

PLANNING BOARD
BOROUGH OF WANAQUE

December 20, 2018

REGULAR MEETING

Meeting called to order by Chairman Foulon with a salute to the flag at 8:05 P.M.

READING: Open Public Meeting Announcement

This is the Regular Meeting of the Wanaque Planning Board and adequate notice has been given and it has been duly advertised by the placement of a notice in the Suburban Trends and the Herald News on January 24, 2018 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 Gilbert Foulon, Vice Chairman Joseph Graceffo, Members Kevin Platt, Charles Strobel, Jack Crilly, David Slater and Mary Leonard

PRESENT: Attorney Steven Veltri and Engineer Michael Cristaldi

ABSENT: Mayor Daniel Mahler, Councilman Cortellessa, Members Michael Ryan and Suzanne Henderson

MINUTES: from the October 18, 2018 Meeting

MOTION TO APPROVE: made by Member Slater, seconded by Member Platt. Voting yes were Chairman Foulon, Vice Chairman Graceffo, Members Platt, Strobel, Slater and Leonard. Member Crilly abstained.

COMMUNICATIONS/REPORTS: None

ENGINEER'S REPORT: Nothing new; just the one on the agenda.

APPLICATION #PB2018-05 “MRAN Haskill, LLC” (Taco Bell)

**Property Address: 164 Greenwood Avenue (Block 460/Lot 24)
Application For Preliminary & Final Site Plan Approval
Authorized Agent: A. Michael Rubin, Esq.**

APPLICANT’S EXHIBIT

A-1 Colorized Site Plan Dated 12/20/18 and prepared by Dykstra Walker Design Group

Michael Rubin, Esq. of 1330 Hamburg Turnpike, Wayne, NJ, Attorney for the Applicant, Taco Bell & MRAN Haskill, LLC. As most members may remember, we were previously here last year and we ended up with a 2/2 vote, which is not an affirmance; it’s not an approval. So we have gone back to the drawing board and have revised our site plan. Because this a new application technically, our site engineer is going to have to start right from the beginning and, although many have heard this before, we have to really go through it again because of it being a new application with a substantial difference than the first one. You will hear that we went to the Passaic County Planning Board because we were dealing with a county road and we got conditional approval from that Board for what we are proposing this evening. Quite frankly, we wouldn’t be here tonight unless the County blessed it because we were dealing with a county road and ingress and egress. I would like to turn this over to our Site Engineer and have him go through the site and explain what we are doing.

Attorney Veltri, before we continue, I would like to make a couple of comments. I did look at the notices that were sent out and the publication and they are in order and we can proceed tonight. The other thing I want clear up right at the beginning is there was a vote on the last application. As you indicated it was 2/2 with one abstention and that equates to a denial under the Land Use Act. There is a concept of *res judicata*, which basically says once a decision has been made it is final, except for an application that has substantial change in it. From what you said Attorney Rubin, and from my review of the application, there has been some changes. I personally believe they are substantial changes, but that is going to be up to the Board. When your witnesses testify, I’d like them to clearly outline what the changes are between last year’s application and this year’s application so the record is very clear.

Attorney Rubin commented we will do that.

Attorney Veltri: How many witnesses do you have tonight?

Attorney Rubin answered we do have the Site Engineer and the owner of the Taco Bell, in the event that his testimony is needed.

Attorney Veltri swore in Kenneth Dykstra, Site Engineer.

I am the Site Engineer that has been working on this site for over a year and I testified before this Board on the first application. I am very familiar with the site and know what the Board is looking for from the last application. I have a current Exhibit which could be mark as Exhibit A-1 and this is a colored version of the Site Plan and dated 12/20/18. I do have smaller versions to hand out which might be more convenient for you.

Attorney Rubin: Before you begin your testimony, I call your attention to the set of plans that have been filed with the Board and I just want to make sure that the testimony that you're working from on the easel and what the hand out is, is the same as the plan that has been filed with the Board, which is dated May 24, 2017 with a last revision of August 17, 2018. I want to make sure we are all looking at the same plan.

Engineer Dykstra answered yes. The last revision should be September 26, 2018. That is the last revision.

Engineer Cristaldi agreed with the September 26, 2018 revised plan.

Engineer Dykstra testified we have an existing 22,399 square foot lot in a Business Zone, which is a zone that allows 10,000 square foot lots, so we have a lot that is more than doubled the required zone size. The lot is at the corner of Greenwood Avenue and County Route 511/Union Avenue. The site is fairly rectangular and is currently developed with a multi-story dwelling and a detached garage. A fairly large structure which is actually located only at 3.5' off the right-of-way of Greenwood Avenue. We have an existing, non-conforming use because it is a Business Zone and that's a residential use in the Business Zone. The lot is fairly level for about 100' off of Greenwood Avenue and then it rises fairly sharply to the westerly property line about 20' in a short distance there is a rock outcrop slope and that part of the property is vegetative with trees and shrubs. This is the existing condition of the property as of today, as a non-conforming use.

Attorney Rubin: What we are attempting to do in this application is make a conforming use to this property?

Engineer Dykstra answered that's right. The Taco Bell Restaurant is a conforming use in the Business Zone. In fact, the first use when you go through the B-Zone is a food establishment, which is one of the primary uses.

Attorney Rubin: Could you first go through the differences? As Counsel has pointed out, this is an important part of this application to show what we're trying to do prove in the first application that wound up with a tied vote, and tonight's application.

Engineer Dykstra testified that, with the previous plan, the sole access to the property was from Greenwood Avenue and that was because the County resists access from their road when you have a secondary township street. So we went to the County, worked hard with the County over a period of about six months and finally had them agree to allow us direct access from Union Avenue. They would allow a right turn in and a right turn out.

Attorney Rubin questioned we did have a public hearing at the County level?

Engineer Dykstra answered that's right. So we worked through engineering and the County has approved the whole drainage plan because it actually ends ultimately going into their drainage system. The only thing they left us with was two conditions: (a) one we

pay for their road fund which is approximately \$2900; and (b) the other was to grant them a Deed for the right-of-way dedication. Those were their main conditions. The Country also required that we widen their road from about a 12' lane out to 18' so we are widening and curbing and putting a sidewalk in along that frontage. In addition, we have are improving the intersection at Greenwood Avenue with a substantially improved radius and a handicapped curb ramp.

Attorney Rubin: In your professional opinion, is this a significant change or deviation from the first application?

Engineer Dykstra answered yes, absolutely. Before we didn't have any access from the County road as we went through a big effort and created that access. We still do need Greenwood Avenue for some of our access, but this will relieve traffic on Greenwood Avenue and direct it right to the County road.

Chairman Foulon commented most of your business will probably be coming off of Route 287, turning right off of Union Avenue into the site and exiting onto Greenwood Avenue to make a left to get back to Route 287.

Engineer Dykstra commented in order to make a left to get back to Route 287 they would then have to move through the site and come out Greenwood Avenue. That is right.

Engineer Dykstra, describing the site, testified that the proposal is a 2150 square foot one story building for Taco Bell. This building would be located 78' from the Greenwood Avenue right-of-way and, as I mentioned before, the existing house is 3.5' from the right-of-way. This structure is substantially back from Greenwood Avenue and is now a conforming setback in all directions. 78' to Greenwood Avenue right-of-way; 26' to Union Avenue right-of-way; 40' to the side property line; and 43' to, what we call the westerly or rear property line. The building also fully conforms with all of the setbacks and the building coverage allowed in this zone is 30% and we are only covering this site at 9.6% with the building. We could actually have a building three times that size on this site. The building is relatively small. We have a proposed parking lot fully meeting your size standards. Total size spaces are 10x20 and, of course, the handicap space will be 16x20 because it has the 8' aisle. The drive aisle between the spaces is full 25', which the ordinance requires. In addition to that, we have a counterclockwise drive –thru lane which comes around the westerly side of the building to the drive-thru area, with an available stack just in that area of seven (7) cars. With the revised design, we had the ability to stack more cars if needed on site.

Attorney Rubin: Did you have the opportunity to use what we call a template to see if the traffic configuration works? Make sure that cars can go around and access the drive-thru window and such.

Engineer Dykstra answered yes. This very generous with a full aisle widths and we do have a full 12' lane for the drive-thru along the westerly side of the building so there is no difficulty whatsoever with the maneuvering of vehicles through the site.

Attorney Rubin: One thing we want to make sure of is that we are not adding vehicles protruding onto Greenwood Avenue. So is it your testimony that there is enough queuing space for cars to go through the drive-thru without backing out onto Greenwood Avenue?

Engineer Dykstra answered yes. There is a sufficient queuing space on the site.

Attorney Rubin: So we are not going to interfere with whatever existing traffic or traffic will be in the future on Greenwood Avenue?

Engineer Dykstra answered no.

Attorney Rubin: Calling your attention to something that we went through in the first hearing, there were some steep slopes on this property that we were addressing. Could you tell us how the applicant is going to address the slopes on this site?

Engineer Dykstra answered as I mentioned before the site from Greenwood Avenue is level for about 100' and then it rises. It's a rock outcrop area and rises about 20' in vertical elevation. Essentially what we are going to do is remove that rock and effectively just shift that slope back about 30' and then it'll be the same slope except further back and still on our property. That is how we are handling the slope.

Attorney Rubin: Is there a variance required for what we are doing there?

Engineer Dykstra answered yes. The ordinance does have a slope disturbance to go through this calculation and it's a very complicated calculation, but the bottom line is when you have rock outcrop slopes that are about 6,000 square foot that is over 25%, because it's basically vertical, you have to count that, I think it is a factor of three-and-a-half times. So when you go through this whole calculation you end up with appears to be a big variance but the reality is all we are doing is taking that rock outcrop slope and pushing it back to about 30'.

Attorney Rubin: Is it possible to develop this site for its zoned purpose, for commercial use, without "attacking the slope"?

Engineer Dykstra answered no. To reasonably develop this lot, you have to disturb that slope.

Attorney Rubin: From an engineering perspective that is what you have to do to develop it for the conforming use?

Engineer Dykstra answered that's right. It's a fairly large lot and, if you weren't able to use that, you would be down to half the lot size.

Attorney Rubin: There are several other variances that were called out by the Planner and I believe there are listed. If you could go through them just to make sure we know what they are and are asking for all of the bulk variances that are needed.

Engineer Dykstra answered, as far as variances go, we have a parking setback to the property line where the requirement is 10' and in this case we have a proposed setback of our parking area to the Greenwood Avenue right-of-way at 3.6'. I would point out that the house that's about 30' high is literally closer to the street than our parking lot will be in that location. The other setback variance is to the northerly property line. We're 5' off that property line where 10' is required. But what we have done in that area is proposed a solid 6' high fence to basically buffer that neighboring property to the north. Our setback to Union Avenue right-of-way is 3.7', where 10' is also required.

Attorney Rubin: Is there any detriment to the neighborhood or to the site or to the community in the event that these several bulk variances are approved and allowed to be part of the application?

Engineer Dykstra answered no, not in my opinion. I think they're reasonable and, as I said, we have a non-conforming house that is literally 3.5' off that right-of-way and we are replacing that with a parking lot that has no vertical height.

Attorney Rubin: What is there today is not conforming as to those issues? The same as we are proposing for the new improvements.

Engineer Dykstra answered yes. As to the Greenwood Avenue setback yes.

Engineer Dykstra stated there is a sign on the building facing Union Avenue. The Taco Bell sign. Your ordinance only allows 24” and that sign will actually be 78” in height so it is a tall sign, but it’s narrow at only 4.3’ wide and has the bell on the top, which is on the left corner of the building facing Union Avenue. The total sign size is 28 square feet when you measure it, but it’s a vertical sign. The reason for the variance is because it’s vertical rather than a horizontal sign.

Attorney Rubin: It is smaller than the maximum size that is allowed on commercial properties.

Engineer Dykstra stated that’s right because if we had a horizontal sign we would be allowed a sign 21’ in width by 14” high; just a different configuration. We differ in the height. Our lettering is all the same at 14”.

Attorney Rubin: What are we doing with parking and how does it fit into the ordinance?

Engineer Dykstra testified based on the ordinance 14 spaces are required and we conservatively estimated that based on 7 employees, when the owner has advised that typically 5 is the maximum there’ll ever have there, unless it’s a busy holiday, they may have 6. So we based it on 7 employees to start with and then the number of seats in the restaurant and 14 spaces are required and 14 are provided.

Attorney Rubin: This site is really set-up for drive-thru usage.

Engineer Dykstra commented yes. Taco Bells are probably 80% drive-thru business. I don’t know the exact figure but somewhere in that neighborhood.

Attorney Rubin commented from previous testimony given 75% to 80% on drive-thru customers.

Attorney Rubin: The last time we were here, there were a number of questions regarding stormwater management. Our neighbors were concerned about stormwater on going from this site to their site and what is generated on their site. Talk to us about stormwater management.

Engineer Dykstra testified that the stormwater management is being handled by the subsurface system under the front parking lot. It includes infiltration into the sand. We soil tested this site and we have sand and gravel underneath the front part of the site and, of course, we know the back part is the rock outcrop. In the front part, where this system will be, it is sand and gravel so it will infiltrate very rapidly. Before the infiltration the stormwater goes from the parking lot, it goes through a water quality device to clean it so you are not infiltrating the dirty water, and then it will basically ultimately overflow to the County’s drainage system. If it doesn’t all infiltrate in a fairly heavy storm, then it will flow to the County’s drainage system and not down Greenwood Avenue.

Attorney Rubin: Did you give calculations to the County?

Engineer Dykstra answered yes.

Attorney Rubin: Did they have any objection to what you presented on stormwater management?

Engineer Dykstra answered no. We went through a rather lengthy process gaining their approval for the stormwater specifically. They have approved it without any further conditions.

Chairman Foulon: Do you think it will improve the area from what is existing now?

Engineer Dykstra answered I don't know if "improve" is the word, but it will not make any conditions worse. Technically, you are required to reduce runoff and everything that infiltrates today we have to infiltrate after so we've done that.

Attorney Rubin: You are saying that it's not going to make the existing conditions, worse or exacerbate their current problems.

Engineer Dykstra stated no. I think there may have historically been some issues going a little further down on Greenwood Avenue. As I recall, at one time some piping was damaged when I think the water main went through but that issue was subsequently solved.

Chairman Foulon commented depending on who you talk to.

Attorney Rubin: The neighbors who had that problem are all here and, if they have a different version, they certainly can mention it.

Attorney Rubin: There were two reports that we received. One of them from the Fred Suljic, the Borough Planner, and we received a report from Mike Cristaldi, the Board's Engineer.

Chairman Foulon added also a letter form the Chief of Police.

Attorney Rubin: I know you covered most of the issues. Are there any issues in these reports that you feel have to be brought up.

Engineer Dykstra commented I really didn't have any objection to the Planning or Engineering Reports.

Attorney Veltri: Let me just stop you with the Planning Report. Page 2, Item 7, says "The applicant will be subject to COAH fees as applied to commercial development." That's agreed?

Engineer Dykstra stated if that's the law, I would assume it is.

Attorney Rubin commented we haven't been told about any COAH requirements so far. I didn't know that the Borough had any requirement for commercial property.

Chairman Foulon: Let's hear from Mr. Suljic.

Attorney Veltri: Mr. Suljic is here and maybe he can enlighten us on that comment.

Planner Suljic: That is an aspect of the Borough's Housing & Fair Share Plan, which is a Housing Element to the Master Plan.

Planner Suljic: I have a question though that relates to the variances because I would like Engineer Dykstra to respond to. When we look at the variances that are on the adjoining lot up against Lot 22 versus Lot 24 can you reduce that to 5'. Assume ably one of the things that most Boards need to do is take a look at the variances first that would need to be granted because that would affect what would happen with the site plan. Is the reason why it's 5' instead of 10' because that would affect the driveway and you would wind up moving the building?

Engineer Dykstra answered that's right.

Planner Suljic: Is this building typically one of the smaller Taco Bells you've seen and a shorter or longer building, etc.?

Engineer Dykstra answered I think it is relatively on the small side.

Planner Suljic: On Greenwood Avenue, that 3.6' from 10' variance, you provided 10x20 stalls. If the Board was of such a mind not to grant that variance and you needed to make it set 8' or 10' to go back to the ordinance requirement, how would that affect the parking?

Engineer Dykstra commented this comes from the prior case, we originally submitted with 9x18 spaces but the Board preferred the larger spaces of 10x20 for this type of use.

Planner Suljic: If the Board said that they would like to see some additional parking to make sure that nobody was going onto Greenwood Avenue or into the neighborhood even though across the road the zone is right between Lot 22 and Lot 24 and goes right across the street and covers the laundromat that's across the street.

Engineer Dykstra stated that is the zone line and the laundromat is also in the Business Zone.

Planner Suljic: If the Board was of such a mind and said let's have a 9x18 spaces, could you meet the 10' requirement or would it be 8' or 9'? Also, could you squeeze two more cars onto the scene if it was a 9x18 space? It looks like you could come pretty close to adding maybe one more car in each aisle.

Engineer Dykstra just looking at the map I would save 4' on the setback so we would go from 3.6' to 7.6', and possibly another space or two.

Planner Suljic: The Board would have to be inclined to reduce it down to 9x18.

Engineer Dykstra stated that's right.

Vice Chairman Graceffo commented you would still need the variance because it still wouldn't be within the 10' and the parking stalls would be at 9x18.

Planner Suljic commented you wouldn't be able to get to 10'.

Chairman Foulon commented we prefer the larger spaces.

Member Slater commented we fought for years to get that 10x20 space in everything we've done. We've succeeded and here we are going backwards.

Planner Suljic commented it is the Board's decision that it carries over because this is a new application. If you're going to be consistent with that determination then I don't have an issue with it, but it makes his case for having the variance.

Chairman Foulon commented you could have 200 spaces on site and people are still going to park in Burger King and run across the street and park in the laundromat and street and run in.

Planner Suljic commented the other thing that has to be addressed is how are the deliveries are going to be done.

Chairman Foulon commented that is what we are going to discuss next. How are the trucks going to come in and go out?

Engineer Dykstra commented that we did go through that substantially the last time and we even had the driver from McLean here but he wasn't available tonight. However, he did explain his maneuvering basically from Greenwood Avenue into the site and he could turn around since he would be there when there are no cars in the lot.

Chairman Foulon questioned he can't go through the drive-thru?

Engineer Dykstra answered no. The drive-thru has height restrictions and you really can't get a truck around the back there with only 12'.

Chairman Foulon commented he is going to pull in from Greenwood Avenue, turn around in the parking lot and pull out onto Greenwood Avenue.

Engineer Dykstra answered yes, that is the maneuver.

Chairman Foulon questioned this is going to be off hours that the deliveries are going to be made?

Member Leonard questioned what are the hours?

Attorney Rubin commented we have the operator right here and when we finish with this witness we will bring him up.

Chairman Foulon: Attorney Veltri do you have any questions?

Attorney Veltri: Planner Suljic do you have any other questions on your report? They're stipulating to the conditions, I think since I don't want to speak for the application. We can go to Engineer Cristaldi's report.

Attorney Rubin: We have Engineer Cristaldi's report dated December 18, 2018. I think most of the items were already testified to by our Engineer. One thing is the lighting and if our lighting has spillage, we will correct that. We don't want to put lights onto our neighbors' properties. They have to be shielded.

Attorney Veltri: There was something mentioned about a Traffic Study with the County.

Attorney Rubin: The County wanted something more from us and they're not going to give us a final until we given them something.

Attorney Veltri: Was that in their letter?

Engineer Dykstra stated no. The County actually didn't require any further traffic studies at this point. We had a Traffic Study for the application which was originally filed with the County. There was a substantial Traffic Study with the last application.

Chairman Foulon: So you satisfied their requirements in the Traffic Study?

Engineer Dykstra answered that's right.

Attorney Veltri: Engineer Cristaldi do you have any comments?

Engineer Cristaldi answered he pretty much covered everything in my letter.

Member Slater commented I see the mountable curbs are still there and that's to give your delivery driver a spot to make turns in the parking lot and that's a carryover from the last application.

Engineer Dykstra stated that's correct.

Member Slater questioned he could come in off of Union Avenue if he was going in the right direction?

Engineer Dykstra answered the problem is the County will only let us have 12' at this two points; in and out. That is pretty difficult maneuver with a truck. He could probably do it, but I'm not sure how.

Chairman Foulon: Any other questions? Did you read the letter from the Chief of Police?

Engineer Dykstra answered yes we did.

Chairman Foulon commented I had a meeting with the Chief and he is okay with the application. The action that has to be taken really is an action by the Borough Officials to

change the parking ordinance in that area. We discussed that and I have directed the Secretary to send a letter to the Mayor & Council changing the parking in that area on the street.

Member Strobel questioned the sidewalk in front ends by the exit onto Union Avenue? Engineer Dykstra answered yes because there is no sidewalk beyond that. They insisted that be put there so in the future if there is another development further down the road the sidewalk would then continue.

Engineer Cristaldi questioned does it go to your property line?

Engineer Dykstra answered no it doesn't and there is a reason for that. There is that steep rock outcrop area so there is no way of getting it to the property line without encroaching on the adjoining Lot 12.

Member Crilly, referring to Chief Kronyak's letter, wants to work through this because some of my areas of concern were addressed here. I look at the second paragraph that talks about the Burger King and, I don't know from an operational standpoint what is normal, but how many tables are inside and you look at the needs from employee parking. I don't know how many people it takes to operate so could you just comment on the parking situation.

Engineer Dykstra commented the situation is, as I mentioned other than busy times, realistically there will be only five (5) employees and some of them are part time that are driven to the site. The owner told me high school kids will be some of the workers. The employees are really going to take up no more than three (3) spaces and then we have one (1) handicapped which will probably get used, and then the balance. So we have another ten (10) spaces for the customers that would come inside.

Member Crilly questioned how many tables inside?

Engineer Dykstra answered I don't know the tables but we do have 42 seats.

Member Crilly: In addition to the issues about deliveries, would the deliveries have to come through Greenwood Avenue?

Engineer Dykstra answered yes because of the 12' access points from Union Avenue are too narrow for the truck.

Member Crilly: As I look at this map on Greenwood Avenue, and another question was spoken about a traffic study and I'm thinking about rush hour and dinnertime, if you take the left off of the exit ramp onto Union Avenue and you can only make a right off of Union Avenue but can you also make a right on Greenwood Avenue and the left into the back portion of the parking lot? I am looking at Greenwood Avenue and am looking at the driveway on the top right-hand side of the property and that is where trucks would come to make deliveries? I am one of the new members.

Engineer Dykstra answered that's right. The truck would come in and maneuver in this lot working in a 65' area and we also demonstrated to back-up into this area and safety exist back out onto Greenwood Avenue and head back out to Route 287, which is likely where they are going.

Member Crilly: Let's suppose a customer comes off of Union Avenue and they make the right-hand turn into the lot, and I see what the flow is if they go through the drive-thru, and they have to circle around again, take a right-hand turn and take a right onto Greenwood and left back onto Union Avenue to get back onto Route 287.

Engineer Dykstra commented that's correct.

Member Crilly: Will there be a sign by the existing laundromat that prohibits a left-hand turn onto Greenwood Avenue?

Attorney Rubin answered that would be beyond the scope of the application. I don't think we can do that.

Engineer Dykstra commented someone may live there and want to go that way. I'm not sure you would want to prevent that.

Member Slater commented there is none there now.

Member Crilly commented the property is a different use now.

Engineer Dykstra commented you could have a resident living on Greenwood Avenue and going to Taco Bell and then not being able to drive back up Greenwood Avenue.

Member Crilly: What are the off hours in terms of the truck traffic?

Attorney Rubin: The next testimony will be from the business operator.

Member Slater commented I see two things. You're worried about stacking on the drive-thru line but if you look at the very back, it isn't lined out in there, but there's room to double-up in that space back there. The only problem would be if the garbage guy comes, but there is room for another two or three cars along that back corner for queuing up for the drive-thru.

Engineer Dykstra commented that would be just a little bit unusual because they have to get to the menu board.

Chairman Foulon: I think we are ready to hear from the proposed owner.

Attorney Veltri swore in Rasesh Desai

Attorney Rubin: You are going to be one of the operators of the store once we get approvals and move forward. This will be your location.

Mr. Desai stated that is correct.

Attorney Rubin: You do operate Taco Bells in other areas.

Mr. Desai stated yes, two, located in Franklin and Vernon. This will be my third.

Attorney Rubin: Tell us about deliveries.

Mr. Desai commented that deliveries are usually made off hours in the early morning, 4am to 6am, right before we open.

Attorney Veltri: What are your hours of operation?

Mr. Desai answered an employee comes in at 6am. We open the door for customers at 7am for breakfast and then until 10pm. After 10pm only drive-thru open until 12 midnight, and the lobby/inside will be closed at this time.

Attorney Rubin: At your other stores, what kind of trucks usually make deliveries?

Mr. Desai answered the regular tractor trailer.

Attorney Rubin: How often do these trucks come to the site?

Mr. Desai answered twice a week there will be deliveries.

Attorney Rubin: Deliveries will be done at off hours so there are no other cars in the parking lot.

Mr. Desai stated yes. Usually they prefer to do deliveries off hours before we open.

Attorney Veltri: Do you control the time of delivery? 4am in the morning seems a little early.

Mr. Desai answered we can request McLean, who is our supplier, and request a specific time.

Member Strobel questioned if anyone is there between 4am and 6am?

Mr. Desai answered no. The driver has a key for the back door and they just drop stuff and they scan what they dropped off and the manager who comes in the morning will check everything.

Attorney Veltri: How many deliveries a week?

Mr. Desai answered twice.

Chairman Foulon: How long does a delivery take and the truck is in the parking lot?

Mr. Desai answered 15 to 20 minutes.

Member Leonard stated last time we talked I believe you weren't using a tractor trailer. You were using a smaller truck.

Mr. Desai answered I think it was a tractor trailer.

Chairman Foulon commented we had asked them to use smaller truck and they said no, they couldn't.

Mr. Desai stated we can request it but sometimes they may or may not do it.

Member Leonard commented because the truck has to come down Greenwood Avenue.

Member Crilly: What about your customers in tractor trailer trucks and truckers coming off of Route 287?

Attorney Rubin: That would not be a customer base for this application. I think we answered that same exact question last time.

Chairman Foulon stated this is a new application, so you are going to have to answer it again.

Attorney Rubin: Truckers aren't going to come here because they can't get in here. They may try and go into Burger King because that's a bigger parking lot.

Mr. Desai commented especially if they are busy they won't be able to come in anyway when they see the cars in the parking lot.

Planner Suljic commented Mr. Chairman you could do that as part of talking to the Mayor & Council and make that a requirement as a limitation on that road on Greenwood Avenue that there be no tractor trailers parked there.

Chairman Foulon commented we are going to try and restrict any parking there. If somebody wants a taco, they are going to find a way to get it.

Member Leonard: Can you tell me more about how the drainage works? Seems pretty big that whole drainage system?

Engineer Dykstra answered yes it does cover a lot of that. We originally designed it smaller, but the input from the County was they wanted us to make sure everything infiltrated so we increased the size by about 40%.

Member Leonard: They have flooding in that area, will it help? I know you explained that before, but I just want it explained one more time.

Engineer Dykstra answered all our water is basically going into the ground. We did a soil test and it was all sand and gravel (Sheet 4 of 16 of Site Plan) . On May 7, 2017 we excavated 4test pits and test pits 2, 3 and 4 were all 10' deep with basically the best permeability you could have at 7' depth and there was no water table and that was in a

relatively wet time of the year in May. So high permeability, no water table and went from sandy loam, which is sand and some loam, and then all the way to loamy sand which is just basically all sand as we got deeper. The soil is going to be able to accept all the stormwater, except in a very large storm event, everything is going into the ground.

Chairman Foulon: Any other questions from Board Members? At this time, I will entertain a Motion to open the hearing to the public.

MOTION TO OPEN PUBLIC HEARING ON THE APPLICATION: made by Slater, seconded by Member Strobel. Voting yes were Chairman Foulon, Vice Chairman Graceffo, Members Platt, Strobel, Crilly, Slater and Leonard.

Chairman Foulon: Anyone in the audience wishing to address the Board of the Applicant on this application, and only this application, please step forward and state your name and address.

Joe Van Buren, 156 Greenwood Avenue, Haskell

Mr. Van Buren: I live two houses up from where this proposed Taco Bell is going to be located. I do have a couple of questions. I keep hearing this house is non-conforming. The house was built in 1906 and when the house was built it was conforming. It is only non-conforming now because variances and ordinances have changed since that time. I think that is important to note. They are making it sound like it's a bad thing; it really isn't a bad thing because it wasn't non-conforming when they built it. I want to keep that straight.

When you come down from upper Greenwood Avenue from when I live and the house is on the right side so you're coming south, yes the house sits very close to Greenwood Avenue, you clear the corner of the house and you can see what is coming down the street. When you put cars, which are coming right up to the edge on the variance they are asking for, in addition to the multitude of signs on this property now, you are not going to be able to see what is coming easterly down Union Avenue. That is a concern we have.

Chairman Foulon commented you can't see it now with that outcropping anyhow.

Mr. Van Buren: What outcropping; there is no outcropping. You can see it when you clear the house. I live there.

Chairman Foulon: I use that street all the time and I have line of sight seeing what is coming at me eastbound.

Mr. Van Buren: Shrubs have been cut down. You can clearly see up Union Avenue.

Chairman Foulon: I don't think this application is going to obstruct that anymore than what it is now.

Member Slater commented there is a little rise as you come up past the college, right before this property, and they pop over that at 30/40mph. You aren't going to see them if it was wide open prairie.

Mr. Van Buren: All I am saying is you can see cars coming down.

Chairman Foulon: Are you going to have any signs obstructing vision?

Engineer Dykstra answered no. In fact, we widen the County road by 6' and we are actually widening Greenwood Avenue to at the intersection by about 5'. That whole intersection is getting wider and it's going to have a much better radius.

Mr. Van Buren: I counted no less than 8 signs just running down that street.

Engineer Dykstra commented those signs are going to be back out of the sight line once you get to the Stop sign.

Mr. Van Buren: The traffic pattern. First the inlet going into that parking lot is 20 some odd feet from Greenwood Avenue. So someone coming out of Greenwood Avenue is going to be at a huge disadvantage making a left or right turn because somebody coming up with a blinker on it's going to be almost impossible to tell where they are turning. Secondly, if you are using that entrance and somebody is coming through the drive-thru, you have to stop, which means the guy behind him has to stop and there is only two car lengths from that intersection back into Greenwood Avenue. Conceivably, anybody coming through that parking lot, once they come through, they are going to back up a car into the Greenwood Avenue intersection. That's absolutely going to happen because you have to come around that if you want to get back on Route 287. The other issue is when you come out and it says "do not make a left onto Union", anybody coming out of the drive-thru, and we've all done it, you take the shortest route possible, and that's the shortest route possible without having to go back through the parking lot, which is a few spaces and then you'd go back out Greenwood Avenue and then go back onto Route 287. So when you're coming out of that lot and you don't want to fight that parking lot, you are going to make a right and you are going to go up to the Holiday Inn and you're going to go through their parking lot or swing a u-turn on to, what he said, a blind corner, because there is a driveway directly across from there where they can come in and make a u-turn. If they miss that, they can go up to the auto body shop, which is up the street, and also make that turn. You are inviting all kinds of issues with people who don't want to trek back through the parking lot which, again, will be 90% of the people who go through there. They're not going to want to fight the parking lot to get back onto Route 287. They are going to take the shortest way out. It says "no right turn" but they are going to make lefts into Holiday Inn.

The other question I have, when they did their traffic pattern and their traffic engineering, did you guys tell them about the hundreds of trucks that are going to be coming out of Tilcon?

Chairman Foulon answered no, because we don't know about that.

Mr. Van Buren commented no, you do know about it.

Chairman Foulon commented no we don't.

Mr. Van Buren commented I have the meeting notes. It is a very high probability because it's going to make a \$500,000 for the town. If you ask me what's more likely that or Taco Bell, I am going to tell you that Tilcon is probably going to be more likely to happen.

Everybody here should know that the traffic is not just the traffic their going to create, but the possible future traffic from Tilcon that they were not even privy to in order to do their traffic study.

Mr. Van Buren: The other issue is the County. I have a letter form the County that says they cannot tie into the drain and I want to know has that changed?

Engineer Dykstra answered we have a conditional approval from the County.

Mr. Van Buren commented I have a letter here that states “eliminate the proposed overflow into the County drainage.” I am asking if that changed.

Attorney Veltri: What is the date of the letter?

Mr. Van Buren answered June 23, 2017 that is the one that they just sent me via e-mail.

Attorney Rubin commented wrong application. You are a year or two late.

Mr. Van Buren: Okay, I am just making sure.

Engineer Dykstra commented we have an October 19, 2018 conditional approval letter from the County.

Mr. Van Buren: Back to the drain. We know the drain don’t work. I am asking you why you are allowing them to tie, even with the overflow, into a system that is inadequate for the street that’s supposed to take the water away from.

Engineer Dykstra commented our drainage flow today is to Greenwood Avenue and then to the County drainage system. After the development, we’re going to actually, in a sense, probably improving it because we are putting everything into the ground, other than the potential overflow from a very big storm event. The drainage system in Union Avenue exists and we’re connecting via Greenwood Avenue to that same system. That’s the existing condition and the proposed condition and the County has approved that.

Mr., Van Buren: It’s your position that the County drainage system works?

Member Slater commented he didn’t say that.

Chairman Foulon commented he is not capable of determining whether the County system works.

Mr. Van Buren commented he is saying the County is allowing him to tie into the drain. We know that the County pipe is dead in the road. It was dug up and I sued you guys and that was the end of it. The County has no drain. He knows it; he knows I sandbag. The County has no drain pipe; it dies in the road. That’s why you guys were supposed to fix that pipe and you ran it over to Stop & Shop with a 3” round pipe to try and take some of the overflow out of that system. The system doesn’t work and you are allowing him to tie into it even though its overflow. I have a letter here from Mr. Fiorello, who was the attorney that my attorney dealt with, who said “It is fixed”. We sent some people over to your house”.

Attorney Veltri: You are referring to a letter from Mr. Fiorello. What is the date and who is it written to?

Mr. Van Buren answered the date December 12, 2017 and it is written to my lawyer, Joe Ragano.

Attorney Veltri: Can we have a copy of that?

Mr. Van Buren: You can have this one, where he is saying the drain is fixed because he sent people over. Here take this pictures and tell me how fixed it is. I sandbag and have guys running through a 4’ deep bond, which is commonly known as Lake Carroll.

Attorney Rubin: Mr. Fiorello, who is the Borough Attorney, is saying that its fixed and he is saying it’s not fixed, then it is obviously a major problem and there is going to have to be some expert testimony on this.

Chairman Foulon commented this is not the proper venue for this.

Attorney Rubin commented it is not.

Mr. Rubin commented but he’s tying into; this is absolutely the venue.

Chairman Foulon stated he is tying into it with the County's permission and approval.
Attorney Veltri: Engineer Cristaldi do you have any comment on the storm drainage situation on this site?

Engineer Cristaldi answered I remember that, from the last application, there was a repair done. I don't think they connected any more to the manhole in the street. What they did was use/connect to the inlets along the side of the road and they carried out the drainage.

Attorney Veltri: You also commented in your report about the storm drainage system in this application.

Engineer Cristaldi answered correct. It does all connect to the County system. He has done what he can to limit the flow off of his property.

Attorney Veltri questioned "he", meaning the Applicant?

Engineer Cristaldi commented the Applicant. The applicant has done all that any applicant, at any time, does for their application. Once it leaves, it ends up either in the town's system or the County system, but in this case it is the County system. The County is not going to overflow their own system. If the County takes the overflow and says we can handle it, then they can handle it. They are not looking to create a problem in their own road.

Mr. Van Buren stated it is not a County pipe. So let's stop with the nonsense. The pipe goes from the one basin across the Road of the Crowd into the Stop & Shop basin that is on Haskell Avenue. It then goes from there to the stream. That's where it picks up the County on the other side of the water pipe. From Greenwood Avenue to that Stop & Shop it is yours and it is undersized and you are allowing him to tie into a drain that does not work.

Attorney Veltri: For the record, I just handed Engineer Cristaldi the letter of Mr. Fiorello so he can refer and maybe refresh his recollection of what has gone on with the site.

Attorney Rubin: We are talking about offsite improvements that is a Mayor & Council function. It is beyond the purview of this Board.

Chairman Foulon commented which is the same as the parking.

Attorney Rubin: If there are problems with the Borough's drainage system, the gentleman should be appearing before the Mayor & Council and bring his experts, etc., but to come before this Board, which is only dealing with this site, we are not dealing with everything else, like offsite improvements, which is a Mayor & Council function.

Mr. Van Buren: You mentioned that you are going to do some parking ordinances. This map shows possible immediate parking cars in relationship to this site. These are cars that are here on this street all the time. They have a right to park there. They've been parking there for a long time and they would like to continue parking there. It is their street.

Attorney Rubin questioned are they your cars?

Mr. Van Buren answered these are cars that belong to various houses.

Attorney Rubin questioned how do you know what's on their minds that they would want to stay there? How can you speak for other people?

Mr. Van Buren answered they park there every day.

Chairman Foulon commented we are not talking about those areas.

Mr. Van Buren stated you are talking about changing the parking which is directed at this application.

Chairman Foulon commented yes and I am also planning on having a meeting with various department heads of this community to revise the entire parking ordinance of the Borough. It hasn't been done in over 30 years and I think it's time we took a look at it and we will probably come up with a totally new parking ordinance for the whole town that will be approved by the State Department of Transportation.

Mr. Van Buren stated okay, but we are talking now and we're talking this application. We are talking about traffic directly as a result of traffic that exists today in relationship to this application and traffic that they are going to be bringing. You asked where the trucks are going to go when they come off of the highway. Where are the cars with trailers or the SUV's with trailers going to go? They are going to end up on Greenwood Avenue and they are going to be parking on the berm, which is in front of my house keeping the water back, or to my neighbors. They are a lot of things that happen in that intersection and there is a lot of traffic there and you are bringing people off of Route 287. In fact, 75% to 80% of their business is coming off of Route 287.

Member Slater commented no, they didn't say that. They said it was through the drive-thru.

Chairman Foulon commented it being a ¼ mile from a college most of their business will be coming from there.

Member Slater commented I can bet you that 80% of their business is going to come from within town or transients through town, or the college, and that's why they want this spot.

Mr. Van Buren: Getting back to the previous meetings, it was determined that there should be no deliveries before 7am and that was a condition that you gave them and now you are telling us 3:00am or 4:00am.

Member Slater stated he said between 4:00am and 6:00am. Everything you are saying is twisted.

Mr. Van Buren commented it is prior to 7:00am which is what you told them in the last meeting had to be the hours of operation.

Attorney Rubin stated except the application was denied so there is no conditions; there is nothing.

Mr. Van Buren commented we now have an issue with hours. The hours, and everyone here who was here last time, is under the impression that they can't deliver before 7am.

Attorney Rubin commented no, that is incorrect. You're not telling the truth.

Attorney Veltri commented let me clarify that for you. That was a stipulation at the last application made by the applicant. It is in the Resolution. That application did not pass. This is a new application where we are hearing new testimony. So you can't take what you liked in the application that we denied and try to boot strap it into this application because we have new testimony from the gentlemen who just testified. Your point is they said one thing last time and they are saying something tonight and why is it different.

Mr. Van Buren stated okay, why is it different?

Attorney Veltri commented that is a great question and maybe the applicant can answer that?

Mr. Van Buren questioned the hours changed because it is a new application?

Chairman Foulon answered yes. It is a new application. Everything in the other application is gone, so this is a totally new application.

Attorney Veltri commented right, but his question is for this business last December there was a representation made that, if approved, that would be when the deliveries were made. Tonight we got different hours, so his question is what changed in the last twelve months and they can say well we changed our minds. That could be their position or they can give us other factors. I don't know what they are going to say.

Chairman Foulon stated let's ask the perspective owner.

Mr. Desai commented technically they usually have the delivery off hours. They like to do the delivery before the business is open for customers. It makes it convenient for everybody for employees or for them if there is nobody around. It is easy in and out. I mean there is no specific time that they'll be; I just gave you general idea from between 4am and 6am because that is usually their have early morning. We can request them for a specific time if you guys want.

Attorney Veltri: Can you request it for later on?

Mr. Desai answered we don't guarantee that is going to happen though. I will do my best to request McLean to do, but we are fighting over something that, okay we don't want the tractor trailer to be coming in, and now do you want it at 7am or 8am when the customers are in and the truck has issue.

Attorney Veltri: What time does the actual store open for customers?

Mr. Desai answered 7am for both lobby and drive-thru. The employee gets there at 6am.

Attorney Veltri confirmed the employee gets there at 6am to prepare for a 7am opening.

Mr. Desai stated exactly, yes absolutely.

Mr. Van Buren: Here, for your reading. He said people were denied in Newton for traffic, substandard engineering, you can read it.

Member Slater commented he owns one in Vernon, not Newton.

Attorney Rubin commented anything that he is presenting has nothing to do with that application.

Attorney Veltri commented that application has nothing to do with our application.

Member Slater commented, my feeling is, if they put a dog house on that property, you wouldn't be happy. You are just wearing us out over petty stuff that doesn't apply and has no bearing.

Mr. Van Buren stated there is tons of traffic.

Member Slater stated it is never going to get any better.

Chairman Foulon commented something is going to happen with that property.

Mr. Van Buren commented of course, the Mayor owns it.

Chairman Foulon commented it doesn't matter who owns it.

Vice Chairman Graceffo questioned if you owned the property, what would you do?

Mr. Van Buren answered if I owned the property, these guys wouldn't have gotten in this door once.

Vice Chairman Graceffo commented it is zoned Business. If you had the property what would you do with it?

Mr. Van Buren answered rent it, live in it, whatever. Okay, how come the sale is private?

Attorney Veltri stated that has nothing to do with this Board.

Mr. Van Buren commented if I owned the property I wouldn't have to do a private sale because everybody knows I paid \$220,000 which is public record and I wouldn't want anybody to know what I'm making on it that is why I have to snake the thing through here.

Member Slater commented nothing is being snaked.

Chairman Foulon stated “that is enough”! We are getting way beyond what our purpose is here. Is there anyone else in the audience wishing to address the Board on this matter?

Glenn Heddy – 159 Greenwood Avenue, Haskell

I was to the previous meetings and I understand this gentleman’s position is to work for their client, try to represent the best light they can, but it seems to me that not really much has changed from the last application other than the one access from Union Avenue, which really only allows for a right turn. It doesn’t address with the deliveries, the trucks, Greenwood Avenue. If the trucks can get in and out that way, easy in-easy out back onto the highway, it would be different, but it really is not a major change.

As far as the drainage, I won’t get into that whole thing. The water table is kind of high there. There are not a lot of storm drains on Greenwood Avenue so if you do get heavy rain, like you are going to have tomorrow, there is going to be a lot of puddling. The sand system works good when the water table is low. When the water table is at street level, it is not going to go into it; there is just nowhere for it to go. That being said, when you cover a lot of ground, I don’t know the technical way would work, but it’s kind of a hit or miss there. If it doesn’t work well on the County road, obviously this isn’t going to make it any better.

My concern is really the cars in and out. It is very difficult and we all know. We all come up and down Ringwood Avenue and when that gets backed up, everybody goes to Greenwood Avenue. That is the cut through and it is what it is. This situation, this spot, with the access of the trucks and cars and drive-thru and the delivery hours, etc. is just really going to jam that up. I do think my neighbor Joe did make a good comment. When people are forced to make that right turn, they are going to take the easy way out and they are going to do au-turn, they are going to go through the Holiday Inn and they are going to do whatever they have to do. Although it’s not provided for tractor trailers to come in and eat and whatever, there are still going to come off the highway, come in and realize I don’t have anywhere to go. So they are going to have to park, as these gentlemen said, wherever they are going to park, so it’s going to make a bad situation worse. I know they presented it as a totally new application, but most of it is basically the same other than the access to Union Avenue, which really doesn’t change anything.

Chairman Foulon commented it is a major change.

Mr. Heddy commented only insofar as letting some cars in out, right turn only. It doesn’t address any of the trucking things, it doesn’t address that whole corner.

Vice Chairman Graceffo commented originally all the entrancing and exiting was on Greenwood Avenue. They made a tremendous change by just moving it.

Mr. Heddy commented it just doesn’t help anything with the trucking end of it or the delivery.

Vice Chairman Graceffo commented I think people have to understand. This is a commercial piece of property. The point is you have to understand other people’s needs also.

Chairman Foulon commented, let me put it to you this way, this application was denied the first time.

Mr. Heddy commented should they grant this application because it makes things better. Attorney Rubin commented that is not the criteria.

Chairman Foulon commented if the applicant had taken us to court after we denied him last year, there's probably a 90% chance he would have won in court and the judge would have said let the man build what he wants. That is the way things go. We are lucky he didn't do that and we were able to make these changes.

Mr. Heddy commented I am just saying it was denied last time and they are bringing to light that they made some major changes. Other than having that one access, which doesn't address anything with trucking or parking, etc., that is the only change.

Attorney Veltri commented that was a major objection at the last meeting and I sat through three public hearings and at each public hearing that was a major theme – all ingress and egress from Greenwood Avenue and we denied that application primarily based upon that traffic pattern.

Mr. Heddy commented that trucking thing was an issue too.

Attorney Veltri commented that was the major reason the application was denied. Again, I try to be as fair as I can, I read all the Minutes, I drafted the Resolution and that was a major factor in the denial last year. So we can't just say gloss over it to say that's the only little change; it's a major change.

Mr. Heddy stated yes, I agree it is a change; it allows more access. Still the Route 287 access is still going to force everybody to do that right and their going to do that.

Attorney Veltri commented you still have a right to object, but all I am saying is it wasn't just a minor, trivial change. That was a major factor last year.

Mr. Heddy commented I seem to remember that it was the Board's stipulation that the deliveries would be at a reasonable hour, after 7am.

Attorney Veltri commented it wasn't a Board stipulation. It was an applicant's representation after a lot of dialogue.

Mr. Heddy stated okay, so I'm just trying to see where that is at as far as if you are going to consider it or allow deliveries at 3am, 4am, 5am or whenever. I mean he can request, but basically they are going to deliver it when they're going to deliver it. He can suggest, please, but they are going to bring it when they bring it. It is tractor trailers and garbage trucks and stuff at the odd hours.

Paul Zack, 127 Greenwood Avenue, Haskell

I want to say that, from the beginning of this application, this is a huge conflict of interest even having this heard in this council. This should never even been heard in this town.

Attorney Veltri advised that this is a Planning Board.

Mr. Zack commented the fact the mayor owns that property is a huge conflict of interest. After reading all the Minutes of the Passaic County Freeholder Terry Duffy being told he can't be heard in this town because there is a conflict of interest, this shouldn't have been heard here.

Attorney Veltri commented this is your opinion sir and put it on the record.

Mr. Zack stated as far as the traffic goes, when you have cars that are parked on both sides of that street, that street is extremely narrow. To say you are going to fit a tractor trailer

in there or park tractor trailers on that street, there is no way. You are going to get trucks pulling off of Route 287 that are going to park wherever.

Member Slater stated that is an enforcement issue.

Mr. Zack said there are signs up there about no trucks going up and down Greenwood Avenue also, and that's not enforced either because I see tractor trailers and dump trucks and buses coming up and down my street all the time.

Mr. Zack continued, as far as his flooding, that flooding goes halfway into the middle of the street. Anybody that comes up and down that street that sees heavy storms, like we are going to have tomorrow or like we had tonight, that water is halfway out into the street so to say that this isn't going to add to that problem, it's not going to fix it.

Mr. Zack commented you say you are going to get business from the college, so those college kids are going to be able to come down Union Avenue and turn into the Taco Bell. There are no restrictions on which way they can turn to pull into that lot? So you are going to have traffic coming from both ends of Union Avenue to add to that.

Member Slater stated I think if you look at the driveway entrance and its angle.

Vice Chairman Graceffo commented they will be making lefts. This is a business and you have to understand that they have a right the same way

Mr. Zack stated you say it is a ratable. My taxes have doubled.

Attorney Veltri commented nobody is saying it's a ratable. That is the first time I have heard that word tonight. You are the only person that has used that term tonight.

Mr. Zack "a ratable"?

Attorney Veltri answered yes.

Mr. Zack questioned they are not paying taxes as a business?

Member Slater stated the building is only 2200 square feet.

Attorney Veltri stated it's a Business Zone.

Chairman Foulon stated and people are allowed to build a business.

Mr. Zack commented he understands that. You just want to shove this application down all the people that live in that neighborhood. I have a petition that all the people in the whole neighborhood signed. 250 petition signatures from almost every house on Union Avenue, on Doty Road and Haskell Avenue. It wasn't even looked at during the last application.

Attorney Veltri commented because it can't be. That is the law. It cannot go into evidence.

Mr. Zack questioned as a petition that all the residents don't want that?

Attorney Veltri answered that is correct sir.

Chairman Foulon: Anyone else?

MOTION TO CLOSE PUBLIC HEARING ON THE APPLICATION: made by Member Slater, seconded by Member Strobel. Voting yes were Chairman Foulon, Vice Chairman Graceffo, Members Platt, Strobel, Crilly, Slater and Leonard

Chairman Foulon: Gentlemen & Ladies any other questions? Could we have the owner talk again? What can we do about the delivery situation. We are not in favor of 4am. Can you agree to 7am?

Mr. Desai answered I will request and will notify you.

Attorney Veltri: Just so you understand.

Chairman Foulon: It's just the same as it was one year ago. You agreed to 7am.

Attorney Veltri commented it is going to be in the Resolution, so if the delivery truck shows up at 5am there is going to be a problem.

Chairman Foulon commented it would be subject to a summons.

Mr. Desai stated okay. We will have to talk McLean.

Attorney Veltri questioned do you need time to talk? Do you want to talk to your attorney?

Attorney Rubin commented when we talked to them last time, I think it was clear as to the time and the McLean representative agreed that they could do that.

Attorney Veltri: Do I have the applicant's consent to put it in the Resolution as a stipulation?

Mr. Desai answered yes. Can you do 6am at least? To make it easier for the driver to get in and out.

Member Slater commented they are picking up garbage at Mar-Del by my house at 5:30am and delivering to CVS in the middle of the night.

Chairman Foulon: What time does Burger King get their deliveries?

Member Slater answered anywhere from 9pm on. It is not like they're there forever. They are there for 15 or 20 minutes.

Mr. Desai commented they are not there for too long.

Chairman Foulon questioned twice a week and they are there for about 15 minutes?

Mr. Desai answered yes.

Chairman Foulon: 6am?

Attorney Veltri questioned will you stipulate no earlier than 6am?

Mr. Desai answered okay, very good.

Attorney Rubin commented you have that representation.

Attorney Veltri: Thank You.

Chairman Foulon: Any other questions or comments? In that case, I will entertain a Motion For Approval For Preliminary and Final Site Plan Approval subject to stipulations from our Attorney.

Attorney Veltri: I'll just throw a few things out and you can add or delete. It will be subject to:

All representations made by the Applicant tonight, including that all deliveries to the site will not be made earlier than 6am.

Subject to all the conditions of the Passaic County Planning Board as outlined in their correspondence dated September 14, 2018 and October 19, 2018.

Member Crilly: Just to be clear we do not have a traffic study. This Board has not seen the traffic study. Attorney Rubin stated correct, it was filed with the Passaic County Planning Board.

Subject to the conditions outlined in the Benecke Economics Report dated December 17, 2018.

Subject to the all the conditions outlined in the Richard A. Alaimo Engineering Associates Report dated December 18, 2018.

Vice Chairman Graceffo commented should we make note the variances requested. **Attorney Veltri** commented yes, there were variances requested. There was a slope

variance, two parking setback variances, and a Union Avenue sign/letter/height variance and they are all part of the approval. We've heard the proofs from the expert from the Applicant. I would assume the Board would be granting the variances based on a Flexible C Analysis and we're finding that the benefits of the variances outweigh any detriments; that there are no detriments as far as we could see and that the zoning plan has not been substantially impaired by the granting of the variances.

MOTION TO APPROVE PRELIMINARY AND FINAL SITE PLAN: made by Vice Chairman Graceffo, seconded by Member Slater. Voting yes were Chairman Foulon, Vice Chairman Graceffo, Members Platt, Strobel, Slater and Leonard. Member Crilly voted No. Motion Carried.

RESOLUTION: Application No. PB2018-02 Shayna Realty, LLC 1054 Ringwood Avenue, Block 434, Lot 1 for a Preliminary Site Plan to demolish an existing one-story bank building and permit the construction of a new two-story building consisting of 11,484 square feet. This was voted on at our October 18, 2018 Meeting and passed by a Roll Call vote of 6 votes to 1. The approval was made in accordance with the Site Plan drawn by Donohue Engineering and Architectural Plans drawn by Brian Murphy, Architect. Retail Space will occupy 3,072 square feet; the Office Space will be 8,412 square feet. The proposed building does have a basement, however, there will be no occupancy in the basement space at this time. 61 off street parking spaces are provided on site, where 59 were required by ordinance. We did grant several variances with the application: parking spaces 2.5' from the street right-of-way, where 10' is required; drive aisle 0' from the property line, where 10' is required; driveway curb cut closer than 50' to the intersection of two public roads; two curb cuts on William Place within 200' of road frontage; sign variance where the existing sign display is 3' from the ground, where 10' is required. There a number of variances proposed for the building: 5 signs facing Ringwood Avenue and 4 facing Fourth Avenue, when only 1 sign is permitted per side of the building. We granted that on a Flexible C Analysis and we found no substantial detriments to surrounding property owners and that the variances would not substantially impair the intent or purpose of the zone plan or zoning ordinances. We did condition the approval based upon following: All representations and stipulations made to the Planning Board were true and accurate. We clearly issued the approval and the variances based upon the square footage of 3,072 of Retail Space and 8,412 square feet of Office Space with no occupants in the basement. We also wanted them to widen the drive aisle on the south side of the building to 14'. They've represented to us that the building would be constructed in accordance with the rendering they showed us with the same design, style, materials and coloring. We granted it upon all the conditions in our Engineer's Report dated September 20, 2018 being complied with, subject to the Wanaque Water & Sewer Departments review and approval, Passaic County and all other state or county approvals. We also indicated that there was a shed on the site plan that we indicated was not part of the approval because that was put on at the last meeting and there was no analysis on

whether variances were needed on that. We will look at the again at the final site plan hearing.

MOTION TO APPROVE RESOLUTION: made by Member Crilly, seconded by Member Leonard. Voting yes were Chairman Foulon, Members Platt, Strobel, Crilly, Slater and Leonard. Vice Chairman Graceffo voted No.

PUBLIC DISCUSSION: Let the record show no one to come forward.

VOUCHERS: submitted by Steven J. Veltri, Esq. for the Shayna Realty, LLC Application in the amount of \$1,125 and for attendance at the December 20, 2018 meeting in the amount of \$400; and submitted by Alaimo Engineering for the Shayna Realty, LLC Application in the amount of \$2,976.35 and for the attendance at the September 20, 2018 Meeting in the amount of \$200.

MOTION TO APPROVE VOUCHERS: made by Vice Chairman Graceffo, seconded by Member Slater. Voting yes were Chairman Foulon, Vice Chairman Graceffo, Members Platt, Strobel, Crilly, Slater and Leonard.

MOTION TO ADJOURN AT 9:45 P.M.: made by Member Slater, seconded by Vice Chairman Graceffo. Motion carried by a voice vote.

Jennifer A. Fiorito
Planning Board Secretary