

REGULAR MEETING

Salute to Flag: 8:04 P.M.

OPENING STATEMENT:

This is the Regular Meeting of the Wanaque Board of Adjustment and adequate notice has been given and it has been duly advertised by the placement of a notice in the Herald News and the Suburban Trends on March 14, 2012 and a notice thereof has been posted on the bulletin board in the Municipal Building in the Borough of Wanaque and a copy thereof has been on file with the Borough Clerk

ROLL CALL: Chairman Jack Dunning, Members Frank Covelli, Joseph D'Alessio, Peter Hoffman, Michael Levine, Attorney Ronald Mondello and Engineer Christopher Nash.

MEMBERS ABSENT: Vice Chairman Grygus, Members Donald Ludwig and Jaime Landis

Application #ZBA-2012-02 – Robert Wogish, Applicant; Marie Conklin, Owner of a Vacant Lot on Conklintown Road, Block 205 Lots 7.01 (Bulk Area Variances)

Attorney Mondello addressed the Applicant's notice to residents within 200' of the property. The specific notice that you sent is actually an invitation for property owners to sell adjacent property. It is not the typical, or correct notice, wherein you simply notify the residents that you have a hearing on August 1, 2012 at 8pm and cite the variance or variances that you are looking for. But for the fact that the variance that you are seeking is already pre-existing and you cannot enlarge the size of that lot, I probably would consider this legally deficient. Given the fact that it is a pre-existing variance and it does indicate that there is a hearing and you did mail it to residents within 200', I would opine that, in fact, it is barely legally sufficient for this particular hearing. The Board may have a different opinion, which you are certainly entitled to make if you feel that this didn't or doesn't convey to neighbors within 200' the fact that Mr. Wogish has a hearing tonight for a variance.

Chairman Dunning questioned the Board if anyone has any comment? Member D'Alessio commented that we should proceed. No other comments were made by Board Members.

Attorney Mondello swore in the Applicant, Robert W. Wogish, 169 Lakeview Avenue, Ringwood, New Jersey.

Attorney Mondello has reviewed the Notice of Publication put in the newspaper and reviewed the list of residents within 200'. I have reviewed the advertisement in the Herald News and it indicates that you are, in fact, seeking a variance for street frontage width and it does indicate that the hearing is on the 1st day of August at 8pm at this location. Therefore, I would deem the application complete. I believe that the jurisdiction is vested in the Board to hear the application.

Mr. Wogish testified that he would like to build a single-family residence and hopefully sell it for a profit. Attorney Mondello stated that this does not come into play, ever, with respect to this Board no matter the financial situation, profit or loss.

Chairman Dunning asked the Applicant to explain what is shown on the drawings and do you have any kind of drawing of the house you would build on this property? Mr. Wogish answered, "No."

Attorney Mondello stated that this is a good point the Chairman is making. If there are any variances, you have to come back to this Board.

Mr. Wogish stated he will probably build a house consisting of 3,000 square foot of living space, set back about 180 feet from the road, maybe 200 feet. It is a big piece of property. Member Hoffman questioned if he was proposing putting the house in the location where it is indicated on the plan? Mr. Wogish answered, "Yes".

Chairman Dunning stated that the basic envelope created is a 60x40 footprint for that house. How many stories high would it be? Mr. Wogish stated 2, including a basement. I don't think the basement is a story.

Chairman Dunning asked if basement was slab on grade or in the ground? Mr. Wogish stated in the ground.

Member Covelli questioned is it 3 stories, the basement and two above? Mr. Wogish said, "No, 2 above the basement".

Engineer Nash questioned and a garage? Mr. Wogish stated an attached garage.

Mr. Wogish said that even if he expanded outside the 60x40 footprint, he believes he is still within The Highlands, which is 25% of the square footage of the lot. If I stay within the envelope, I wouldn't need any variances for side yard, rear yard.

Chairman Dunning stated that if you change the shape of the house, width or length, you may require other variances. If you did that, you would have to return for another variance.

Attorney Mondello stated that if he decides to change where he is now indicating on these plans where the house is going to be located, there may be folks in the audience that are relying on his testimony and these plans that this is where he is going to build. They may not have an objection based on this location and, if he decides to shift it somewhere else on the lot, they may have an objection and may want to be heard. Mr. Wogish stated he didn't want to move it.

Engineer Nash stated that the building envelope is so large, that if the house is moved, it would still be in the envelope. Someone may not object to where the house is on this plan, but if you move it 100 feet and its right in their backyard, they may object. This might be a sensitive issue.

Chairman Dunning questioned Engineer Nash if the zoning table was correct and the rear yard in an R-15 is only 45 feet? “Yes, the zoning table is correct.”

So the only real variance at this point, the way this is drawn out, is the lot width; 103 required and there is only 70. “Yes, that is the only variance, which is pre-existing”.

Engineer Nash pointed out that where the variance is-is not where the house is. The house is back so the house is not being built within the variance width.

Mr. Wogish stated it’s for the driveway.

Chairman Dunning questioned what level of the house is the garage? Mr. Wogish stated that it will be on the existing grade, on a slab with no basement underneath.

Chairman Dunning – You will only have a partial basement? “Yes, if you consider it a partial basement.”

Chairman Dunning - The garage is going to occupy part of the interior of the first floor. “Yes”.

Engineer Nash questioned if the applicant knew of any rock on the property, or the depth of the bedrock? “I know that area pretty good, and I think it is all bank run. I did not dig a test hole for the depth.” Beyond the depth of a basement? “I think so.”

Engineer Nash stated he performed more of a site plan review and points out the following:

The Applicant may want to consider raising the front just a little bit to get enough cover on the sanitary sewer line. It is so far from the road, if you put the minimum slope on the pipe, the minimum slope on a 2” pipe is 2%, which is steep, but when you are going 300 feet it is a 6-foot difference. In my letter I suggested using a larger pipe so you can set it at a lesser percent and then also add a little more fill in the front just to keep that pipe cover going.

There is also a contour line that is not shown on the plan and you may want to talk to your engineer about that. A 272 contour line is not shown and that grading needs to be detailed. Chairman Dunning was questioning 272 near the curb line. Engineer Nash stated it was in front of the house. There is a 273 contour and there is no 272 contour. Chairman Dunning stated except on the far side of the driveway, behind the house on that side. Engineer Nash stated there needs to be a 272 contour in the front to finish off the grading.

Attorney Mondello stated, just to be clear, Engineer Nash and the Board Members are referring to A-2, which is the site plan that was developed by Engineer Gardner and consists of two sheets.

Attorney Mondello asked Mr. Wogish to present an extra pair of plans since there appears to be some folks in the audience that may have questions, concerns or may, at some point, want to voice some comments on this.

A short break was taken so the residents in the audience could review the Applicant’s plans and understand what the Board is talking about. (8:20pm until 8:25pm).

Chairman Dunning asked if the applicant had anything else? “No”.

Does any of the Board Members have questions of the Applicant?

Attorney Mondello did ask Mr. Wogish if he received the letter from Board Engineer Nash. Do you have any objection to complying with those comments and requirements that are in the letter? “Not at all.”

Member Covelli wanted to clarify the issue regarding the sewer line and the fact that, based on the current grade, that pipe is going to be 6’ higher (the pipe is running 300’ from the road). Mr. Wogish stated that Engineer Nash’s clarification was that I use a six-inch pipe then it would be 1% so it shouldn’t be a problem.

Engineer Nash agreed that this would work and it wouldn’t be a problem. He will be able to get out of the house and have enough cover over the pipe.

Chairman Dunning questioned if you are proposing an oil system you would have to show an oil tank on the site somewhere? “I am using gas, not oil.” Engineer Nash questioned this because there was no gas utility shown on the plan.

Chairman Dunning confirmed with Engineer Nash that the seepage pits were big enough to cover this so there is no runoff. Engineer Nash stated it is correct. It is collecting all the roof runoff. They are complying with this item.

With regard to the turning radius in the garage and backing out, this is wide enough? Engineer Nash stated yes, it is a very wide driveway at 13’.

Member Covelli questioned Mr. Wogish’s testimony regarding the garage. Since we don’t have a specific type of house and that there will be an enclosed garage that is attached to the house, based upon the 40x60, basically that is the footprint of the house not inclusive of the garage? “No, it includes the garage the way it is right now.” Chairman Dunning also stated that the garage is included in that 40x60. There is no basement where the garage is; it is going to be on a slab. Member Hoffman stated that the basement would only be 40x30 because he will have 30’ of garage on that floor.

Member Covelli is just trying to figure out if the square footage adds up or is the garage than on the outside of that 40x60, thereby hitting the edge of the envelope. Chairman Dunning stated that the testimony was that it is in that footprint of 40x60. Member Hoffman questioned if there would be a stipulation about this. Chairman Dunning stated it is going to be in the Resolution that the garage is inside and a part of the 40x60 as testified to.

Attorney Mondello advised there wouldn’t be a variance if he were to change it. It is more of a building issue. If Mr. Wogish has no objection to state on the record that what the Board Members have just said, that you intend to stay within that envelope, we will put it in the Resolution. Chairman Dunning advised he was just going by his testimony.

Member Covelli believes Attorney Mondello is saying that, if the envelope is 40x60 regardless of the style of house, it will fit in the envelope of 40x60.

Attorney Mondello said correct, but I am also stating the envelope could be quite bigger if he wanted to, as long as there are no variances.

Member Hoffman also stated that as long as he stays within the building envelope where there are no variances required, he could basically put up any style of house he chooses, since the building envelope is bigger than 40x60.

Attorney Mondello commented that Mr. Wogish could have come before the Board, without these plans basically, and just said he wants to put up a single-family home and promises there are not going to be any variances required and he would deal with the building department with respect to making sure the house complies with all the codes. However, he has taken the next step and said, here is where I want to put the house, and the Board is going to hold him to it because that is what he is representing to this Board and that is his testimony.

Member Covelli countered with that he couldn't go to the building department to get a permit to build a house within all the confines of that area because the lot doesn't meet the requirement. Therefore, he needs the variance to get to step one. He has presented 40x60, the public hears 40x60 and he then decides to build 100x120 and meets all of the other perimeters. However, now there is a massive house, it is shedding water, it changes other things and is not what was presented in terms of people making a decision if the variance should be granted. Attorney Mondello agreed and these are the plans and this is what we expect you to follow. Member Covelli stated we can't do anything we want because he doesn't have a perfect lot where he could just apply for a permit. He is getting a variance and makes representations to secure that variance.

Mr. Wogish stated that, as Engineer Nash said, I am within the envelope and that is the way I designed the lot. If I didn't need a site plan, then I shouldn't have done it. I should have just come for the variance, is that it?

Attorney Mondello stated you would have had to explain to the Board why you need this variance, not just I am building a house for profit because we would have denied it. You have a set of plans here, so now the Board can say - we think the size is reasonable, we think the location is reasonable, we think the positive aspects of this application far outweigh the negative, so they may be inclined to grant your variance. We were speaking in the theoretical. Member Covelli disagreed because one thing happens here and then practicality comes in afterward and someone says, oh that doesn't work so I am going to add onto the house and I am going to change this, and then somebody else says but that is not what was represented when the variance was granted.

Member Hoffman asked Engineer Nash that if he does enlarge the size of the house, are the seepage pits adequate to cover? Engineer Nash answered, probably not. It would have to be revisited. You would have to enlarge the seepage pits or put another one in. I can tell you that 40x60 is huge, that is a huge house as it is at 4800 square feet, subtract out the garage. You can't factor in the fact that he is building a house that he is going to sell. He is not going to build a monstrosity and then try to sell it, because he would never sell since it doesn't fit in the neighborhood.

Member Hoffman stated I have no problem with him building a bigger house as long as it doesn't affect the neighbors.

Attorney Mondello stated we could draft the Resolution in such a manner that, if the plans do change, he will have to get some kind of confirmation from the Board's Engineer that there will be no additional runoff from the site as a result of what he intends to build.

There should be a zero net runoff.

Chairman Dunning stated that since Conklingtown Road is a town road, there is no need to file an application with Passaic County Planning Board.

Member Levine questioned that, for this variance, we are reviewing and possibly approving the 40x60. Chairman Dunning and Attorney Mondello both stated yes. We are looking at the documents that have been presented, and the applicant has indicated that this is what he wants.

Member D'Alessio stated that, as far as the runoff, there is enough there that if the land has good percolation, you shouldn't have a problem with runoff. Member Covelli stated that this would also depend on the elevation of the home and, therefore, the slopping thereof. Member Hoffman stated he does have 70' of percoble land. Engineer Nash said the applicant is addressing what is falling on the impervious surfaces, which is good. Member Hoffman agreed and is glad to see it on the plan.

Chairman Dunning: Does anyone in the public have any questions on this application?

Mary Srodon of 9 Garbarino Avenue, Wanaque

If there is any change in building the house, are we going to be notified about it or are we just going to be surprised?

Attorney Mondello questioned, when you say "change", what do you mean?

Enlarge. If they are going to make it bigger, are we going to be notified about it?

Attorney Mondello made the following comment directly to the applicant: Mr. Wogish your testimony is that you intend to construct a single-family house within that envelope. I am going to put that in the Resolution that that's what is going to happen. Okay?

Mr. Wogish answered, "Okay".

Attorney Mondello: So he can't build a bigger house. He has agreed to it voluntarily. In order to get this variance, he said I will build a house within this envelope.

Mary Srodon: "Okay, thank you."

Chairman Dunning stated, if he wants to make it larger, he has to come back for another variance.

Mary Srodon: When he builds the house, is the property ground level going to be the same as the rest of the property owners, or is he going to make it higher so the water will just go to our property? Our property is lower already. There is no rock there; there is sand.

Engineer Nash answered the ground is raised about a foot around the house. Is there runoff from the vacant property now when it rains heavy?

Mrs. Srodon stated we actually put up a rock wall to keep the water from coming to our property. We also have a dry well on the property.

Engineer Nash asked if there was water currently coming from that property onto yours?

Mrs. Srodon stated, "no", since we put the fence and rock wall up.

Engineer Nash stated that the plan the applicant has presented would indicate to me that the conditions would remain the same.

Chairman Dunning: Anyone else in the public have any questions on this? Seeing and hearing none we closed this public portion.

Chairman Dunning: In closing, Mr. Wogish do you have anything else to say. "No".

Chairman Dunning: Does anyone in the public have any statements or comments to make on this application?

Mrs. Srodon is going to miss her country living after forty years. It has been peaceful and I hope it stays that way.

Chairman Dunning: Does anyone else in the public have any statements or comments on this? Seeing and hearing none we closed this public portion.

Chairman Dunning: We need a Motion in favor or against this application.

MOTION MADE BY MEMBER COVELLI TO APPROVE THE APPLICANT'S REQUEST FOR RELIEF FOR A VARIANCE WHERE A LOT WIDTH REQUIRED IN AN R-15 ZONE IS 100 FEET AND THE APPLICANT PRESENTS 70.6 FEET THAT WE GRANT A 29.4 FOOT VARIANCE WITH THE FOLLOWING STIPULATIONS: THAT THE APPLICANT DELIVER ON HIS TESTIMONY THAT THE FOOTPRINT OF THE PROPOSED HOME, WHILE WE DON'T KNOW THE STYLE, WILL REMAIN WITHIN THE 40X60 ENVELOPE AS PRESENTED IN THE DRAWINGS BY GERALD GARDNER ASSOCIATES, DRAWING 212029, AND PRESENTED TO THIS BOARD AS TESTIMONY; AND THAT THE APPLICANT HAS REPRESENTED HE WILL PUT IN A SIX INCH SEWER LINE THEREBY MINIMIZING THE IMPACT OF THE DISTANCE OF THE CONNECTION TO CONKLINTOWN ROAD TO THE PROPOSED DWELLING AND THEREBY MINIMIZE DISTURBANCE TO THE PROPERTY WITH RESPECT TO THE GRADING THEREOF. THE APPLICANT HAS ALSO REPRESENTED IN HIS TESTIMONY THAT THIS HOME WILL BE SERVICED BY GAS AND THIS UTILITY WILL BE EVIDENCED ON A REVISED DRAWING, AS WILL ALL UTILITIES, AND THAT ANY VARIATIONS TO THIS PLAN, OR THIS PROPOSED PLAN, REQUIRE THE REVIEW OF THE BOARD'S ENGINEER TO ENSURE THAT THE DISTURBANCE IS MINIMIZED AND FOR EXAMPLE, THE SEEPAGE PITS THAT ARE EVIDENCED ON THIS PLAN REMAIN VIABLE IN TERMS OF DEALING WITH THE RUNOFF BY THE PROPOSED DWELLING.

ADDITION TO MOTION MADE BY ATTORNEY MONDELLO THAT: EVEN THOUGH THE APPLICANT HAS TESTIFIED HE WILL NOT BE EXCEEDING THE 40X60 FOOTPRINT, IF HE DOES HE MUST COME BACK BEFORE THE BOARD.

ADDITION TO MOTION MADE BY MEMBER COVELLI: SO NOTED ATTORNEY MONDELLO'S COMMENT, AND THAT APPLICANT ALSO RECOGNIZES THAT,

TO MY KNOWLEDGE, THIS PROPERTY IS WITHIN THE HIGHLANDS AND WE HAVE NO AUTHORITY TO GRANT THAT. WE ARE ONLY GRANTING LOCAL APPROVAL IN ACCORDANCE WITH OUR REQUIREMENTS AS THE BOARD OF ADJUSTMENT OF THE BOROUGH OF WANAQUE, AND WE MAKE NO REPRESENTATIONS THEREOF.

MOTION TO APPROVE APPLICATION: made by Member Covelli, seconded by Member Hoffman. Voting yes were Chairman Dunning, Members Covelli, D'Alessio, Hoffman and Levine. Motion Carried.

PUBLIC DISCUSSION: None/Closed - Let the record show there is no one present.

RESOLUTIONS: Application No. ZBA-2012-01, Quick Chek, 382 Ringwood Avenue, Wanaque, Block 209/Lot 2 requesting sign variances to install new signage on the front facade of the building and replace the sign portion of the existing pole mounted sign.

Jeff Albanese, Real Estate Manager, for Quick Chek is in the audience to discuss this issue.

Attorney Mondello went over the Resolution and some of the stipulations that counsel for the Applicant had previously agreed to, and some telephone discussions that they had:

You are going to be removing the banner that is on the pylon sign.

There is an agreement that no neon signs or paper signs, of any kind, will be placed in the windows.

There is an agreement that Quick Chek is going to comply with the prior 1985 Resolution, which we have now found out does not exist and, in fact, the application was withdrawn, without prejudice. However, after speaking with Attorney Warner, she has indicated voluntarily that the landscaping as depicted on the site plan is going to take place, i.e., shrubs, and a commitment to maintain that landscaping.

The exit and entrance signs must be maintained and restored for safety reasons.

Deliveries to the store must be limited to non-peak hours, especially since it is a 24-hour operation.

General cleaning and maintenance should be conducted on a routine basis in order to keep the site clean and aesthetically pleasing.

New pipe guards (ballads) installed on the pylon sign.

There was some discussion that, although we are not going to request that the entire 22 page Resolution be recorded, myself and Attorney Warner are going to come up with one or two pages that will be recorded so that anybody could go back to these conditions and say, ten years from now, know this is what they are suppose to be doing.

In addition, conversations that I had with Attorney Warner indicated that the Applicant will be returning to this Board sometime in October or November because, in fact, there is seating inside the Quick Chek. There has never been a formal variance application for that seating, which, of course, would trigger some type of a parking variance. I believe you are deficient 6 spaces.

Mr. Albanese stated he checked with Bohler Engineering, who reviewed the zoning and seating, and we are 6 deficient at the moment and we will be coming back to the Board to seek approval for this.

Attorney Warner also indicated that you are going to be installing a fence in the back area so that no garbage flies around. Mr. Albanese believes that will also be included on the same plan when they return.

Chairman Dunning requested an upgraded site plan, which will include landscaping, because on the plan that Quick Chek supplied at the last meeting was dated '85, '87 and '93 and we have found the '85 and '87 records, but both were withdrawn. We have not been able to locate the '93 file. The '85 was to build a vestibule in the front and '87 was for additional parking. I think this was withdrawn because there is a house behind your building that has an easement through the side of your building to access this house. The '85 plan shows "existing shrubs" and it also shows protective pipe guards around the sign, which are missing.

Mr. Albanese stated he believes the Board would like to see a brand new plan showing the improvements and all the landscaping and we would be happy to come in with that.

Chairman Dunning stated that parking is an issue. Since you moved the doorway from the left to the right, the handicap accessible parking also needs to be addressed. The whole lot needs to be re-striped and addressed with the handicap parking and an access ramp to get up to the door.

Mr. Albanese said he will work with Bohler Engineering to get plans to the Board's Engineer to make sure we are covering everything the Board requires.

Chairman Dunning stated the inside of the building is looking good. The signage on the outside has you already starting off on a bad foot. You have window signs in there, freestanding signs outside blocking the walkway; you have a sign tied to the entrance sign, a sign hanging below the pylon sign.

Mr. Albanese, referring to absolutely no papers signs in the windows, stated that these types of businesses do advertise somewhat.

Attorney Mondello stated there was a long discussion about safety and police officers and if the windows are loaded up with papers signs, they have no idea what is going on in the premises.

Mr. Albanese, speaking with 17 years experience with Quick Check and 13 years in operations and running multi stores, stated if you look at some of our newer stores, the signs are very properly placed. I would ask the Board re-consider if they want to put some type of requirement that only a certain amount of a window can be covered, whatever that is to the Board's pleasing. However, we do at times have to get some messages across to the public as we are a retail outlet.

Chairman Dunning stated that there are signs out there now, maybe 1-1/2' by 2' on a spike stuck in the ground and they are falling over. We would like it cleaned up and that is what we addressed with your attorney. Mr. Albanese stated he is only talking about the actual window signages.

Chairman Dunning stated the biggest concern we expressed, and was addressed by our attorney, is you are a 24-hour store. The police aren't coming into the store every night, but they are riding up and down the street. If they can't see in the window, your people are losing protection. Mr. Albanese agreed, but as part of operations, I am talking about only one sign placed in a certain amount of the window. Obviously, we always place them at the top of the window understanding that people need to see in, and out, of the store. I am just saying to completely say no to any signage is stopping us from advertising anything to the public with our storefront. We have not been told by any other towns not to put any signs in the window; however, we do have certain size signs and we would adhere to whatever the Board told us per window.

Engineer Nash commented that, when this issue was raised at the last meeting, your attorney said "no problem"; we are trying to clean up our image; this falls right within what we are looking to do. So we were all happy.

Chairman Dunning stated we are trying to enforce, and we did it with CVS, no window signs.

Member Covelli stated that the problem he has is that we have an Applicant now that is coming before us and asking us to loosen up a little bit. Mr. Albanese, unfortunately, you missed, as has been referenced here, the long dialogue that went on at the last meeting and the point is that we are frustrated with a business that did a beautiful job of fixing up their business, but has had a long history of not taking care of the property. Attorney Warner appeared before us and gave us her word and promised us that we were going to see the corporate image of this company that wants to put forth a good image and a clean property. Two months later, we sit here with a sign still hanging on the pylon after we asked it to be taken down and she promised us it would be. In terms of Quick Chek demonstrating good will to us, you haven't done something as simple as that one thing.

Chairman Dunning stated you have added more stuff by putting signage on the entrance sign, which people have problems coming in and out of there. They don't know where to turn. There have been enough accidents there and you may recognize that problem or heard of it, that the entrance and exit has been a problem from day one. But when you cover the basic sign with a big banner under it advertising cigarettes, you are killing the whole idea of the sign. You have freestanding pyramid signs on the sidewalk in front of the store. Attorney Warner said there would be no signage like that. Since our last meeting, you have put up a half of dozen signs outside. Everything she said has been done in reverse. She testified that there would be no seating interior or exterior of the store. There is seating for ten people in that building. That is why you are going to be back for a parking variance, or you are going to remove the seating.

Attorney Mondello read into the record for Mr. Albanese's benefit, the passage/testimony/condition from the Resolution: "Page 9, Item (g)"

Chairman Dunning stated Attorney Warner also gave testimony to the fact that this Resolution and the conditions would be posted in the store so the manager would know what they can and cannot do. (Member Covelli mentioned that the Resolution has not been passed yet.) Also when we told her that this site has had a problem with garage, litter and

general maintenance and upkeep for years to the point that you have a Veteran's Group in this town that takes care of the cemetery that is up in arms with Quick Chek and its lack of regard for the community, she testified and assured us that this would all change. They constructed that concrete barrier to try to protect the cemetery from all the garbage (overflowing cans) and disregard that goes on with the Quick Chek property. . Yet, as something as simple as the Chairman pointing out that you had a banner on the pylon, for which you were asking for the variance, is still there and has not been removed in two months. Mr. Albanese, with all due respect, if I promised you the world and I don't deliver a thing and then I come back and ask you for something else, what would you do? Are you going to assure us that all of this gets down?

Mr. Albanese believes they have to uphold everything that Attorney Warner agreed to. I will get on the phone with the District Leader about this. Having walked the site and been in this area, I do understand the problem with the cemetery. Attorney Mondello also mentioned that Attorney Warner did say there is a cut through from the high school and she has witnessed kids throwing stuff around. Member Covelli said it doesn't address when a patron, in their parking lot, drops litter and the garbage cans are overflowing and the litter ends up at the wall, which means it came from the property not the cut through, and yes sometimes the kids sit on the barrier and eat.

Chairman Dunning said the outside of the building has not had good maintenance in a lot of years. The inside looks beautiful, let's pretty-up the outside and make it match. You have some beautiful sites all over the state, let's bring up Wanaque to what some of these other new sites look like. Also, all the roadwork on Ringwood Avenue is eventually going to be in front of Quick Chek. You are going to have new curbs and new sidewalks. Mr. Albanese stated he was with the County when we did the pre-op, but not the actual approval. I know we have items from the County that we have to meet to; part of which is the landscaping. We have to put shrubs out front.

Chairman Dunning stated the County's letter asked for trees. We do not want trees. If there are trees, there is going to be a line of sight issue instantly. Mr. Albanese stated he understood, there are going to be shrubs and will get approval from the engineer as to the species of shrubs.

Mr. Albanese apologized to the Board. He thinks it was a mistake by the corporation not to have an operations person, or someone like myself, at the last meeting. We want to uphold everything that we promised that we would do. I will tell you that with regard to the signage, it is vital for corporations and retail outlets to be able to advertise somewhat on their window fronts. I hear everything the Board is saying. I understand safety and I have been in operations and have run multi units of stores, but it is vital to be able to advertise somehow on your window front. This could mean only 5% of the window can be used, whatever the Board would come up. Member Covelli is correct; there should be no banner on the pylon and I will take care of it personally tomorrow. I will come up tomorrow and take care of that. You don't come to a Board and promise items, and then you don't do them. You have my apologies for that and I will personally take care of this. Ms. Warner is not here tonight because she is leaving for vacation.

Attorney Mondello read into the record to Mr. Albanese's benefit, the following testimony from the Resolution: "Page 15, Item (t)" "The Applicant was specifically asked whether there would be indoor or outdoor seating being proposed. The Applicant's Attorney and engineer indicated that there would be NO indoor or outdoor sitting. Now, you had the Chairman walk into the store and what do you have, seating.

Chairman Dunning stated that what was supplied to the building department was an interior plan, which showed seating and that is what was confusing between the testimony and plan. Mr. Albanese stated they also have to repair curbs around the building, repave the parking lot and we are going to commit to doing that.

Mr. Albanese stated the importance of the seating, and we do it in every single new site, is that we want to take them out of the cars because they will sit in the parking lot with their car running/idling. There is no waiter service in the store so they are just getting a cup of coffee and sitting down and, hopefully, the kids are not hanging outside, which also has to be managed. I hear what you are all saying here. I would just stand on my statement with the signs and that we would look to try and work something out to be able to do something within the windows. Again, whatever you think is fair, i.e., 5% of the window.

Chairman Dunning asked why don't you show us what this 5% is going to look like and what type of signage? Mr. Albanese stated he would be happy to get an exhibit to show the Board and can come back with this and a landscaping plan.

Attorney Mondello recommended taking the following approach: I wouldn't suggest you put two plans together. I would suggest that you get all the window signs out and any other type of neon signs that you have, follow the Resolution as best you can to a "tee" and when you come back for your parking variance, incorporate what you propose for the windows. Have someone draw something up where you believe you are going to be locating most of the paper signage. However, I would comply with the Resolution as it stands. I would clean the place up as indicated by the Board Members and let them see you are trying.

Member Levine commented that if we are making CVS put up no signs, why are we allowing 5% signage for this business? As of today, I would object to changing our approval to have signs in the window. Attorney Mondello just wanted to make it clear that every application is different and one doesn't set a precedent for another so you haven't made your mind up yet until you see the proposal. You are certainly entitled to vote against it or for it, but without seeing the proposal at this point, every application stands on its own merits. Unless the Board has another plan, I think that is probably what you want to do. First tackle all of the problems, come in with a new plan with respect to signage, parking and interior seating and see where the Board goes from there.

Mr. Albanese believes he has to do landscaping beforehand because it is something this Board wants us to do, and also the County, and we couldn't close out the County approval until we do this.

Member Covelli questioned Attorney Mondello if we were postponing the approval of the Resolution tonight? Attorney Mondello stated he would approve this Resolution as it stands. They have a whole new application for a parking variance in the future, which will require new fees, escrow and noticing property owners. All the signs have to come down. They have to comply with the Resolution. Show some good faith.

Member D'Alessio left the meeting at 9:10pm.

Member Covelli questioned Mr. Albanese that you are stating for the record tonight that you will be adhering to what Attorney Warner testified before the Board and that things will be cleaned up and that, according to Attorney Mondello and the Resolution, that all signs will be removed pending your future application and that you will be working with the Board's Engineer and the County with respect to a landscape design and implementation?

Mr. Albanese answered, "Yes, we will adhere to whatever is in your Resolution."

Attorney Mondello wanted to restate that he had a long conversation with Attorney Warner and indicated to her that we could not find a 1985 Resolution because there isn't one. In fact, that application was dismissed without prejudice. However, Mr. Albanese and Attorney Warner have agreed to the planting of the shrubs and will prepare a landscaping plan. Attorney Warner also stated that she will absolutely be back before this Board for a parking variance.

Mr. Albanese questioned if the Board has made the County aware of their thoughts about the trees because we will have to go back to the County and tell them we can't do the trees as requested? If the Board is going to have us go against what the County wishes, it would help us obviously if the town would state it wants shrubs.

Chairman Dunning, referring to the June 12, 2012 County letter, stated in part: "project has been reviewed and revised plans correctly labeling the shrubs as proposed rather than existing must be received."

Attorney Mondello stated that Quick Chek had its meeting with the County the day after our meeting and it appears the trees/shrubs issue was resolved.

Mr. Albanese commented that we will obviously re-submit our County Plans showing the shrubs and copy the town on it at that time.

Chairman Dunning stated the County wants a revised plan showing the species and the size of the proposed shrubs. Once this condition has been satisfactorily and completed addressed, the project will be considered for unconditional approval. They are withholding approval until they get a plan from you. One landscaping plan will satisfy both jurisdictions.

A discussion took place about different types of shrubs.

MOTION TO MEMORIALIZE THIS RESOLUTION AS PREPARED BY BOARD

ATTORNEY: made by Member Covelli, seconded by Member Levine. Voting yes were Chairman Dunning, Members Covelli, Hoffman and Levine. Motion Carried

PUBLIC DISCUSSION: None/Closed

CORRESPONDENCE: None

VOUCHERS: submitted by Boswell Engineering on the Wogish Application in the amount of \$528.

MOTION TO APPROVE: made by Member Covelli, seconded by Member Levine. Voting yes were Chairman Dunning, Members Covelli, Hoffman and Levine.

VOUCHERS: submitted by Ronald Mondello, Esq. for attendance at tonight's meeting in the amount of \$300; and another for the Quick Chek Application in the amount of \$1,500.

MOTION TO APPROVE: made by Member Levine, seconded by Member Hoffman. Voting yes were Chairman Dunning, Members Hoffman and Levine. Member Covelli abstained.

MOTION TO APPROVE JUNE 6, 2012 MINUTES: made by Member Covelli, seconded by Member Levine. Voting yes were Chairman Dunning, Members Covelli, Hoffman, and Levine.

ENGINEER'S REPORT: Nothing to report.

DISCUSSION: None

MOTION TO ADJOURN: at 9:20 P.M. made by Chairman Dunning. Motion carried by a voice vote.

Jennifer A. Fiorito
Board of Adjustment Secretary