

In compliance with the Open Public Meetings Act of the State of New Jersey adequate notice of this meeting has been mailed to The Daily Record and posted at the municipal building.

**ROLL CALL:**

**Members Present:** John Cavanaugh, Joe Fleischner, Rene Gadelha, Nelson Russell, Scott Van Ness, Steve Bedell, Howie Weiss (7:57 p.m.)

**Members Excused:** John Mania, Mayor David Scapicchio, Jim Staszak, Dan Nelsen

**Professionals Attending:** Eugene Buczynski, P.E., Tiena Cofoni, Esq., John Miller, Esq., Catherine Natafalusy, Planning Administrator

**Professionals Excused:** Chuck McGroarty, Planning Consultant, Edward J. Buzak, Esq.

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**APPROVAL OF MINUTES**

**July 21, 2011 Public Meeting**

Motion: Joe Fleischner  
Second: Nelson Russell

**Motion:**

John Cavanaugh - yes  
Joe Fleischner - yes  
Nelson Russell - yes  
Steve Bedell - yes

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**COMMITTEE REPORTS**

MS. GADELHA: Okay committee reports the Mayor and Council not here; does anyone have anything on behalf of Mayor or Council to report? No? Okay Nelson Environmental Commission?

MR. RUSSELL: We met last night but there was really nothing of significance to report.

MS. GADELHA: Okay Jim is not here but we have not had an ordinance meeting since the last report. Street naming there's no action and open space there was no August meeting so that's it for committee reports.

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**DEVELOPMENT MATTERS**

**APPLICATION #PB 10-32 - RALPH MARINA / JOSEPH MARINA**

MS. GADELHA: Let me just make an announcement that PB 10-32 Ralph Marina and Joseph Marina the variance Block 7000 on Drakestown Road will be carried until September 15<sup>th</sup> notices will be carried so we'll hear that then.

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**APPLICATION #PB 11-17 – DAN HAVICAN**

MS. GADELHA: So the first development matter is PB 11-17 Dan Havican Block 4700, Lot 1 at 1 Mildred Terrace seeking a variance for side yard setback to install a deck. Mr. & Mrs. Havican come forward please. Will you both be speaking tonight we'll swear you both in?

MR. HAVICAN: I think I just need to speak.

MS. GADELHA: Okay.

MS. COFONI: I can swear you both in at the same time.

(DANIEL JAMES HAVICAN SWORN IN FOR THE RECORD)

MS. COFONI: If you could state your full name spelling your last name and giving your address for the record please.

MR. HAVICAN: Daniel James Havican (H-A-V-I-C-A-N) 1 Mildred Terrace, Flanders, NJ 07836.

MS. COFONI: Thank you.

MS. GADELHA: Okay Mr. Havican why don't you tell us what you're trying to do we've gotten a survey and a copy of the tax map and why don't you tell us in your words.

MR. HAVICAN: Okay I'm just trying to get this variance approved so I can put a low level non-obstructive deck in place of what was an existing concrete slab that over the years settled towards the foundation of the house and also had a lot of cracking in it. It's 14 by 21 feet and it's where the existing sliding doors are set up when the house was constructed.

MS. GADELHA: Okay and you mentioned the concrete slab is this in the same footprint or are you extending over on . . .

MR. HAVICAN: It may be like a foot or so deep and maybe a little bit wider.

MS. GADELHA: Okay.

MR. HAVICAN: It's 14 by 21 is what you want to go with.

MS. GADELHA: Okay Catherine would go through the application?

MRS. NATAFALUSY: Sure. This is an application for Lot 1 in Tax Block 4700 otherwise known as 1 Mildred Terrace. The applicant is requesting a variance to construct a wood deck on the rear of the existing structure. It's a corner property with frontage on Mildred Terrace and Drakesdale Road as a corner property the setbacks, he has two front yards and two side yards for the purposes of the calculating setbacks. The deck will be situated approximately 6 feet from the side lot line on the property's eastern side, a minimum setback of 25 feet is required therefore a variance is required. Calculations for building and lot coverage were done and they are within acceptable limits. Photographs of the subject property were submitted by the applicant and I'll pass them down to the Board for review.

MS. GADELHA: Okay, anything that you'd like to add to that?

MR. HAVICAN: I think that's all.

MS. GADELHA: How high off the ground is the deck going to be?

MR. HAVICAN: It's going to be less than 30 inches which you know I checked we wouldn't even need railings but I'm going to put some bench seating on it. As you can see in the pictures to we have a wall of about 15 feet high Arborvitae separating the properties as well.

MS. COFONI: Okay we'll go ahead and mark these pictures, these were submitted just tonight?

MRS. NATAFALUSY: No they were submitted with the application.

MS. COFONI: Okay never mind.

MS. GADELHA: John this is really your area of expertise as well. Do you have any questions looking at what we were given or hearing this?

MR. CAVANAUGH: No I think its covered thank you.

MR. BEDELL: I have a couple of questions.

MS. GADELHA: Yes please.

MR. BEDELL: Your patio now how far is that from the side lot line? That's about 6 feet now roughly?

MR. HAVICAN: Maybe 7 feet.

MR. BEDELL: Okay and if you make it a foot longer or wider it will be 6 feet roughly.

MR. HAVICAN: I believe that's what the statistics show.

MR. BEDELL: Okay all right this seems really close but if it's already seven I don't know another foot is going to make a big deal at this point.

MRS. NATAFALUSY: Patios don't have any setbacks from the side lot line, decks do that's why they're here tonight.

MR. BEDELL: Okay do they have to notify a neighbor?

MRS. NATAFALUSY: Yes they notified property owners within 200 feet.

MR. BEDELL: And the neighbor didn't come and doesn't care?

MR. HAVICAN: They've all been notified, everybody within 200 yards or feet or something like that.

MR. BEDELL: I mean it seems close but . . .

MRS. NATAFALUSY: Well it's close because it's a corner property and the house is setback almost 60 feet from the front lot line on Mildred Terrace so just because of the . . .

MR. BEDELL: Yeah but I'm saying if the patio is already there a deck is almost the same thing it's just elevated so . . .

MRS. NATAFALUSY: Because the house was setback so far it really prohibits them from . . . unless they do something on the other side of the house.

MS. GADELHA: That's the question I had looking at the survey obviously you would want to put the deck on the side of your house that's on Drakesdale, what's on the other side of your house that also has quite a bit of yard to your property line?

MR. HAVICAN: What's there? There's nothing there's like no doors there's no . . .

MS. GADELHA: There's no room, there's nothing.

MR. HAVICAN: No. Part of it is wooded; a lot of it is wooded.

MS. GADELHA: Scott?

MR. VAN NESS: So Catherine the ordinance is that if they were to re-build their concrete patio to the size they want they don't have to be here at all.

MRS. NATAFALUSY: Right.

MR. VAN NESS: But to make it wood they have to be here.

MRS. NATAFALUSY: Yes because it's attached to the principal structure and therefore becomes part of the principal structure.

MR. FLEISCHNER: Mr. Havican the only thing I would suggest you do is that you have somebody cover over all those wires. Because once you get, you know if you get approval for the deck and people are on the deck and you've got all those wires hanging by the box you might just want to put some kind of cover over it so if there's kids running around or something they don't grab a wire or something.

MR. HAVICAN: I see what you're saying.

MR. FLEISCHNER: I mean I see it on the pictures, because if my grandkids were there they'd say "oh what's this?"

MS. GADELHA: I guess I'll open it up to the public. Anyone from the public care to ask a question? Okay seeing none anything else from the Planning Board? Okay so looking for a motion on PB 11-17.

MR. RUSSELL: I'll move that PB 11-17 be approved.

MR. FLEISCHNER: I'll second.

MS. GADELHA: Okay roll call please?

MRS. NATAFALUSY: John Cavanaugh - yes  
Joe Fleischner - yes  
Rene Gadelha - yes  
Nelson Russell - yes  
Scott Van Ness - yes  
Steve Bedell - yes

MS. GADELHA: And so Catherine what happens now for them?

MRS. NATAFALUSY: A resolution will be prepared and will be memorialized at the next meeting and they can go get their building permit.

MS. GADELHA: Okay so probably in three, four weeks.

MS. COFONI: More like a month.

MRS. NATAFALUSY: Tena September 15 probably?

MS. COFONI: Yeah.

MS. GADELHA: Okay that's it have a good night.

MR. HAVICAN: Thank you.

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**APPLICATION #PB 11-13 – CEIL WEST LAKE PROPERTIES**

MS. GADELHA: Okay moving on to the next development matter PB 11-13 Ceil West Lake Properties a "d" variance amended preliminary and final site plan with variances Block 7702, Lot 21 at 325 Route 46. And this is our second if not third one.

MR. KRON: Yes good evening Madam Chairlady, members of the Board we were before the Board on June 16 this was an application for a retail store and a restaurant. We thought we had completed the testimony of Mr. Glasson I have one more question he's got to ask and then we've got our architect who will testify Mike Byrne is going to testify about the Cupola and the height variance. So I'd just like to call Jim Glasson back there's one more omitted question.

MRS. NATAFALUSY: Can we just tell the applicant that right now you're going to have to have . . . you only have six members voting and with a "d" variance you know you need the five out of six.

MR. KRON: We'll take our . . . I think we'll . . .

MRS. NATAFALUSY: Okay the Chairman should be on his way.

MS. GADELHA: The Chairman should be here any second.

MS. COFONI: If you want to hold off a couple of minutes because if he misses any of it then if there's a vote tonight he won't be able to vote. Do you want to take a five minute break and give him five minutes?

MRS. NATAFALUSY: He said he'd be here by ten to eight the latest.

MR. KRON: Okay.

MS. COFONI: Okay.

(BREAK TAKEN)

MS. GADELHA: We're going to re-open because this is no longer a "d" variance apparently and we're going to hear why.

MR. KRON: Okay I'm going to call back Mr. Glasson who was sworn at the last meeting.

MR. GLASSON: Since the last meeting the reason we do not need a "d" variance is at the last meeting we had come in with a height that slightly exceeded . . .

(HOWIE WEISS NOW IN ATTENDANCE AT MEETING)

MR. WEISS: Good evening gentlemen, ladies.

MR. KRON: We've just indicated to the Board we no longer need a "d" variance that's why we were actually going to start without you. We're explaining now why we don't need a "d" variance.

MR. GLASSON: Yeah the reason we do not need that "d" variance is we originally were in to the Board last month with a height of 38.9 feet and our previous variance for height when we had originally received a preliminary and final site plan approval was for 38 feet. So we had slightly increased that height based upon the elevation of the building. Since last month we've lowered that height of that cupola down to meet that same 38 feet that it was previously granted a variance under the preliminary and final the first time. So we're here for an amended site plan approval and also we're here for a variance for our retaining wall height.

MR. KRON: Which we discussed at the last meeting.

MR. GLASSON: Right.

MR. WEISS: That was 13 feet right?

MR. GLASSON: Yes and that retaining wall if you recall was basically predicated upon the fact that we had to conform with the Highlands and the Highlands limited our disturbance so prior we were able to tier walls up the hill and leave the walls at 4 foot intervals and step up the hill, now we're limited to our disturbance so we had to pull that wall in and made the height of our wall increase so we had to do it really with one wall as opposed to three or four walls that we did with the first application.

MR. VAN NESS: But isn't the disturbance the same topically?

MR. GLASSON: No you step back with a wall 4 feet then you go 8 feet back so to get up that 13 feet you'd be going back 24 feet.

MR. VAN NESS: But wouldn't each section between each wall have to be disturbed to build that wall?

MR. GLASSON: We're not doing that anymore.

MR. VAN NESS: I'm saying that but isn't the total . . .

MR. BUCZYNSKI: That's why he's asking for the waiver.

MR. GLASSON: I'm going to one wall.

MR. VAN NESS: I understand that I'm just saying how far back is the 13 foot wall from the building for example?

MR. GLASSON: 60, 70 feet it's behind the parking area.

MR. VAN NESS: And how long would have been the steps?

MR. GLASSON: You would have had to step back at least 25 feet when you started that wall.

MR. VAN NESS: To a total of 70 feet.

MR. GLASSON: Say again?

MR. VAN NESS: To a total of 70 feet those steps would have gone back yes? In other words 13 feet.

MR. BUCZYNSKI: No.

MR. VAN NESS: I'm talking positively so you start here right and before it was 4 feet, 4 feet, 4 feet but here you're just going to go up here and go up 13 . . .

MR. GLASSON: No start them in the same place, they all start in the same place.

MR. CAVANAUGH: So the question I have I mean the Highlands you've done a lot of work with them and you know they're environmentally; there is an environmental department so why would a bigger wall make more sense to them than not allowing you to disturb back normal . . . .

MR. GLASSON: Under the exemption that we were granted which is really the only exemption this lot could apply for your limited to one acre of disturbance in total.

MR. CAVANAUGH: I understand but I'm saying these are the . . . . so you have two aspects of DEP.

MR. GLASSON: Are you asking me to make sense of what they're saying because it makes none, none. I mean if you looked at . . . they literally on this application for example as I said last meeting there's a roof out there that's on the ground, a roof, and they said they're not going to count it because the roof is not up. So it's still there its disturbed area not counted so it doesn't necessarily make sense. Since the last meeting we had a number of clerical revisions which we wrote a letter to Ms. Natafalusy and Mr. Buczynski's comments were addressed in the letter but the most noteworthy item that we had talked about last meeting that I just wanted to report to the Board was we did talk to the Water Department Mr. Lata and we are able to get service for both the sprinkler system and our domestic water supply which for us is great because it gives us the option of stick framing the building, it provides a much safer building because now we're going to be sprinkler served by the town's water system. So that was the biggest engineering development . . . .

MR. BUCZYNSKI: The revised plans are dated 8/4/11 and they as Jim just stated they meet all of the items that were, the comments in previous reports from myself and Chuck's.

MR. GLASSON: And that was really all I wanted to bring out.

MR. KRON: That's all I have of Mr. Glasson.

MR. WEISS: Okay does anybody have any questions of Mr. Glasson? Go ahead Tiena.

MS. COFONI: So you have the one variance but then you also have the waivers listed on your front page of your zone sheet correct?

MR. GLASSON: Yes.

MR. WEISS: Do we need to remind everybody what the waivers are?

MR. BUCZYNSKI: Yeah why don't we do it just for the record maybe Jim if you could just list them from your front page. Do you want me to list them for you because you can't see? You need waivers for loading space, parking space, number of parking spaces, valet parking, parking setbacks for minimum front setback and minimum side setback. Those are the waivers listed.

MR. WEISS: And there's no change Jim from any of those waivers, nothing has changed at this point in time.

MR. GLASSON: Nothing has changed.

MS. COFONI: Number of parking spaces it says option 1, option 2?

MR. GLASSON: Yes.

MS. COFONI: Does that just depend on; am I remembering correctly, depends on what the use is?

MR. GLASSON: Option 1 or option 2 depends on whether we use the second floor as the restaurant which is our option 1 which we all would like to see happen or whether or not that doesn't fly and we wind up going to office.

MS. COFONI: That's what I thought okay.

MR. GLASSON: That's why the parking space count . . .

MR. BUCZYNSKI: So we need a waiver for option 1 but we don't need a waiver for option 2.

MR. GLASSON: Correct.

MR. WEISS: No I thought option 2 needed (inaudible) space.

MR. GLASSON: Yeah I will say the one option we do have a grass block paver space to meet the requirement so you may still want to consider that to be a waiver.

MR. BUCZYNSKI: Yeah.

MS. COFONI: Okay.

MR. WEISS: And that was under scenario 2.

MR. GLASSON: That was under scenario 2 correct.

MR. WEISS: Okay. Okay Gene you're good with that? That's a good summary on that?

MR. BUCZYNSKI: Yeah.

MR. WEISS: Anybody else from the Planning Board? Let me open it to the public if anybody has any questions for Mr. Glasson based on the testimony he just delivered? Seeing none I'll close it to the public. Larry go ahead continue.

MR. KRON: Yeah Mr. Byrne I'd like to have Mr. Byrne sworn in.

MS. COFONI: If you could place your left hand on the Bible and raise your right hand.

(MICHAEL BYRNE SWORN IN FOR THE RECORD)

MR. COFONI: If you state your full name spelling your last name and giving your business address for the record please.

MR. BYRNE: My name is Michael Byrne (B-Y-R-N-E) I'm the president of Byrne Design Associates located at 10 Main Street in Chester.

MR. KRON: Mr. Byrne has testified before the Board on numerous occasions as an architect I'd request that he'd be qualified to testify as an architect in this matter.

MR. WEISS: Does anybody have any questions? Mr. Byrne you've been in front of Mt. Olive Planning Board before haven't you I believe I remember you? I have no questions. Tiena?

MS. COFONI: No.

MR. WEISS: Gene?

MR. BUCZYNSKI: No.

MR. WEISS: Welcome.

MR. BYRNE: Thank you.

MR. KRON: Mr. Byrne do you want to describe the variance that we had previously been issued with regard to the first plan and the variance that we're again seeking which essentially is the same variance.

MR. BYRNE: For the cupola?

MR. KRON: The cupola.

MR. BYRNE: Yeah the cupola height at the last meeting we had . . . or at the previous approval we had presented two different options to the Board. One where the building itself met all the criteria which was the basic building design without the cupola. And then we presented it with the cupola and we made an argument that the cupola was an aesthetic element and that everybody on the Board at that time agreed that it was worthwhile aesthetic element. It was not materially changing the height of the building from a fire fighting standpoint or any other life safety standpoint and in general the Board felt it was a nice asset to the building so we went ahead and got the approval with the cupola in place.

MR. KRON: The only other . . . I think Mr. Glasson had testified if you want to just again reiterate about the retaining wall.

MR. BYRNE: Yeah the retaining wall height again based on our previous approval we had done a stepped retaining wall design so that that was not a requirement because of the limitations of the Highlands and the limits of disturbance that were allowed it forced us to consolidate into one single wall which varied in height from a lower height at the edges to a maximum height of 13 feet to the rear of the building. Again based on the general topography of the property it actually works to our advantage in help shielding the parking area and such from the neighbors up on the hill by having the wall to the rear of the property. From an architectural standpoint the changes that we've made in the building were again predicated on adjusting the building to compensate for two different issues. One was from a parking standpoint we had to work with Jim and coordinate the amount of square footage in the building corresponding with the amount of parking that he could make work on the site and that related to approximately a 600 square foot reduction in the size of the building and it happened in two different areas. The exhibit I have here is the original approved drawing that was presented before the Board for our preliminary approval and the revised drawing down here which is the revised design.

MS. COFONI: If we could just mark that I think we're up to A-3 if you can mark A-3 with today's date please.

MR. KRON: This is A-3?

MS. COFONI: A-3 yes. And what is the title sheet, what is that title?

MR. KRON: This is Budd Lake Retail Center Lot 21, Block 7702 consisting of one sheet.

MS. COFONI: And what is the actual date on it? Is it dated?

MR. KRON: 4/20/11.

MS. COFONI: Thank you.

MR. BYRNE: And basically it is two renderings one of the original approved preliminary plan on the top, and the bottom one is the adjusted plan based on the revised submission. The two areas that have been changed on the building other than slight color variations which was just the printing of it but the top one here got slightly shorter in length, and the second issue that we have we originally had staircases going up the right side of the building as you face it from the street to get you from the lower level parking up to the restaurant level. Because again of square footage restrictions we've actually we've actually moved that staircase to the center of the building and you now can get from the lower plaza right outside the retail area up to the lower level with a covered steps as opposed to landscape steps that were exposed to the exterior. Again I believe Jim has gone through the actual square footage but in round numbers it's approximately a 600 square foot reduction in building size over the previous approved plan.

MR. WEISS: When was the preliminary approval given do you remember?

MR. KRON: Yeah I've got a copy of the resolution here that was . . . the resolution was application number 08-30 ZBA adopted November 17, 2008. So almost, not quite three years ago.

MR. BEDELL: That was Zoning Board.

MR. WEISS: Oh I don't remember that's why. That's why I don't remember because I heard you say the approval. Scott did you have a question?

MR. VAN NESS: Yes. On the rendering compare the new one to the old one you have the section to the left which is the three large windows and the little bit of section there that kind of indentation, is that now smaller?

MR. BYRNE: Yes one of the areas that got shorter was this area as well as this area on the two extremes of that section.

MR. VAN NESS: And the stairway is now located where?

MR. BYRNE: The staircase now, originally on this one you can barely see it but it's going up the right side of the building, on this one is going right up the center of the building.

MR. VAN NESS: So it's going to be an internal stairwell.

MR. BYRNE: Well it's internal but it's open to the air so it's not an enclosed staircase. It's got benefits obviously of being protected from inclement weather and snow and ice which is always a good thing.

MR. VAN NESS: It's not going to be climate controlled.

MR. BYRNE: No it is not. Again the problem with that is we could not count that area as part of the building area or it started impacting our parking ratio so by keeping it as an open stairwell it helped us reduce the overall gross usable square footage rather for parking.

MR. GLASSON: That also helped us for Highlands because again if we stuck that stairwell outside we would have added building area, we would have added more coverage to the Highlands like we had before with the . . . we had much more walkways with our first design if you'll remember.

MR. VAN NESS: So that stairwell goes to the front, goes up and to the front, like a wrap around and up to the front of the building?

MR. BYRNE: It's a straight stair up so it goes from here, goes straight up the middle and takes you out at the center of the upper level.

MR. GLASSON: So basically instead of having to walk outside the building as you did before to a walkway that went around the building to get up to the restaurant if you park in the front now you walk right underneath the overhang in front of the retail stores and you can walk right up that stairwell, that open stairwell.

MR. VAN NESS: So there will be a door at the top of the stairwell?

MR. GLASSON: Yeah.

MR. VAN NESS: I don't see how that works on the inside that's why.

MR. BYRNE: If you take a look at sheet 2 of our plan what we have is actually an archway at the top of the plan at the restaurant, you see the wide stair coming up from below, when you get to the upper level there's actually an archway straight ahead of you that would then lead you to the . . .

MR. VAN NESS: I only have a small one.

MR. WEISS: Jim we're good we have it.

MR. GLASSON: Okay.

MS. GADELHA: How would you . . . if you had a packed lunch time you know if this is a restaurant, how do you close out the noise from the downstairs offices if it's the daytime hours and the retail shops are filled downstairs because of the open stairwell?

MR. BYRNE: Well its open to the outside but its enclosed . . . it's separated from the restaurant.

MR. GLASSON: In order to get to the restaurant you'd have to walk up the stairway from the bottom, go outside here and into the door to the restaurant.

MS. GADELHA: Oh okay.

MR. GLASSON: And the restaurant has double doors (inaudible).

MS. GADELHA: I thought it just spilled out into the . . .

MR. WEISS: Has this sheet been . . . this has been introduced as an exhibit?

MR. KRON: Yes that's part of the application submittal.

MR. WEISS: And so Jim just for the record you were referring to sheet 2 and you were pointing to the drawing.

MR. GLASSON: Sheet 2 I was pointing to the second floor plan and I was just explaining that you come up the stairs you go through that archway outside and then you go to the right to the doors to the restaurant. So as you come up that stairway the wall to your right would actually be the restaurant wall. You wouldn't go into the restaurant unless you went outside that area.

MS. GADELHA: Okay.

MR. RUSSELL: How do you handle the ADA requirements?

MR. GLASSON: It's still ADA compliant because you have an ADA parking space up top.

MR. RUSSELL: Okay you do all right.

MR. GLASSON: Yeah so there's an ADA space up top it's just that we couldn't fit all of our parking required for the restaurant on top so some of it's down below so instead of . . . whereas before we did have all the required restaurant parking up high because we were able to double tier our parking, because of this Highlands, because we had to reduce our parking we now have some of that required parking down on the bottom and it makes it easier than having to walk around the building outside to go right through the center of it.

MR. BYRNE: We also testified that we're going to be using valet parking if we're doing the restaurant.

MR. GLASSON: Yeah if we're doing the restaurant up top we have I believe four valet spaces, four or five I don't remember what it is, but if we do the restaurant that's one of the waivers that we need it would be required to have the valet parking because we have about 3 or 4 stacked spots.

MR. VAN NESS: I presume that this stairwell will have appropriate lighting?

MR. BYRNE: Yes.

MR. VAN NESS: And is there going to be drainage needed because it's open?

MR. GLASSON: It won't be open, at the top there's an archway and there's a building overhang so there'll be no ability for water to get in there the sidewalk or a walkway tipped away and at the bottom you actually have to go under the overhang of the building to even get . . .

MR. VAN NESS: So it will be tipped away, the walkway so it will (inaudible) the runoff into it.

MR. GLASSON: Yeah and there will be an overhang of the soffit of the building too.

MR. BUCZYNSKI: Just to make the record clear its 7 stacked valet spaces.

MR. GLASSON: 7 okay.

MR. WEISS: Michael when I look at that picture we're seeing kind of a muted tones grays, beiges is that what we can expect? Is that reflective of the color scheme that you plan on using?

MR. BYRNE: Yes it was basically earth tones was the intended use there.

MR. WEISS: Okay and I would imagine that if it changes for any reason that the restaurant has a red roof policy you'll come back to this Board?

MR. BYRNE: Yes.

MR. WEISS: Okay.

MS. GADELHA: I have one more question.

MR. WEISS: Sure.

MS. GADELHA: What about signage I don't know did we talk about it and I missed it? Where is your signage going? I'm sorry just real quick.

MR. BYRNE: Yeah the signage for the retail is intended to go in the ribbon that's done along here we did not present actual signage because it's going to be totally dependent on what people come in at that point. So the intent there would be obviously when the sign comes in we'll be coming for an approval for the signage.

MR. GLASSON: And we do have a freestanding sign we talked about it at the last meeting. When you pull in the entrance there's a freestanding sign and right now if it is a restaurant the restaurant would have the bigger moniker on the sign and then under it would be whatever the retail for the freestanding.

MS. GADELHA: Okay thank you.

MR. BYRNE: And we're only talking three retail spaces on the lower level so it's not a large . . .

MR. WEISS: Steve you had a question?

MR. BEDELL: Well I was kind of feeding of what you said you know I noticed the color changes and you know I'm just a schlub up here but you know the white trim to me looks great a little bit bright; a little bit more inviting for whatever that's worth.

MR. BYRNE: If you prefer white trim we have no problem going that way.

MR. BEDELL: It doesn't matter what I prefer I'm just saying just looking at it from here I just . . .

MR. WEISS: You know I don't think we need to go that way if it's white trim or grey trim that's not really our call.

MR. BEDELL: I'm just saying, yeah.

MR. WEISS: I just think if there's an obvious change to that plan, and I say that because we've been here and I've seen that, that we will ask that you come in and let us know that there's a major change to that. And I guess let me just make sure to as we look at this this is not the view from Route 46.

MR. BYRNE: Yes it is.

MR. WEISS: That's . . . okay . . .

MR. BYRNE: These are both the Route 46 view.

MR. WEISS: Okay. For some reason I thought parking was going to be in the back.

MR. BYRNE: It is. This is primarily parking for the retail the lower level space and then we have the parking for the restaurant around the back.

MR. GLASSON: Yeah double tiered parking in the front and then you have single at the top.

MR. WEISS: Okay gotcha. Anything else, anybody else have any question?

MR. VAN NESS: I'm not going to say out loud that I like the white one better either.

MR. WEISS: Well we're entitled to our opinion I don't want to hold the applicant to a white trim.

MR. BEDELL: I'm just making a comment you know we've commented in the past and you know . . .

MR. WEISS: Anything else Gene did you have any comment on the building?

MR. BUCZYNSKI: No we're fine.

MR. WEISS: Anybody else?

MS. GADELHA: I just want to say for all of the hoops you had to jump through and I know we've seen you a few times you've been very creative I'm impressed.

MR. WEISS: Let me, before we have any more comments from the Planning Board let me open it to the public, is there any questions from the public? All right seeing none I'll close it to the public, anything else from the Planning Board? Larry anybody else?

MR. KRON: No that's it.

MR. WEISS: Okay so why don't we do this . . . what?

(Inaudible).

MR. WEISS: Well I wasn't because yet because I think I should go back to the public one last time. Any questions or comments about any aspect of the application now would be a good time to discuss it that we can address it or at least listen. And seeing none I will turn it to you Tiena to tell us that if a motion is made to approve this application would there be conditions, if there are would you tell us what they are.

MS. COFONI: I sure can. I only have one condition and that is the one that you noted other than obviously the variance for the wall height and the waivers as mentioned by Mr. Glasson the only other condition I have is for the . . . if the colors for the architecture of the building is . . . if there's any substantial departure from what is represented on exhibit A-3 that they will come back to the Board. Other than that I don't have any conditions noted.

MR. KRON: You may want to just include in the resolution the building height that that is a carry-over variance from the original one it is 38 feet is a variance but we didn't increase it from the first one but it's a variance over the 30 feet that was the requirement.

MS. COFONI: In addition to the use variance for the restaurant use which is a previous variance that was granted as well yeah.

MR. KRON: No the restaurant is a permitted use there.

MRS. NATAFALUSY: Now they are but back then . . . we changed the ordinance.

MR. KRON: Oh okay but now they're a permitted use.

MS. COFONI: Oh that's good to know. Okay because I was looking at the resolution and that's what it said in the resolution. So now it's permitted.

MR. KRON: Yeah if you look at Chuck's report it's permitted now.

MRS. NATAFALUSY: It's permitted now we changed the ordinance in 2009.

MS. COFONI: Good to know.

MRS. NATAFALUSY: One thing that I was going to ask is zoning permits for tenants in the building you know the retail end and for the restaurant?

MS. COFONI: Retail tenants must obtain zoning permits?

MRS. NATAFALUSY: Right and restaurant.

MS. COFONI: Sure.

MR. WEISS: Larry do you show any others that we might have discussed?

MR. KRON: No those are the only two variances and as you noted before the waivers we're seeking loading space size, parking space size, number of parking spaces under option 1 and option 2 the valet parking 8 valet stacked spaces, and the parking setbacks.

MR. WEISS: Okay those being said conditions have been noted if anybody would like to make a motion?

MR. RUSSELL: I'll make a motion that PB 11-13 be approved with the conditions just stated.

MR. WEISS: Thank you Nelson.

MR. CAVANAUGH: I'll second it.

MR. WEISS: John second. Any conversation?

MR. VAN NESS: Is there a correction that you guys needed to make about the parking?

MR. BYRNE: No I was just questioning Larry I thought Gene indicated 7 valet and . . .

MR. KRON: We've got 8 valet stacked.

MR. BUCZYNSKI: The plans say 7.

MR. GLASSON: Yeah there's 8 paver spaces but one of them doesn't require a valet because it's not stacked behind another one. 7 valet but that one space makes option 2 still non-conforming because it's a grass block paver space.

MS. COFONI: So for option 1 it says 8 spaces valet/grass block spaces. Is it actually 8 grass block spaces and only 7 of which are valet spaces?

MR. GLASSON: Yes.

MR. WEISS: Okay that being said anything else? Catherine roll call please.

MRS. NATAFALUSY: John Cavanaugh -

MR. CAVANAUGH: Well for the record I just want to say that I applaud you and I applaud your efforts. I remember in 2008 I thought this was a good application, I still think it's a good application and I go on record one more time saying even though despite the DEP's great efforts not to allow a town to clean up a property and get value from it I'm glad you going to prevail and do that. So on behalf of the town I thank you and I vote yes.

MR. GLASSON: Thank you.

MRS. NATAFALUSY: He voted yes?

MR. WEISS: He voted yes.

MRS. NATAFALUSY: Joe Fleischner -

MR. FLEISCHNER: I'd like to say ditto because I actually was on the Board of Adjustment as well back then when you came before great job. Yes.

MRS. NATAFALUSY: Rene Gadelha -

MS. GADELHA: It's a great spot it needs something so go for it, yes.

MRS. NATAFALUSY: Nelson Russell - yes  
Scott Van Ness - yes  
Steve Bedell - yes  
Howie Weiss - yes

MR. WEISS: And we hope that maybe once your building is built some of the other property owners will pull from that and improve that entire corridor of Route 46 that's one of our goals. Gentlemen thank you.

MR. KRON: Thank you.

MR. WEISS: Before we leave tonight we have a discussion matter. I don't really know what this discussion matter is.

MS. COFONI: Something that came up at a previous meeting when we were talking about, well I can't get too specific we're not allowed to talk about stuff. So okay so here's what I have to say we were hearing the application for Woodfield about the patios and the decks and all of that stuff and a comment had been made about establishing an ordinance perhaps regarding the engineering issue because we didn't have anything in our ordinances other than I think it's a \$25.00 fee to look at engineering and we thought well gosh if something were to pass we don't have anything. Like the amount of work that would have to be done to go and look at one persons and how it might go into the next, I know I'm not making a whole lot of sense but . . .

MRS. NATAFALUSY: Well that was because of the drainage issues because of the patios.

MS. COFONI: Yes.

MRS. NATAFALUSY: They have since withdrawn that portion of the application to amend the building option plan to include patios right now they're only coming back for decks. I didn't put the letter in tonight's packet I was going to wait until September. But we got a letter from the attorney saying that they have decided to only proceed with decks and not do anything with patios.

MR. WEISS: That was a smart move on their part.

MRS. NATAFALUSY: Patios will stay as is today on the building option plan.

MS. COFONI: Okay.

MR. WEISS: I bet Gene is happy about that too.

MR. BUCZYNSKI: Well no I'm not.

MR. WEISS: That's a good point, that's true.

MS. COFONI: So I'm glad for this particular thing it doesn't impact it but I'm just wondering you know we look at our ordinances going forward is that something we need to consider?

MR. BUCZYNSKI: I think we deal on a case to case basis but what happens is I had a couple of long discussions with their . . . Mike Nolan who was here that night and he agreed that the best thing to do for this project if they were going to do patios was going to be do an overall grading plan and we can work off an overall grading plan which was going to cost them a lot of money. And that's one of the reasons he went back to them and told them and gave them an estimate on the proposal and they said no let's just get rid of the whole idea of the patios. Because it would be a cost for him and it would be a cost for us to review it.

MS. GADELHA: And then one other thing on that and I guess you know I'll back off if I'm going to far but it seems like a lot of people, my impression was that a lot of people there might have already exceeded their limits on things and not gotten permits and just done what they want.

MRS. NATAFALUSY: I don't think a lot of people.

MS. GADELHA: No? Okay but even so what do we do as a town for that because what's the point of having things in place if to not enforce them.

MRS. NATAFALUSY: We have a property owner that we have issued a summons to and we are in court on Monday about that. I mean we had you know court dates scheduled but they kept postponing it because Woodfield filed the application and the gentleman thought that he would then be covered.

MS. GADELHA: Oh he came that night yeah and I remember them speaking about that.

MR. WEISS: I think the answer though is it's an enforcement issue.

MRS. NATAFALUSY: Yes.

MR. WEISS: Simply an enforcement issue.

MS. GADELHA: So how do we handle that I mean I know we don't have somebody driving around and looking over people's fences but . . . .

MR. FLEISCHNER: We rely on neighbors turning in their neighbors. I mean that's what it comes down to.

MR. WEISS: Or the other option is wait for there to be a problem that brings the inspector to the area and . . .

MRS. NATAFALUSY: Yes.

MS. COFONI: It's the zoning officer who usually is the one that enforces it but they're exactly right I mean no one is around checking and double checking it's really neighbors who turn in other neighbors.

MRS. NATAFALUSY: I mean if he is out there and he sees something going on he might stop and look but he just doesn't drive you know . . . .

MS. GADELHA: Right okay just thought I'd ask. Okay thanks.

MR. CAVANAUGH: I have one unrelated . . . due to my work which is a good thing we're picking up regretfully I'm going to have to resign next month. So I'll be here for the next two meetings hopefully but then I'll have to resign from the Board it's just getting to crazy.

MR. WEISS: You want to end on a high note that's not good news but I suppose it is professionally.

MR. CAVANAUGH: It's good from an economic perspective.

MR. WEISS: Well I think then what we might want to do I think you probably need to put that in writing to the Mayor.

MRS. NATAFALUSY: Yes I was going to suggest that.

MR. WEISS: And I would say the Mayor will then need to appoint . . . and just make sure you put on there maybe you know copy Catherine and myself that the effective date that you want to make that.

MR. CAVANAUGH: All right will do.

MR. WEISS: Good. Tiena?

MS. COFONI: Just so everyone know the Intercounty Paving trial will be September 1 so everyone remembers that was the . . . .

MR. WEISS: That was Mr. Joe Bell?

MR. BUCZYNSKI: Yes.

MS. COFONI: Whether or not he appealed to the Board about whether he needed a use variance which was the administrator's determination that a use variance is needed.

MR. WEISS: His claim that he was making asphalt for all of those years and if you remember Ed kind of took it year by year and asked him what he was producing.

MS. COFONI: So that hearing will be September 1.

MR. BUCZYNSKI: Actually the man that was here that day Mr. (inaudible) has passed away.

MR. WEISS: Who was he?

MR. BUCZYNSKI: The owner, the owner of Intercounty Paving.

MS. COFONI: He passed away?

MR. BUCZYNSKI: Yeah I'm pretty sure he did. His son is still there.

MR. WEISS: Nelson?

MR. RUSSELL: Amish Mike has moved to the Saturn Dealership that's a change of use isn't it?

MRS. NATAFALUSY: Yes it is and we issued a summons to him last Monday, and we issued a summons to him this Monday for occupying the space without site plan approval. That is scheduled for Monday in court and they filed an application but . . . .

MS. GADELHA: What is that a fine like what happens typically?

MRS. NATAFALUSY: It can get fined up to \$500.00 a day for every day the violation exists.

MS. COFONI: But usually I mean the municipal court judge if he files the application they're just going to let him come before us.

MRS. NATAFALUSY: But he's still utilizing the property, he's coming to the Board but he's utilizing the property . . . .

MS. COFONI: Oh he hasn't stopped using it?

MRS. NATAFALUSY: No.

MS. COFONI: Oh.

MR. BUCZYNSKI: They demolished, the old building has been demolished for CVS Pharmacy.

MR. FLEISCHNER: When will he appear before the Board?

MRS. NATAFALUSY: We haven't deemed it complete yet.

MR. WEISS: Go ahead Scott.

MR. VAN NESS: Is it the property owner that gets the fine or the business owner?

MRS. NATAFALUSY: Yes it's the property owner that gets the fine.

MR. VAN NESS: So the Saturn Dealership owner is the one that is getting the summons.

MRS. NATAFALUSY: Stewart Laser received summons.

MR. WEISS: And he's been complaining. And I'm not speaking out of school, Mr. Laser has been complaining heavily about the fine?

MRS. NATAFALUSY: Well he didn't think that, he thought that he could just use that because he got approvals to use it for a car dealership. So he figured he could use it for sheds.

MS. COFONI: The judge will decide.

MR. WEISS: That application is not deemed complete although he did want to be on . . .

MRS. NATAFALUSY: Last week.

MR. WEISS: Yeah he wanted to be on last week. And then he wants a special hearing correct?

MRS. NATAFALUSY: Yes.

MR. WEISS: There will be none of that. Anybody else? All right I'll ask for a motion.

MR. VAN NESS: Motion to close.

MS. GADELHA: Second.

MR. WEISS: All in favor?

EVERYONE: Aye.

(MEETING ADJOURNED AT 8:30 P.M.)

Transcribed by:  
Lauren Perkins, Secretary  
Planning Department