moved further to the east. It will also be angled. The second will be to the east of the office building.

Attorney Falvo asked about the loading area. Mr. Savage said no loading area is being proposed. The uses on site will be serviced by general or small box trucks, no tractor trailers. Deliveries will be on off peak hours.

Attorney Falvo asked about landscaping on the southern side. It has been suggested it be extended further west. Mr. Savage said yes. The landscaping on the southern portion will be extended. The other area to the northwest along 35 will be supplemented.

Attorney Falvo asked about the green area, DOT ROW. Mr. Savage said it is approximately 3' off the parking area.

Attorney Falvo asked about signage. Mr. Savage said the 35 entrance sign it is being proposed to renovate that sign. We will keep the square footage as it is.

Attorney Falvo said the address will be displayed. Mr. Savage said correct.

Attorney Falvo asked Mr. Savage if he reviewed Mr. Rooney's letter. Mr. Savage said yes and he also met with him. We are not proposing to add any underground storm management. We are maintaining the decrease in impervious coverage. The water quality structure is on the northeast portion of the site. This will be a benefit to the adjacent stream.

Attorney Falvo said many of the variances and waivers are existing conditions. Mr. Savage said correct.

Attorney Falvo asked Mr. Savage if there were any things in Mr. Rooney's letter of March 20, 2009 that he could not comply with. Mr. Savage said there is nothing we can't address or work out. Attorney Hirsch said if you are not going to go through the letters either you are complying or we will talk about it.

Attorney Falvo said we will go through Mr. Rooney's letter. The architect will address the issue regarding the height of the clock tower. As far as parking and setbacks are concerned Mr. Savage addressed them. The drainage issue has been resolved.

Mr. Rooney said he has in his report four comments regarding Stormwater Management. They are revising the plan. He had another comment regarding additional leads. He said he is going to withdraw that comment. The other three comments they are going to comply with.

Attorney Falvo said lastly we will comply with lighting.

Mr. Savage said we are proposing some diamond shaped curbing in the north parking area. We are proposing those instead of islands. Attorney Falvo said if there was an issue you would put islands and reduce the number of parking spaces. Mr. Savage said correct. With the banked parking we have one extra space. Attorney Falvo said the diamonds were referred to in the report by Ms. Bergailo dated April 9, 2009. Mr. Savage said correct.

Attorney Falvo asked Mr. Savage to address the triangles. Ms. Bergailo asked if they will be irrigated. The ideal situation will be to put in larger islands. Do we want larger islands or do we want the number of parking spaces. That is for the Board to decide. A bigger area would allow for more landscaping. Chairwoman Aromando said this Board is concerned about parking. How large? Mr. Savage said 6' X 6'. Chairwoman Aromando said install irrigation so the plantings stay alive. Mr. Savage said they can do that. Chairwoman Aromando said we are keeping the diamonds so we don't have to have more parking. Attorney Hirsch said as proposed is acceptable. Chairwoman Aromando said install some sort of irrigation so the plants don't die.

Deputy Mayor Newberry said the diamonds will be 6' X 6' but the drawings say 4' X 4'. Mr. Savage said his mistake. He said they have used that size and the plants have survived. Ms. Bergailo said we will look into it more. The smaller the diamond the smaller the trees. Chairwoman Aromando asked if they can do 6' X 6'. Mr. Savage said yes.

Attorney Falvo said the variance for side yard setback is an existing condition. Mr. Savage said yes.

Attorney Falvo said regarding impervious coverage, 65% required and 91.04% will be proposed if the banked parking spaces are constructed. We need a variance for 91.04% if and when the banked spaces are constructed. Chairwoman Aromando said if you bank the spaces it will be 91.04%. Attorney Falvo said 91.04% if the banked spaces are used. We would like the variance now. We are proposing 278 spaces and eight banked, 285 spaces are required. We would be asking for a variance for the difference.

Attorney Hirsch said you gave them credit for the banked spaces. You have to give them credit as if they were built. Mr. Savage said if we are getting credit for the land banked spaces we do not need the variance. Chairwoman Aromando said no variance for parking.

Attorney Falvo said we are not proposing a loading area. We have testified regarding that. We are asking for a variance for a loading space.

Chairwoman Aromando asked if there is anything you cannot comply with in Mr. Rooney's review letter.

Attorney Falvo said the free-standing sign will remain where it is. Mr. Savage said that is correct. It will be renovated. It will be at the same location and be the same size. Chairwoman Aromando said it will match the building. Mr. Savage said correct.

Attorney Falvo said regarding the trash enclosure it will have a zero setback. Mr. Savage said the existing dumpster will be moved further east in the parking area. It will be closer to the property line.

Attorney Falvo said the transformers will be relocated. Mr. Savage said yes. Attorney Falvo said there will be some additional landscaping to the southeast of that. Mr. Savage said yes with matching building façade. Chairwoman Aromando said there will be landscaping on all three sides.

Ms. Hearn asked for the size of the dumpster. It looks like it should be larger. Mr. Rooney said he thought it was adequate. Ms. Hearn asked how often will there be pick-up. Mr. Savage said there is also an additional existing one on the eastern portion of the site. Ms. Hearn said it is 10' X 15'. Mr. Savage said probably a little bigger 15' X 15' or 12' X 15'.

Chairwoman Aromando asked about landscaping around the existing dumpster. Mr. Savage said there is really no room on the sides.

Mr. Addonizio asked if one dumpster would be adequate if you have a food place. Chairwoman Aromando said there are two dumpsters. Mr. Addonizio asked how often they will be picked up. Mr. Savage said he doesn't know what the pick up is going to be. There is no decision yet. If there is a food establishment it will be more frequently. It will depend on the tenants.

Mr. Addonizio said if there is a food establishment you are going to have all kinds of animals and it will smell. Attorney Falvo said if there is a food establishment we will arrange for pick up every other day. Mr. Savage said adjustments will be made. Mr. Addonizio said he would like something concrete on the record. If you are going to have food places it must be picked up at least three days a week. Attorney Hirsch said maybe the owner should be providing that testimony. Attorney Falvo said he will have the applicant address that. Mr. Addonizio said right now it will be a minimum of three times per week.

Attorney Hirsch said the proposed trash enclosure has a zero setback. Mr. Savage said the existing one is slightly off the property line. The other has a zero setback.

Attorney Hirsch asked what the closest structure to the dumpster is going south. Mr. Savage said the bowling alley. It is about 150' away.

Chairwoman Aromando asked about the outdoor seating. Mr. Savage said there is an existing sidewalk that will be moved along the parking with some additional landscaping. Chairwoman Aromando said put a fence in front to protect the people from cars going through. Mr. Savage agreed.

Attorney Falvo asked about the waivers, traffic impact report. The traffic report was submitted. Mr. Savage said it was a limited report.

Attorney Falvo asked about a tree removal plan. Mr. Savage said this is a fully developed site.

Attorney Falvo asked about 3.2 in Mr. Rooney's letter. Mr. Savage said we are proposing islands which will create a smaller radius. Mr. Rooney said he has no problems with that.

Attorney Falvo said 10% parking area is required to be landscaped we are proposing 4.3%. Mr. Savage said this goes back to the diamonds. Attorney Hirsch asked the Board if they were okay with that. Chairwoman Aromando said yes.

Attorney Falvo asked about 3.4 regarding foot candle readings. Mr. Savage said we are seeking a waiver on that. We are improving the existing lighting on site. Deputy Mayor Newberry asked about the foot candles on the property line. Mr. Savage said they will be along the property line. Deputy Mayor Newberry said the plans show most of the numbers are under what is allowed. Mr. Savage said we are going to propose some shields. Chairwoman Aromando said does the lighting have lights over there right on the property line. Mr. Savage said they will only help the parking area. Chairwoman Aromando said they are not going onto the neighbor's property. Mr. Savage said it will be along the open space. Mr. Newberry said most of the readings are higher than the .5. He said he can't see any residential neighbors here.

Chairwoman Aromando said due to the fact that next door is only a parking lot the impact is not detrimental to residential. There is only open space and a parking lot. Mr. Rooney said they are going to add shields. The spillage off site will be reduced. Any spillage will be insignificant. Deputy Mayor Newberry said he agrees. Fixtures are 250 watts. I would not want them to reduce them.

Chairwoman Aromando asked about the site plan. Attorney Falvo said 4.1 regarding trash enclosure. Attorney Hirsch said you don't have to read them to the Board just tell us what you can't comply with. Attorney Falvo said 4.1 we have discussed this one trash enclosure is encroaching open space. We would like the dumpster to stay there it is not bothering anybody. Mr. Savage said the one to the east of the smaller building it is within the public open space. It cannot be removed without a reduction in parking. Chairwoman Aromando said that is the third one. Mr. Savage said correct. Attorney Falvo said we did not put it there. Chairwoman Aromando asked if it could be moved to the lower level. Mr. Savage said if we did that we would be losing parking spaces. Chairwoman Aromando asked for the size of the dumpster. Mr. Savage said 10' X 15.

Chairwoman Aromando said it is a legal issue if the trash enclosure is on Township property. Attorney Hirsch said the Township would have to give permission.

Ms. Hearn said there is a concrete pad between the building and the dumpster area can it go on that concrete pad. Mr. Savage said access would be an issue but we can look at it.

Chairwoman Aromando said sheet 2 of 9 those two parking spots there is an area right in front of the trash enclosure area move that to the two parking spots. Move it onto your property. Mr. Savage agreed.

Mr. Rooney said referring to 4.2 he is not asking for any information on that.

Chairwoman Aromando asked about 4.3 regarding the ADA parking space. Mr. Savage said he will clarify that. They will comply.

Chairwoman Aromando asked for details regarding the trash enclosure. Mr. Savage said they will comply.

Chairwoman Aromando asked about 4.5 regarding sidewalks. Attorney Falvo said they will comply and put a fence around the area itself. Mr. Rooney said along the south side there was a suggestion that the parking aisle be reduced to 24 which will widen the sidewalk. It is a design waiver. Mr. Savage said that will be a good solution.

Chairwoman Aromando asked about 4.6 regarding the retaining wall. Attorney Falvo said this will be addressed by the architect.

Attorney Falvo said we have discussed #8. Mr. Savage said there will be some arch lighting in the overhangs. The architect will discuss that.

Chairwoman Aromando asked if the applicant can comply with all the Miscellaneous. Attorney Falvo said yes.

Ms. Bergailo said the only two landscape waivers are for the 4.3% being proposed where 10% is required. We discussed that. Also, locating trees 70' on center. We discussed that. That would require reducing a number of parking spaces. The only new variances are regarding the signage.

Chairwoman Aromando said on 35 one sign per tenant is permitted. She asked about the Old Mill Plaza on the clock tower. Mr. Savage said it will be located on the north elbow. The building name as well as the additional tenants will be on the sign. The southwest corner would have a sign on the south and west side.

Chairwoman Aromando said we will carry this application to June 1, 2009.

Attorney Falvo waived the time limits.

Deputy Mayor Newberry, Captain Clayton and Mrs. Hearn recused themselves on the Happy Days application.

9:00 P.M. the Board recessed.

9:10 P.M. the meeting resumed.

CARRIED APPLICATIONS

VICKI KARAGIANNIS (HAPPY DAYS) – PB#-7-2008 – 2089 Belmar Boulevard, Block 206, Lot 7, HB-20 zone. Application complete: May 19, 2008. Carried from July 14, 2008, July 21, 2008, October 6, 2008, November 3, 2008, January 26, 2009 and February 2, 2009. The

applicant requests permission to reduce the size of Happy Days Country Market and permit other retail uses. Site with variances

Timothy B. Middleton, Esq. appeared for the applicant.

Attorney Middleton stated we have appeared before the Board on several occasions to get approval to convert part of Happy Days to retail use. What the applicant is requesting is de minimus. Under Wall Township ordinance a conversion requires site plan approval. Our request for the conversion will have an upgrade of the building, proposed landscaping, drainage improvements. The parking is hodgepodge the applicant has proposed more formalized parking. The neighbor to the rear has raised objections. He testified he expanded his house and he is concerned about noise and other things.

Attorney Middleton said Mr. Addonizio was concerned about the three parking spaces in the rear and people opening the door. We had a TRC and the applicant is in agreement to put in another fence to protect the neighbor's fence in the rear. Three parking spaces in the rear will be for employees only.

Chairwoman Aromando asked did we say two or three. Ms. Karagiannis said you asked us to give up one parking space. We are giving up two extra seats. We need all the parking spaces. We have been using it for years. We always used the back and sides of the building for parking.

Chairwoman Aromando asked who uses the rear parking spaces. Ms. Karagiannis said herself, her sister.

Chairwoman Aromando asked about shrubs around the trash enclosure. Ms. Karagiannis said we have to either have commercial pick up or take the garbage to the dump as of August 2009. Attorney Middleton said we will agree to the trash enclosure. Attorney Middleton explained that the Township Committee enacted an ordinance to not pick up commercial properties. That has just changed. Businesses will have to have private pick up. He explained they will need an enclosure anyway. They will put some shrubs around that enclosure.

Mr. Addonizio asked where they currently pick up the garbage back or front. Ms. Karagiannis said at the curb. Mr. Addonizio said a private company will pick it up now or will you be doing it the same as you are now. Ms. Karagiannis said I will probably do it the same. Mr. Addonizio said you don't have a dumpster now. Attorney Middleton said correct.

Mr. Rooney asked for the type and height of the proposed fence. Attorney Middleton said it will be a wooden fence, board on board. The height will be lower than the neighbors. Chairwoman Aromando said a 6' board on board wooden fence to give more privacy and to protect the neighbor's fence if the car door opens toward the fence. Attorney Middleton said yes. Mr. Addonizio said the fence will not go above the white vinyl fence that is there. Attorney Middleton said correct. Ms. Bergailo said there is a proposed 6' high privacy fence on the site. There are no details in the plans. Attorney Middleton said it will match.

Chairwoman Aromando said regarding parking can we just go through this one more time. How many spots do we have? We think there may be 10 – 12. Attorney Middleton said correct. Chairwoman Aromando said the requirement has changed because the eleven stools that were proposed are now nine. There are three maximum employees. That creates three more parking spots. There are 16 seats at tables. She said 18 are required and you are going to have 14. Attorney Middleton said correct. Chairwoman Aromando asked if that included the three in the back. There are 18 for the restaurant and six for the retail. Mr. Fichter said correct. Chairwoman Aromando said a total of 24 and you are providing 14. You have 10 – 12 now. Mr. Fichter said correct. There was some discussion regarding this at the last meeting. Mr. Rooney said there are eight and maybe you can get another space or two. Chairwoman Aromando said we are going to say 24 spaces required so you are short ten. Mr. Fichter said correct.

Ms. Bergailo suggested some junipers, shade trees and some shrubs along the back of the building. Chairwoman Aromando said up against the back of the building to cut some of the view.

Mr. Addonizio asked Ms. Bergailo how much parking would be lost if we did not put a board on board fence and put in arborvitaes. Ms. Bergailo said you would need a few feet of planting bed. Mr. Addonizio said where are they proposing to put the fence now. The only concern he has is you have a 6' white vinyl fence and then a board on board right up against it. He said privacy wise you are not gaining anything it is just protecting the neighbor's fence. He said if employees are only parking back there he would recommend arborvitaes. Chairwoman Aromando asked if the applicant thinks she can plant some arborvitaes. Mr. Rooney said he doesn't think it would work. The distance between the edge of the parking spaces to the parking is 15' – 16' you would need 2' – 3' for a planting bed for them to survive. That would only leave an aisle of 12'. That is not going to work.

Chairwoman Aromando asked Mr. Rooney if he felt the board on board fence would be of any use. Mr. Rooney said it may have some dampening of noise it is just to protect the existing vinyl fence. Chairwoman Aromando said the arborvitaes will not work. The board on board will be 6' high the same as the neighbor's fence.

The application was open to the public.

Mr. Rooney said one comment you need curbing and paving. Attorney Middleton said we discussed that. He said if we paved the parking lot the run-off would increase dramatically. Mr. Rooney said our ordinance does require a paved parking area.

Chairwoman Aromando asked if they were grandfathered in. Mr. Rooney said he doesn't know. Attorney Hirsch said no this is a site plan so they would have to obtain a waiver.

Mr. Addonizio asked currently where the overflow parking goes. Chairwoman Aromando asked if there were any problems with overflow parking. Ms. Karagiannis said no if there is no place to park they go around the corner and come back.

Mr. Addonizio asked about the plywood on the roof. Attorney Middleton said we have been in municipal court a few times for noise. Mr. Peterson spoke with Mr. Zahorsky and Mr. Verruni. Mr. Zahorsky said the fan in the rear of the property was against the township's noise ordinance. She will put in a new fan but in the interim we used that just for a noise buffer. The applicant hired Bill Beal to install this piece of wood to eliminate some of the noise. The applicant will install a new fan.

Mr. Addonizio said if this is approved is there anything else the applicant can do so noise would not affect the neighbors. Attorney Middleton said the new fan is much better than the old one. According to the building inspector and Mr. Zahorsky they are happy with the new fan. It will be 40% quieter. We will be well under the noise ordinance.

Chairwoman Aromando said as far as paving the parking area I don't see a problem landscape around the back and clean up that back area.

Mr. Luttmann said just looking at some of the photos on the east portion of the building there is a clearing being taken out and gravel being put in a natural grass area. Can you put something around that? Attorney Middleton said we can do that.

Mr. Luttmann said in addition the trash enclosure is there any way you can make some improvements to that. Attorney Middleton said we will put some plantings around that. Mr. Luttmann said we normally require gates. Attorney Middleton said that can be done.

Mrs. Coman said the proposed rear entrance steps is there anything you can do to protect those as well. Chairwoman Aromando said landscape right up to them. The gravel doesn't even go up to that area.

Steve Shuler, Esq. is representing Guy Peterson.

Attorney Shuler said there will be bollards' where the gas meter sticks out. They are out about 2'. The AC, gas meter now you are 3½' out from the building. Mr. Fichter said we can bring that gravel out.

Attorney Shuler said doesn't it bring the drive island down to 8'. It will reduce the driveway down below. Attorney Middleton said we are trying to improve the situation. We are grandfathered with the existing condition.

Attorney Shuler said the number of parking spaces 24 are required and how many cars are parked daily for the existing restaurant owners and employees. Mr. Fichter said owner and employees at the most it will be three. Ms. Karagiannis said there are definitely no more than four.

Attorney Shuler said between the owner and employees there are four cars there on a daily basis. Ms. Karagiannis said yes.

Attorney Shuler said we have a detail of the parking it shows some striping. How is it proposed on grass and gravel? How are those parking spaces being delineated? Mr. Fichter said by the parking bumpers. Attorney Shuler said if I go there for the first time how would I know where to park. Mr. Fichter said the bumpers are very common. Attorney Shuler said there is nothing to prevent them from parking sideways. Mr. Fichter said no.

Guy Peterson, 2808 Garfield, is still under oath. Mr. Peterson said he has some photos.

Entered into evidence:

OP-11 Sheet of three photos

Mr. Peterson explained these photos show four cars parked in the lot at all times. The first photo is facing the west side of the property facing his neighbor's house. The second and third photos were taken from the back of the property. He said he took the photos. They were taken between the last Board meeting and this one.

Attorney Hirsch said three cars in addition to the trucks. How do you know they are part of the family and they work in the restaurant? Mr. Peterson said just from living there. He said he sees people going in and out.

Attorney Hirsch asked are they parked there all day morning through lunch. Mr. Peterson said from 6:00 A.M. to when they leave at night.

Attorney Shuler asked what the second photo shows. Mr. Peterson said it was taken from his deck. It just shows employees cars. Attorney Hirsch asked if they were taken on different days. Mr. Peterson said yes. Attorney Shuler asked from what side. Mr. Peterson said the west side. The red car is next to the apartment building next door. It is 4.8' from the entrance door to the red car. Attorney Hirsch said the purpose of these photos are to show there are four cars there but these show only three. Mr. Peterson said there are four cars there everyday.

Entered into evidence:

OP-12 Sheet of three photos

Mr. Peterson said the top photo is showing the truck in the back. It was there February 10, 2009. That truck was parked there with trash in it all the way into March. The bottom photo is the same truck. The middle photo is just a picture showing them putting their trash out.

Chairwoman Aromando said the reason you are showing us these are why? Mr. Peterson said because another family owned car is parked back there. They have to take the trash out to the front. The both photos just show that the truck has been there that long.

Entered into evidence:

OP-13 Sheet of three photos

Mr. Peterson said these were taken last week with the rain. It shows what the gravel does when it rains. It just makes puddles. Without paving this they want the traffic to go around the building. They will kick up the dirt and gravel and the water will go onto my backyard. They need to curb and pave. I took all these photos.

Attorney Shuler said today it has been raining all day how is the water condition today. Mr. Peterson said similar. Every time it rains this is what we get.

Chairwoman Aromando said employees park in the back but no customers' park in the rear. She asked Attorney Middleton if he would agree to re-stone the property. Attorney Middleton said yes. Mr. Rooney said putting additional stone would certainly fill in some of the low areas. The photos seem to suggest it's impeded. Over the years the gravel infiltrates. Certainly putting stone would reduce the evidence of these ponds and improve the site but the condition could re-occur.

Attorney Shuler said in Mr. Rooney's report you said a number times it should be paved and curbed. Mr. Rooney said yes based on the ordinance.

Attorney Shuler said the purpose of marking out spaces is to show people where they should park. Does it really require being paved and curbed? Mr. Rooney said certainly a paved site with stripping enhances the parking. Attorney Middleton said he can't argue with the fact that paving is better than non-paving but here everything is an angle. If you paved the entire site it will increase the run-off and will have to have some type of underground detention system. That is going to cost. Pavement would only increase the size of that basin. Currently there is no formal parking here. What is proposed is better than what is here now.

Entered into evidence:

OP-14 A series of photos

Mr. Peterson said these are photos of the snow storm. This is after they plowed. All they will do is plow the stone. The stones will be plowed up against the fence.

Attorney Shuler said one of the issues is what happens to the snow. Mr. Peterson said there is no place for anybody to park when the snow gets plowed. The middle photo shows where the parking spaces are supposed to be. They can't snow plow on gravel.

Attorney Shuler asked how does this building set back from Belmar Boulevard in comparison to other buildings. Mr. Peterson said Happy Days is close to the street. It is closer to the street than other buildings on Belmar Boulevard.

Attorney Shuler asked in their front parking area what do you see. Mr. Peterson said they pull straight on and back out.

Attorney Shuler asked Mr. Peterson to tell the Board what he has seen regarding backing out along Belmar Boulevard. Attorney Middleton objected he said Mr. Peterson is not qualified to give an opinion as to cars backing out. Attorney Hirsch said he agrees he can say what he sees only. Keep in mind this application is about the change of 917 s.f. of existing restaurant into retail space. That would not require a variance. Keep focused on what they are proposing.

Attorney Shuler said are you aware there is a telephone pole on the northeast corner of the property. Mr. Peterson said it makes it very difficult to make it out. It is existing. They cannot make that right hand turn without going into the other lane.

Mr. Addonizio said he has been by there several times. He did see the snow plowed in the back and it would be very difficult for cars to park in the back and travel around the building. It would not be possible to have parking in the back with the snow.

Mr. Peterson said he is asking for this application not to be approved because there will be more traffic. There will be two stores. If you give them the ok they can sell it tomorrow. You can have many things that can go in there.

Mr. Addonizio said they are only asking for 900 s.f. He said he is trying to figure out what kind of store can go into a 900 s.f. area and be successful. Mr. Peterson said what is going to go in there we don't know.

John McKenna, 2810 Garfield, was sworn. He said he lives behind the Happy Days store.

Attorney Shuler said you live next to Mr. Peterson Mr. McKenna said yes.

Attorney Shuler asked what are your observations as it is now. He said you came from work to testify. You work at night. Mr. McKenna said he came from work and yes he works at night. He said in August 2007 up until February 11, 2009 there are usually two cars and one car which are left overnight there. There are a total of four cars during the day.

Attorney Shuler, using OP-11, asked if they were the four cars. Mr. McKenna said yes.

Attorney Shuler said you see people coming in and out. Mr. McKenna said he does see someone get out of the truck.

Attorney Shuler asked about the trash. Mc McKenna said the problem is it is just in bags no cans.

Attorney Shuler asked about what happens when it rains. Mr. McKenna said I get the run-off onto my property in the right hand corner. Attorney Shuler asked if he did anything. Mr. McKenna said in May 2008 he put in railroad ties.

Entered into evidence:

OP-15 Sheet of photos

Mr. McKenna said when he put the railroad ties in the owner came out and inspected it and she had no problems.

Attorney Shuler asked about what happens when it snows. Mr. McKenna said they plow the snow into my fence.

Attorney Shuler said as a result of the problem with the rain water it comes onto your property. Are you requesting this Board make them pave and curb. Mr. McKenna said he thinks it would make the drainage problem worse.

Attorney Shuler asked about buffering. Mr. McKenna said he is ok with what the ordinance in town requires.

Mr. McKenna explained two weeks ago a dump truck could not make it around the building.

Attorney Shuler asked about deliveries. Mr. McKenna said they back in to the front.

Attorney Middleton said you testified that run-off problem in the corner of your property the applicant has proposed an underground detention basin on her problem. Mr. McKenna said he did not know that. Attorney Middleton said if it would help the situation would you be more favorable. Mr. McKenna said no.

Attorney Middleton said the applicant will construct a fence no higher than your fence to protect it. Mr. McKenna said there is nothing to stop the trucks.

Attorney Middleton asked do you think the proposed fence will help the situation. It has been agreed to that it will be no higher than yours. They are changing the façade of the building. Mr. McKenna said that would be an improvement.

Attorney Middleton asked what he felt about the proposed landscaping. Mr. McKenna said better with arborvitaes.

Attorney Middleton asked when you purchased your home you knew Happy Days was there. Mr. McKenna said yes.

Mr. Addonizio, using OP-15, said there is a trailer against the building is that on your property or the neighbors. Attorney Middleton said he thinks it is on the neighbor's property. Ms. Karagiannis said my trailer my property.

Mr. Addonizio asked Mr. Rooney if parking in front remains the same and they don't change it what do we gain parking wise. Mr. Rooney said currently there are eight spaces all backing out onto Belmar Boulevard. Mr. Addonizio said the way it is now they would block the access. Mr. Rooney said it is un-delineated. Cars could park along the entire front it would not let people get

to the rear.

Mr. Addonizio asked what is going to happen to the back part of the building. Attorney Middleton said it will be stucco. Mr. Addonizio said you are going to leave the vinyl siding. Attorney Middleton said they are going to redo the whole building.

Mr. Addonizio said you are improving the front façade. He asked what is the possibility of extending the arches all the way around. It will look much better. He said if this gets approved we have the ability to improve the site at least maybe make it look a little more appealing.

Mr. Addonizio said he would be in favor of keeping the parking in front of the building. He would like to go back to the arborvitaes. In OP-15 the neighbor's fence is actually set down and this property is higher. He said what he is looking at right now is Happy Days is going to remain there. I don't think another retail space going in there will add that much more to the site. Attorney Middleton said it is the applicant's intent to make enhancements to the building.

Attorney Middleton explained Happy Days has been there since WWII. Anytime you have an application like this does the cost benefit the applicant? The applicant has gone out of her way to do things.

Chairwoman Aromando said her problems are with ADA. Mr. Rooney said changing the parking in the front would reduce the amount of parking. The most there would be would be 8 – 10 spaces. You would have fewer spaces. Mr. Addonizio said you still have the ability to park on the side. Chairwoman Aromando said we have five in the front leave, if we leave it as is how many do you think we will have. Mr. Addonizio said today there are eight or so.

Chairwoman Aromando said her comments are Ms. Karagiannis has done everything as far as landscaping, etc. They are putting in a detention basin and landscaping. The retail is only 900 s.f. There are requirements under our rules for that. This Board has to take into consideration that this site is going to be there. By putting in new windows and landscaping and other items we asked them to do does that out way not paving the driveway. They have done everything we have asked. They are going to put in a new fan. They are going around the back with the aesthetics. We have asked them to correct the trash enclosure. Regarding parking they are short ten spots now and short ten when they are finished. She said we are getting a nicer building. She said she thinks the pros out weigh the cons. She said that is just her opinion.

Attorney Middleton said the Board, with this application, has the opportunity to get some upgrades to the site. That area of town is in need of upgrades. Most businesses have failed. That whole street is in need of upgrades. You have heard testimony about the drainage issues. Mr. McKenna said he would prefer the site not be paved and curbed. The current property has little or no landscaping. They have proposed landscaping. There is currently no delineation of parking. They will delineate the parking. This is a de minimus request.

Attorney Shuler said he would submit this is not a de minimus application. You are required to have a 20,000 s.f. lot. You are foregoing paving. You are foregoing buffer zones. The dry cleaner has put concrete buffers in. You are not getting anything regarding parking. They will park the same way they do now. The site does not work now it will work less. There will be an increase in traffic. The parking is not de minimus. How can you enforce that the employees park in the rear. You will have two to three spots for the 917 s.f. site. There will be six to seven of the fourteen spaces taken up by employees. There has to be a dedicated handicap parking space. You are going to have six spaces for two businesses. This is a NB zone it has more requirements. You can have real estate office, etc. He listed everything that can be in the retail section. There is nothing to prevent a new use coming in. Old uses such as this they go away with time. That is the purpose of the ordinance. The Township gains a new façade, a few small bushes but there is no gain in parking. It's over on impervious coverage. It loses curbs and there is no pavement. There is no dedicated parking. There will not be any lines. People are just going to do what they have been doing. There will be an increase in density. There are no buffers. There is no turning radius. Everything is being pushed to the back. It is a very shallow front yard setback. They are just asking for too much. She wants approval so she can get the rental money as income. The lot is half the size.

Mr. Addonizio said would your client be willing to continue the new façade all the way around. Attorney Middleton said yes. Chairwoman Aromando said the back will be the same. Mr. Addonizio said all four sides will have the same look. Attorney Middleton said yes.

Mr. Addonizio moved to approve the application subject to the payment of taxes and applicable assessments. The applicant will comply with the requirements of Freehold Soil Conservation District, Monmouth County Planning Board Monmouth County Board of Health, NJDEP and NJDOT. The applicant will comply with Wall Township Affordable Housing Trust Fund and ADA requirements. The applicant shall comply with the review letters of the Board Professionals. Shrubs shall be planted around the trash enclosure and be approved by the Board Planner. The applicant shall install a 6' board on board fence along the back of the property. Change that to 4' board on board that way it will not go higher than the neighbor's. Stools shall be limited to nine and 16 seats at the tables in the restaurant. Landscaping around back of the building shall be approved by the Board Planner. Bollards around gas meter. The trash enclosure gate will have a locking mechanism. There shall be no big dumpster on site for garage pick up. It will continue to be can or bag pick up. Water will be guided into the underground basin. The front façade with the stucco look will go around the whole building. Only employees will park in the rear and it will be marked "Employees Parking Only." Variances are granted. The design waiver is granted.

Mr. Addonizio said this is not an ideal site. It has been here for a long time. It will be here for a long time. We have a small retail possibly going in there. I don't feel that the retail operation is going to add too much of a negative impact when we can beautify the site. You are going to have something more attractive to look at. I wish there was something more we can do for the neighbors. The neighbor's will have something better to look at. He said he doesn't think the impact will affect the neighbor's in that much of a negative way. There will be additional stones to match what is there.

Mr. Rooney said he will provide recommendations regarding the size of the stone. Mr. Addonizio said also how deep and the color.

Mr. DiRocco seconded the motion, which was approved by a roll call vote. (Messrs. Addonizio, DiRocco, Bednarski and Ms. Aromando voted yes. Messrs. Farrell and Luttman voted no.)
There are four yeas and two nays.

MINUTES TO BE APPROVED

Mr. Farrell moved to approve the minutes of the Regular and Workshop Meetings of March 16, 2009. Mr. Addonizio seconded the motion, which was unanimously approved by a roll call vote.

There being no further business to come before the Board, a motion was made, seconded and unanimously approved to adjourn the meeting at 11:05 P.M.

Respectfully submitted,

Betty Schinestuhl
Recording Secretary