

Minutes of the Aberdeen Township Planning Board Public Meeting of Wednesday, October 15, 2014

Present are Mayor Tagliarini, Mr. Brady, Mr. Hirsch, Mr. Mirabal, Deputy Mayor Montone, Mr. Vena, Mr. Shenton, Mrs. Williams

Also present are Michael Leckstein, Esq., Leckstein & Leckstein, Tim Gillen and Anthony Abbonizio, CME Associates, and Anthony Rodriguez and Martin Truscott, T&M Associates.

Absent are Mr. Awofolaju for personal reasons, Mr. Vinci, and Mrs. Sims, who has been granted a medical leave of absence by the Planning Board thru the end of 2014.

Mr. Hirsch moves to accept the minutes of the September 17, 2014 Public Meeting, seconded by Mr. Vena, and on voice vote all members approve.

New Business, **SD 14-303/HarBeau 131 County Road, Applicant: HarBeau Enterprises, LLC, Property Owner: Paraskevas Tzanos, 131 County Road, Block 161, Lots 1 and 2 (Minor Subdivision** application to subdivide existing Lots 1 and 2 to create two conforming lots in the R 60 zone, remove existing home and construct a conforming single family on each proposed Lots 1.01 and 1.02).

At the request of the applicant's attorney, Fred Kalma, this application will be carried to the November 5, 2014 Public Meeting. Mr. Mirabal moves to carry, seconded by Mr. Hirsch, and on voice vote all members agree.

Continued Business, **SP14-504(Amended)/Basser Kaufman, LLC, Applicant and Property Owner: Basser-Kaufman, LLC, Highway 35 and Cliffwood Avenue, Block 234, Lot 1, Preliminary and Final Major Site Plan** to demolish a portion of an existing parking area (A&P Shopping Center) and construct a 3,500 sq. ft. retail pad, to include a Verizon Wireless retail store consisting of 2,000 sq. ft., and an additional retail store, to be determined, consisting of 1,500 sq. ft., with related site improvements, in the northeastern corner of the existing parking lot, nearest the intersection of Highway 35 and Cliffwood Avenue, in the "HC" (Highway Commercial) Zone. Variances required for set backs for structure, signage and parking spaces. **This application was carried from the July 16, 2014 Public Meeting for the applicant to meet with the Board's professionals and revise their site plan.**

Note that Mr. Shenton steps down and leaves the room for the Basser Kaufman application due to a conflict with this application; Mr. Mirabal assumes the Chair.

Ira Weiner, Esq., attorney for the applicant, of the firm Beattie Padovano, Montvale, NJ, states they started their application at the July 15 public meeting; they got pretty much thru the engineering, giving the Board a good idea of what they want to do. A point was brought up during the hearing that warranted them carrying the meeting to try to address that the building was closer to the property line than the Board was comfortable with. There were also issues in terms of access for fire and loading zones.

Their engineers met with the Board's professionals; the application has been revised to address the Board's concerns. He believes the Board's professionals were comfortable with he changes; the fire official also gave his approval. He does have his traffic consultant here to talk about the parking spaces being taken for this application, but he believes the Board understood the need to take the spaces and had no issues with it.

Keith Cahill, the applicant's engineer, is sworn in by Mr. Leckstein, and states he is employed by Bohler Engineering, Warren, NJ. Under questioning by Mr. Weiner, Mr. Cahill states he did meet with the Board's professionals and made changes to the plan.

Mr. Cahill says he is talking about the A&P Shopping Center located at Highway 35 and Cliffwood Avenue. Referring to Exhibit A-1, titled Site Plan Sheet 3 of 11, with a revision one date of 7/2/2014. They are proposing a 3,500 sq. ft. retail building, located at the corner of Route 35 and Cliffwood Avenue. The separation from the right of way to the proposed building was approximately 3.7 ft. The Board had concerns with that distance as well as there was no loading zone along with concerns about fire safety.

Referring to the revised plans, Sheet 3 of the Site Plan, marked Exhibit A-2, Mr. Cahill, prepared by Bohler, revision 2, dated 9/18/2014. The building in the revised plans is the exact same size, and in the same general location, meaning the northeast corner of the parking lot, but they have moved the building 18 ft. to the south. Sliding that 18 ft. from Cliffwood Avenue has increased the setback to 27.3 ft. from Cliffwood Avenue and approximately 15.3 ft. from the curb area taken by the DOT on Highway 35. By pulling the building away, they now have area to add some additional landscaping, as shown on the north side, they are providing a sidewalk around the perimeter of the building, specifically along the back, which also has access to the rear spaces. To the west they have shown a loading area; they anticipate smaller vehicles doing deliveries because of the size of the building and the perspective tenants anticipated. From the outside of the loading zone to the added trash enclosure in the loading area, is 60 ft. in length by 10 ft. in width. If he takes out the area where the sidewalk was, the dimension was 43 ft. They do have room for 60 ft. however.

Relative to these improvements, they have added landscaping, trash enclosure for trash and recycling in compliance with our Ordinance. The modification, because the building has slid to the south, they lost an additional 11 parking spaces. The utilization of the shopping center and the traffic engineer's counts, the worse case ratio is about 1.8 utilization in terms of spaces used per thousand square feet. With the reduction it is 4.1 parking spaces per thousand square feet, where the Ordinance requires 5. From a practical standpoint there is more than sufficient space on site to accommodate shopper parking.

There is still on site circulation, drive aisles, they are providing ADA stalls to the new building. It will function well in a smaller scale to the shopping center, noticing the handicap stalls and drive aisles. Nothing is out of character for the shopping center.

They want to clear up the rear elevations, marked as Exhibit A-3 with today's date. It is entitled "Retail Building Route 35, Aberdeen, NJ," and is Sheet No. 1. The exhibit is enhanced and colored. The 3,500 sq. ft. building is divided into two tenants, one is 2,000 sq. ft. Verizon Wireless already signed on, and an unknown tenant to be in the 1,500 sq. ft. building. They have carried the building materials on all four sides of the building, the net effect there is no true rear of the building. The split face block is on the bottom, the glass store fronts along the frontage as well as the awnings are carried on all four sides, the drive in material up above the awnings for the location of the signs, very similar to what is in the existing shopping center. Materials and colors have been matched between the two shopping centers. The significant change to what they call the rear elevation, or north facing elevation, they are showing spandrel glass, almost identical to the front of the building, which is actually the south elevation facing into the parking lot. They have glass doors instead of the typical standard metal doors for the loading. The

spandrel glass will be false, you won't be able to see into the back of the building, where there will be storage. It will look exactly like the front from driving past it, and you really won't see a true rear of the building. That is the intent of the modification.

Referring back to Exhibit A-2, Mr. Cahill says the front of the building is into the parking lot, the south elevation. The north elevation was modified, which is actually the rear that faces Cliffwood Avenue, but when you look from any side it really doesn't have a true side but the rear has the intent to make it look nice, since it is visible from all four sides.

Because of this, they are requesting variance relief related to signage. This building according to the Ordinance permits two signs on it, because they have two frontages. They are proposing six signs. Referring back to Exhibit A-3, they are mimicking the existing shopping center which has one sign over each tenant. They are not modifying anything with the existing free standing sign. The building itself is the only opportunity to provide signage. The key element is the northern elevation where they have the two tenants, traffic traveling southbound would only have this opportunity for signage on the south side. They will have two signs located there.

Into the shopping center on the south side of the shopping center facing in, they have two signs over it. On the east and west elevations they are identifying each of the tenants that will be there. So they are requesting six signs where two would be allowed, but in terms of clutterness because of the size and compatibility, it would be similar to the existing shopping center. If you look to the front section, right side of the A&P, there are eight tenants and nine signs, including two signs for Dunkin Donuts and Baskin Robbins. There are four signs on there because it is a corner. This is not out of character for what is on there; it is done in good taste, and from a visibility standpoint, the size of the signs are not overwhelming. The Ordinance does allow 10% of the façade, and each sign is less than that, however, the Ordinance has a maximum of 50 sq. ft. total. So they are allowed 100 sq. ft. and they are requesting for 160 sq. ft. with all the signs. You don't really see more than two signs at any one time. If you look at each individual sign, it actually complies with the Ordinance. Because they are summing them up they are asking for the relief. Not out of character, and they look nice matching materials and colors. Mr. Cahill believes it is necessary to advertise on two sides of the building, internal to the shopping center and towards the roadway, and the other side going into the shopping center entering off Cliffwood Avenue, and then the other side advertising toward Route 35.

From a parking standpoint, they are requesting variance relief in terms of total numbers. It isn't a concern relative to utilization but the concern is they don't have sufficient parking. They are reducing the total impervious coverage by 1,800 sq. ft., approximately ten parking stalls in actual asphalt. They do not have a concern with reducing those parking stalls and providing more green space at the corner of the intersection. The utilization is significantly under what is provided from a ratio standpoint of 1.8, and they are providing 4.1. They are reducing a total number of 66 parking stalls, less than what is required by 393. Because they are at 3,500 sq. ft., they have increased the demand. The variance is for 327 parking spaces where 393 are required.

Relative to front yard setback, they are requesting a variance. They are at 15.2 ft. from the intersection, right at the corner, relative to the angle cut off by the DOT, where a 75 ft. setback is required.

In regard to maximum building coverage, currently the site has 25% coverage where 20% is allowed, and with the addition of 3,500 sq. ft., they are increasing that coverage to 26.6, for which they are requesting relief.

They dimensioned the loading zone at 46.5 ft.; reality is from the front to the rear of the trash enclosure they do have 60 ft. He conservatively took out the section where the sidewalk is behind it, where the dimension was. There is no variance.

The total number of signs, requesting six, where two is permitted, and the total square footage is 162.48 sq. ft. where 100 is allowed.

In terms of design waivers, there is a note from the Board professionals we need to have five replacement trees; his client is willing to add the five trees, so they are not asking for that waiver.

Answering Mr. Leckstein, there are no issues with the reports of the Board's engineer. However, he wants clarity on the item relative to the pipe crossing. When he measured it out there was sufficient crossing. There is no concern; he can work it out with the Board engineer.

In regard to the ADA sidewalk, currently under construction with the road widening, he will comply with those items.

Mr. Cahill says everything relative to the review letters he does not have concerns with.

With regard to the planning report, he has no concerns relative to their comments; he agrees with what they have identified in terms of variance relief and requests.

On the last page, comments A thru F. he does not disagree with any of their comments; they ask for testimony on parking, which he has provided, they ask for testimony on the modification to the elevations. In regard to the one comment relative to soil erosion, with the location of the stock pile, he did get an approval on the prior set of plans. He has no concern with the comment they could make it closer to the building. With all of that being said, he has no concerns with any of the planner's comments.

Mr. Gillen says one issue is the connection to the sanitary sewer. The road is currently under construction on Cliffwood Avenue, they are just about to place pavement, they have done curbing and sidewalks, so if the applicant does not make the connection now, there is a five year moratorium. Mr. Cahill responds they have reached out to our ATMUA and the DOT, and his client is working diligently with them to do the connection. Referring to his exhibit, the shaded area on Cliffwood Avenue, they are showing that as part of their improvements, and that is where the connection goes. There was a comment in the past about tying into the existing force main. Both the DOT and MUA is on board with them doing the connection. They are trying to get a price from the contractor doing the DOT work so his client can get it done. Everyone is on the same page, and he thinks they told him the final pavement would not get done before the end of the year, but they are trying to hustle to get it done prior to that. Mr. Cahill understands if it is not done, it can't be done for five years.

Answering Mr. Mirabal's questions about whether Mr. Gillen has any questions or issues with the testimony, Mr. Gillen does not.

Mr. Leckstein says no one is in the public with questions for the engineering.

Mr. Weiner calls Richard Preiss, who is sworn in by Mr. Leckstein, states he is Vice President of Phillips, Preiss, Grygiel, LLC, a real estate firm in Hoboken, New Jersey, and is a licensed planner since 1986 in the State of New Jersey. He indicates the subject site is 7.17 acres, consists of 75,000 sq. ft. shopping center, anchored by the A&P grocery store. On the western side in the area where the pad site is being located is on the opposite end furthest away from the stores and where the remote parking is being provided. The entire area in which it is located is commercial.

He says Mr. Cahill went thru all the variances, which he feels can be justified on a C2 basis, where the benefits outweigh the detriments. The Verizon store and the second unidentified tenant are a pad site, stand alone stores, closest to the Route 35 and Cliffwood Avenue intersection, as a means of increasing the amount of business transacted in the shopping center.

In the last several years in Aberdeen and throughout New Jersey and the United States, suburban shopping centers have become economically challenged; because of the recession income and retail sales have fallen. There has also been an increase in on line retail sales with Amazon and Ebay, and traditional downtowns and town centers have taken the greater share of the retail pot.

As indicated in the traffic and parking report, even though the existing shopping center has 350 parking spaces, only a third of those spaces are occupied, even during peak hours, and then the areas closest to the shopping center. Where the pad site is proposed to be located, is a remote area and is never utilized for parking. The utilization of this area for the shopping center is a logical response to the development within the context.

Sometimes like with this pad you want to separate them from the shopping center, such as banks and drive thru restaurants, but in this situation, with a stand alone pad, without a drive thru feature, they can be located closer to the street, facing into or southward in this case, to the shopping center itself, which provides for a more efficient lay out, where needed parking can be provided, the trash location, the loading area, and minimizing the number of parking spaces that are lost.

The benefits are clear, you have a more efficient use of land, greater generation of employment, sales, retail services, tax ratables on land under utilized, and what happens you are enhancing the liability of the shopping center owners, which benefits both the owners and public at large.

There are benefits to the variances of the front yard set back, the closer you are to the street, the fewer parking spaces that are lost, it becomes easier to retain the access and circulation within the existing lot. In terms of building coverage, the added buildings and economic development are only possible if building coverage is permitted. In terms of the off street parking, they are in a location where spaces are not utilized at all, so there is no impact. With regard to the building signage, he thinks if you look and say six signs where two are permitted exceeds the area and is excessive, but if you look at the building and its location, you don't have an opportunity to have free standing signs as well as building wall signs, it lets the driving public know where it is both on the road and on the property. The building wall signs have to act as both the free standing signs, which alerts the public from the street, as well as those that are within the shopping center itself. In that context, given the location and size, and the location on the building, he thinks it is tasteful and does not lead to clutter.

In terms of the negative impacts, the site is not overly developed with buildings, there is more than sufficient parking spaces available, signage is tasteful and in proportion to the building, trip generation will not increase substantially, the Master Plan designates the site for retail use, and is

not inconsistent with the Land Use Plan, and he believes two purposes of the Municipal Land Use Law are advanced by the application, which is a more efficient use of land, and to promote a desirable visual environment. He believes the C variances outweigh any detriment and negative criteria, and there is no substantial detriment to the public good or the land plan.

Mr. Hirsch, addressing Mr. Preiss, says he understands Verizon is locked up but the other store front is not, which Mr. Preiss says is correct, and Mr. Hirsch says this is a gateway to the town, an important intersection, and will we wind up with a tenant sign that this space is available. He is concerned because of how visual and readily visible this building is going to be. In his opinion the last thing this town needs right now is more empty retail space. Some of it is getting eaten up, which is good, but we still have a lot available.

Mr. Preiss says there will be no signage on the building stating that space is available. This is a very valuable space because of its location and visibility and access to the corner. What he anticipates that for perspective tenants this would be a more desirable space than an in line space in the shopping center. Verizon Wireless stores are very busy, and that in itself acts as a magnet. He thinks any tenant that goes next to Verizon Wireless would be very happy to be located next to them. He can't predict the future, he won't say it will never be empty, but in terms of desirability, he thinks this space will be attended to before any other spaces in the center.

Mayor Tagliarini asks if this is a corporate Verizon or a franchise, clarifying would this be the same type of operation as the Route 35, Hazlet store as opposed to the Verizon store on Route 34 in Aberdeen, which is a franchise.

Paul Reese is sworn in by Mr. Leckstein, and states he is Director of Property Management for Basset Kaufman. Mr. Reese says that this Verizon store will be an authorized reseller, which is a franchise but has multiple locations, in excess of 35 as opposed to a corporate store.

Mayor Tagliarini responds that if this is as busy as the Verizon store on Route 35 in Hazlet, this will be a very successful location. On the flip side of Mr. Hirsch's comments, you are losing some parking spaces, and he does not care for the unknown quantity of what kind of store is coming in to the store along side Verizon, and then will we be between a rock and a hard spot for parking. He understands there is a net loss, and the testimony says they should be OK, and having two successful businesses on that corner should be the worse problem we have, but it is something he feels should be addressed.

Mr. Weiner, stating he is not a sworn witness, responds that for the remaining square footage, the Urban Land Institute says that is the square footage specified for retail in general. He thinks his traffic guy would get up and testify that is a very safe number; even with a heavy duty user, there is more than enough. We are only dealing in 3,000 sq. ft., not 20,000 sq. ft. generating that kind of traffic. You will not have a hundred cars going to the Verizon store at one time; it is not big enough.

Mr. Preiss referring to the parking counts, says at week day peak hours of the entire shopping center, the parking count is 83 spaces out of the 350. During Saturday peak hours the count was 119 spaces. There are approximately 200 parking spaces in the shopping center not being utilized. So even if they had a very successful store and lost 35 spaces, they would still have adequate parking.

Mr. Gillen says he did review the parking aspects of their submissions, and they concur with their findings that there should be adequate parking for this modification.

Mr. Vena asks if in the survey for parking, did the applicant take into consideration future population growth? Mr. Weiner replies the way parking is calculated is based on parking generated by the use, so the ITE and Urban Land Institute calculates it based upon square footage for different kinds of uses. The A&P would have different requirements than a health club or a dry cleaning store. These studies are done nation wide , all traffic engineers use them, and they are very reliable.

Mr. Leckstein says it should be noted that we suggested to them originally when we first heard this that if we moved the building with the knowledge they are going to lose a few spaces.

Mr.. Vena says he is concerned because we added a number of new housing developments about a mile down the road.

Mr. Preiss responds that we have parking counts, the actual number of vehicles occupying parking spaces at peak times, generating about 1/3 of all the parking spaces available. Even if you have a 10% increase in the population and a 10% increase in the number of people who come to the shopping center, or doubling that to 20% increase, there would still be vast number of parking spaces available. The center is so under utilized, you don't even get close to the number of parking spaces that are out there.

Mr. Weiner says he hopes this will spur some additional commercial, since you have such a big parking lot. They are comfortable this is more parking than needed.

Mr. Hirsch moves to approve the application, seconded by Mrs. Williams.

Yes: Mayor Tagliarini, Mr. Brady, Mr. Hirsch, Deputy Mayor Montone, Mr. Vena, Mrs. Williams

No: None

Abstain: Mr. Mirabal

Mayor Tagliarini states he appreciates all the work and effort put into this application to make it work, and publicly thanks the applicant and their professionals. Mr. Weiner responds that this is probably a better development than could be expected, and the Board's suggestions and the applicant's response is good for his client and for the Township of Aberdeen.

Note that Mr. Shenton returns to the dais to Chair the meeting.

New Business, SP14-507 (rev)/Home Properties/Barrington Gardens, LLC, Applicant and Property Owner: Home Properties/Barrington Gardens, LLC, Business Name: Barrington Gardens, 69 Belaire Court, Block 154, Lot 10, Amended Preliminary and Final Site Plan application to construct a 528 sq. ft. fitness center building with restrooms and associated ADA compliant ramps from the existing parking area to the proposed fitness center, and a raised planter area adjacent to the existing swimming pool area, located in the APT/TH zone. The proposed fitness center building will be attached to the adjacent two story apartment building and will be located between this building and an existing pool shed. The size of the existing pool shed will be reduced to accommodate the proposed fitness center building. Variances required for

Minimum Distance Building to Building, End to End, 50 ft. required, 25.89 ft. existing and 0 ft. proposed; Minimum Distance Building to Parking, 15 ft. required, 3.55 ft. existing and proposed, Minimum Building Side Yard Setback 25 ft. required, 20.6 ft. existing and proposed, Minimum Building Setback to Rear Yard, 25 ft. required, 22.09 ft. existing and proposed; Parking Requirement 296 spaces, 233 spaces existing and 232 spaces proposed.

Jonathan Heilbrunn, Esq., attorney for the applicant, states this application that concerns itself with an existing garden apartment facility located along Aberdeen Road at Belaire Court. They are requesting amendment to their original site plan to improve constructed, occupied garden apartment complex that has 148 units with an existing ancillary picnic area and swimming pool.

The proposed area to be developed is the fenced in area that presently exists between and next to the existing apartment building, and they propose to convert it into a 528 sq. ft. fitness facility to be utilized solely by the residents of the complex. It is intended to have two treadmills, two bicycles and one weight training apparatus, open and available during hours that will be testified to. It will not be a fitness center open to the general public; it is for the purpose of benefiting the occupants of the complex.

Mr. Heilbrunn had reduced site plans prepared by Richard Heuser dated September 8, 2014, and marked as Exhibit A-1 by Mr. Leckstein, consisting of two pages and made in accordance with the Board professionals reports.

Marked as Exhibit A-2 are colored rendering of the site plan, fitness center elevations and architectural.

Mr. Heilbrunn says all of the variances requested except perhaps one are existing conditions, going back to when the complex was first built. Original files cannot be located in the Township. They are not changing nor exacerbating any of the existing variance conditions.

Mr. Hirsch, addressing Mr. Heilbrunn, says they are building a fitness center in an area currently vacant, and not looking to increase or decrease parking spaces; Mr. Heilbrunn says they are adding one handicap parking space thus causing them to lose one regular parking space. The variance they need to seek is because they are reducing the parking,

Mr. Gillen says this is a preexisting variance condition; they had less parking spaces than originally required back when. As a result of the modifications and requirement for the addition of the handicap parking space, they have to parking further, so they are exacerbating the conditions and requesting a variance because they are eliminating one space.

Mr. Hirsch again asks Mr. Heilbrunn that they are not changing the appearance of the complex at street levels or just taking what appears to be a relatively vacant piece of land, closing off two buildings by putting a structure up. Mr. Heilbrunn tells Mr. Hirsch he is correct.

Mr. Hirsch asks Mr. Gillen if there are any issues or any impact by losing the one nonhandicap parking space and adding the one handicap space. Mr. Gillen responds upon review of the original plan, there was no ADA space available approximate to the pool, so they made a requirement they do that, and it should not present a problem to them.

Mr. Brady asks what type of operation is going on in the pool shed and its attachment to the fitness center; is there a fire hazard that could move over into the fitness center, are there to be fire walls, if that is an issue.

To respond to this, Mr. Leckstein swears in Craig Marsky of Home Properties, the real estate investment trust that operates apartment communities up and down the East Coast, including 13 in New Jersey. Under question by Mr. Leckstein, Mr. Marsky responds to Mr. Brady that the current pool shed area is a pump room and storage. It is under utilized, wide open space that they can live with reducing the size of it and still maintain full operation, and it will become part of the structure of the new facility. There are chemicals stored in there, property signed and noted. They will comply with the code for building separation.

Mr. Gillen says the fire department and the building department will require adequate separation and isolation of any chemical storage; this will be a condition of approval.

Referring to the planner's letter, Mr. Marsky say the fitness facility will be reserved for residents only, with controlled access thru electronic key system. You come into the office and sign up to become a member of the fitness center, and you will get a key for your use only. Hours of operation will be between 6 a.m. and 11 p.m., and each person will be so notified of the hours. The center will shut down at 11 p.m. Hours of operation will be noticed in the building and as part of the lease agreement.

Answering Mr. Heilbrunn, Mr.. Marsky says the fitness center will be accessed thru exterior doors only, not thru any apartment building. The fitness center will be accessed by residents only. The parking space adjacent to the fitness center will be designated and marked as an ADA spot. They can also have assigned spots for the fitness center. They do not have assigned parking at the apartment complex.

Mr. Marsky says they will replace the one tree that intend removing for the fitness complex.

Mr. Vena moves to grant approval, seconded by Mrs. Williams.

Yes: Mayor Tagliarini, Mr. Brady, Mr. Hirsch, Mr. Mirabal, Deputy Mayor Montone, Mr. Vena, Mr. Shenton, Mrs. Williams

No: None

Abstain: None

Note that Mr. Abbonizio leaves the meeting.

New Business, **SD 14-304(rev) /Parkside Manor Wagner, Applicant: Parkside Manor, Inc., Property Owner: John Wagner,Shore Concourse, Block 327, Lot 16, Minor Subdivision application** to subdivide existing Lot 16 into two conforming single family residential lots, demolish existing structure and construct a single family home on each proposed Lot 16.01 and 16.02, in the R 50 zone.

Dante Alfieri, Esq., attorney for the applicant, states there is an existing structure on the property on which they are looking for a minor subdivision. They are proposing two lots of existing size, both conforming to the Ordinance. The revised plan addresses all the comments from the engineer's office in a letter dated September 10, 2014.

Mr. Leckstein tells the Board if we are going to remove that condition, we might want to replace it that no physical barrier is put up there so that emergency vehicles can continue to do what they are doing. Their letter said they were going to put chains and this and that They can sign it, they can ask the town if they want Title 13 to ticket. Mr. Leckstein, asking the board, we can say we will remove the condition but that no physical barrier should be put up for emergency vehicles purpose. Mr. Hirsch likes it, and can people get ticketed if they continue using it. The answer is "yes," according to Mr. Leckstein, except for emergency vehicles, which are exempt. If the applicant signs it and applies for Title 39 enforcement, that means that a motor vehicle violation on private property can be ticketed. It is done all the time.

Mr. Gillen says what is important is they should not and cannot put up some sort of physical barrier; if someone goes in there trying to make the turn and can't make the turn, and tries to back out onto the highway, he would guarantee the Board someone will get killed.

Mr. Leckstein says they did threaten to put up chains and gates. Mayor Tagliarini says let them testify to that and then we will react. Mayor Tagliarini wants to be sure our police department is informed formally of our action and the State letter; Mr. Leckstein says he will send a letter to Chief Powers.

Mr. Gillen, answering Deputy Mayor Montone, says if they physically want to put up a barrier, they are changing what was previously approved; therefore, they have to come before the Planning Board for approval. Deputy Mayor Montone says if a statement was made in a letter that they threaten to put up this or that, Mr. Leckstein says we tell them they cannot do it, it is in violation of their approval, we apply to the State, which took six months.

Mayor Tagliarini thanks CME and Maxine for getting the application done; Maxine in turn thanks Bob Brady and CME for their assistance. We will put this on the next agenda and send a letter to Chief Powers. Mr. Mirabal asks how the public will know about this. Mr. Leckstein says send notices.

Mayor Tagliarini mentions that our Board member, Wanda Sims, is requesting a medical leave of absence through January, 2015, and on voice vote all members agree to the leave, and wish her well as she recuperates from her illness.

Meeting adjourned.

