

February 22, 2007

Mr. Bischoff called the regular meeting of the Union Township Planning Board/Board of Adjustment to order at 7:00 p.m. The Sunshine Statement was read.

Members Present: Mr. Mazza, Mrs. Nargi, Mr. Martin, Mr. Lukasik, Mr. Kirkpatrick, Mr. Walchuk, Mr. Taibi, Mr. Scott, Mr. Bischoff

Members Absent: Mr. Brandt

Others Present: Atty. William Sutphen, Rick Roseberry, Carl Hintz, Atty. Peter Jost, Atty. Michael Gross, James McDonough, Brad Alsop, Atty. Douglas Janacek

Mr. Bischoff announced that there would be an Executive Session prior to the Hearing. Mr. Scott made a motion to go into Executive Session to discuss Litigation in the matter of the Bulvanoski application. Mr. Walchuk seconded the motion. (7:02 p.m.)

Vote: All Ayes, No Nays, Motion Carried

A Resolution providing for a meeting Not Open to the Public in Accordance with the revisions of the N.J.S.A. 10:A-4-12.

WHEREAS, the Planning Board of the Township of Union is subject to the Open Public Meetings Act, N.j.S.A.10: A-4-6, et Seq., and

WHEREAS, the Open Public Meetings Act, N.J.S.A. 10:A-4-12, provides that an Executive Session, not open to the Public, may be held for certain specified purposes when authorized by Resolution, and

WHEREAS, it is necessary for the Planning Board of the Township of Union, assembled in public session on February 22, 2007, in the Union Township Middle School, 165 Perryville Road, Hampton, NJ 008827, for the discussion of matters relating to the specific items designated above.

It is anticipated the deliberations conducted in closed session may be disclosed to the public upon determination by the Planning Board that the public interest will no longer be served by such confidentiality.

The Executive Session ended at 7:15 p.m.

Mr. Scott made a motion to return to the regular session. Mr. Lukasik seconded the motion.

Vote: All Ayes, No Nays, Motion Carried

Bulvanoski: Block 22, Lot 9 & 10, 19 & 20 Frontage Road: Mr. Scott made a motion to authorize Atty. Howard Cohen and Board professionals to meet with the Bulvanoskis to explore other options. The Board had denied the Bulvanoski application on October 27, 2005. Mrs. Nargi seconded the motion.

Vote: Ayes: Mr. Scott, Mrs. Nargi, Mr. Mazza, Mr. Martin, Mr. Lukasik, Mr. Kirkpatrick, Mr. Walchuk, Mr. Taibi, Mr. Bischoff

Milligan Farms: Block 22, Lot 20, 80 Route 513: Municipal Atty. Peter Jost said the Board was being asked to approve minor changes to the lot lines of the subdivision. The change would lessen the impact on the intermittent tributary to the Sydney Brook. Mr. Ferriero explained further. He said the COAH tract would increase by about 1,000 square feet. Mr. Ferriero asked about the concrete bus stop area. Did the Board want to keep that feature? The consensus of the Board was to retain the bus stop area. Mr. Ferriero asked for guidance on the trash enclosure. Did the Board want a board-on-board enclosure or would they want a more durable concrete block enclosure? Mr. Ferriero said the board enclosure would require painting. Generally, the concrete block enclosure would require less maintenance; however, it would be more expensive to install. The board-on-board enclosure would seem more appropriate for a rural setting. A steel gate would be used for durability. Landscaping and hedging would surround three sides of the enclosure. Atty. Jost understands that the developer of the site would be responsible for maintenance. The consensus of the Board was to approve the board-on-board enclosure.

Atty. Sutphen said a motion was needed to amend the Preliminary and Final approvals, with the conditions that a concrete bus stop area would be installed, board-on-board trash enclosures with a steel frame gate would be installed, and the landscaping and architectural plans would be amended, as appropriate to the site plan changes that were presented tonight. Mr. Kirkpatrick made the motion and it was seconded by Mr. Lukasik.

Vote: Ayes: Mr. Kirkpatrick, Mr. Lukasik, Mr. Mazza, Mrs. Nargi, Mr. Martin, Mr. Walchuk, Mr. Taibi, Mr. Scott, Mr. Bischoff

Pilot Travel Centers: Block 11, Lot 24.03, 68 Route 173: Mr. Bischoff, once more, turned the meeting over to Mr. Scott for the purpose of continuity. Atty. Gross asked Planner John McDonough to come forward. He was sworn by Atty. Sutphen. Mr. McDonough presented his credentials. He had either attended the Public Hearings in this matter or read transcripts. Mr. McDonough was accepted as an expert. He had reviewed a survey submitted by Thomas Yager, dated 11/11/04, aerial photographs from the NJDEP Website, the application dated 4/19/05 and a revised application dated 8/25/05, the Site Plan prepared by Stout and Caldwell, including the latest revision dated 11/13/06, the Tree Inventory Plan prepared by Stout and Caldwell, dated 7/25/05, Architectural Plans prepared by David Barger, dated 4/15/05, E.I.S. prepared by Stout and Caldwell, dated 7/20/05, Traffic Report, prepared by Joseph Staigar, dated 4/7/05, and additional supplements, and the Stormwater Management Reports, prepared by Mr. Stout, dated 7/20/05, and Omland Engineering, dated 11/14/06.

Mr. McDonough had made visits to both the Bloomsbury and proposed Union Township sites. He also said he had represented Pilot on the Mahwah application. Mr. McDonough said he had reviewed the old (SC) and new (PO) zoning for the subject property. He had reviewed the Township Stormwater Ordinance and Master Plan, the Hunterdon County Master Plan, the Highlands Regional Master Plan and the NJ State Development and Redevelopment Plan. Mr. McDonough had reviewed reports submitted by Maser Consulting, Carl Hintz, Raymond Keyes, Princeton Hydro and the Union Township Environmental Commission. He had also reviewed a report by Harvey Moskowitz on development definitions and had researched websites on truck stops and travel centers, including Pilot. Mr. McDonough had met with representatives from Pilot.

Mr. McDonough displayed three aerial photographs. They were marked Exhibits A-21, A-22 and A-23. The photographs were taken from the NJDEP Website. Exhibit A-21, with a scale of 1 inch = 500 feet, highlights the subject property and shows Interstate 78, State Route 173 and Charlestown Road/County Road 635. He said the property has frontage on a service road and typically those roads provide services (fuel, food and lodging) for the motoring public. Exhibit A-22, with a scale of 1 inch = 100 feet, shows Interstate 78, east-and-west bound and Route 173, Frontage Road, Perryville Road and Charlestown Road/County Road 635. Mr. McDonough said the subject property is at the confluence of three major roadways, Interstate, State and County. He said nearby is an Exxon Station and next to that is a liquor store. Open space adjoins the site. The nearest residence is over 700 feet away. Mr. McDonough said the site is isolated and well buffered. Exhibit A-23, with a scale of 1 inch = 50 feet, shows the subject site more clearly. He said the lot is substantially developed and has multiple uses on the site. The uses include a retail shop, restaurant, truck repair facility, a gasoline fueling station, a diesel fueling station, a truck stop area to the rear of the property and a home heating oil facility.

Mr. McDonough presented an Exhibit that was marked A-24. That Exhibit displayed a series of 16 photographs (marked A – P). The first photograph of the series was taken near the entrance to Exit 15 and the last showed Johnny's Truck Stop and the Exxon Station. The next Exhibit also displayed a series of 16 photographs (marked A - O) Two photos were marked H. The photographs included lights along Route 173 approaching Johnny's Truck Stop and the lighting and various uses that comprise the Truck Stop. Pilot proposes eliminating some of those uses. The next Exhibit was marked A-26. The photographs on the front of A-26 were marked A-H and the photographs on the back were marked A-D. Mr. McDonough said photographs A-H showed the dominant amenities on the property. Applicant proposes bringing those amenities, including signage, lighting and buffering, more into conformity with the Township Ordinance. Photographs A-D showed the existing buffering.

Atty. Gross asked Mr. McDonough to apprise the Board of the uses of the property and how long the uses have been there. Mr. McDonough said the uses have been in existence since 1960. He presented a Resolution that was memorialized by the Board on June 24, 1993. The Resolution was marked Exhibit A-27. Mr. Gross asked Mr. McDonough to review, once more, the uses in the existing building. Mr. McDonough said there is a 75 seat restaurant, a convenience component and an auto repair component. He referenced the Resolution findings that there is located and operated on the said parcel an auto and truck service center, fuel storage and sales and truck accessory retail shop, the restaurant and the fuel oil delivery company. They are accumulatively referred to as Johnny's Truck Stop. Mr. McDonough said applicant proposed a new design of the structure including a glass-enclosed restaurant with a canopy over the sidewalk, expansion of the sidewalk, restaurant area, adding a convenience store, expanding the truckers' store, renovation of the showers and truckers lounge and a new restroom facility. The architect had submitted a building design, internal layouts and schematics and they were unanimously approved by the Board. Mr. Scott asked if it was built. Mr. McDonough said, to his understanding, it had been.

Mr. McDonough displayed a Site-Comparison Table that was marked Exhibit A-28; a Use Comparison Table that was marked Exhibit A-29 and an Activity Comparison Table that was marked Exhibit A-30. Mr. McDonough explained the Tables. He pointed out that the use is not changing. Regarding Use Components, Mr. McDonough said Pilot would eliminate the repair facility. The building is one story and Pilot proposes the same. The 46-year old facility has 14, 684 square feet (SF); Pilot proposes a State of the Art 7,596 SF building. Regarding gasoline fueling, pumps and fueling positions and the canopy SF will remain the same; 4,000 gallons (diesel) will be added. Diesel pumps will increase from 7 to 10 and fueling positions from 6 to 9; the 3,600 SF canopy will increase to 4,918 SF. There will be no change in the Home-Heating Oil fueling position and below ground storage tank. Circulation: There will be 2 Driveways off of Route 173, there will be full movement of the West Driveway; the East Driveway has egress only and proposed is full movement, existing is undefined intermingling of cars/trucks; Pilot proposed defined separation of cars and trucks. Queuing: There is a stacking capacity for 16 trucks and Pilot proposes stacking for 29 trucks. Parking: 49 car spaces exist, 59 are proposed; 72 truck spaces exist, 77 are proposed. Weigh Station: There exists and is proposed 1 truck scale; the existing scale is at the front of the property and Pilot proposes an internal location. Loading: There is no defined loading area, Pilot proposes a 15' x 50' defined, designated space.

Utilities: There are 2 wells on site and that will not change. The existing septic system will be upgraded. Stormwater Management will be upgraded in conformance with the Township Ordinance. Electric service will remain overhead via Route 173 and Gas will remain underground via Route 635. There is a 100' gas easement on the property. Pavement: The existing pavement which covers 56.5% of the lot will be upgraded and will have 56.0% coverage.

Lighting: The existing lighting consists of two 50' stanchions and six 30' stanchions. Pilot proposes thirteen 26' high stanchions and eight 16' high stanchions. Landscaping: There is vegetated buffer and no interior plants. Proposed is preservation of existing landscaping and adding 340 new plants. Fencing: The 6' high CLF is deteriorated and will be upgraded with new slatted CLF. Signage: Proposed is a new free standing sign that is more conforming to the Ordinance, the Johnny's façade sign will be removed and there will be 3 building mounted signs that exceed the 2 allowed by Ordinance. The area of those signs will be less than current. A free-standing sign for the CAT scale is proposed and that is a requirement for a weigh station.

Mr. McDonough said the existing concrete barriers, wooden guardrails, parking ticket Island and Booth Kiosk, Phone Booth, Unenclosed Dumpster Area, Mobile Home (Chapel), Hot Dog Stand (Truck) and Ground A/C Units will be eliminated.

Mr. McDonough provided testimony on Exhibit A-29, the Use Comparison Table. Convenience Store: Johnny's sells such items as snacks, dry goods, stationery, vehicle supplies, books, etc. Pilot proposes the same. Restaurant: Currently there is cooking and preparation of hot foods and beverages; Pilot/Subway will sell prepackaged sandwiches and beverages. Johnny's has a seating capacity of 75 and Pilot proposes 44 seats. Restrooms: Pilot proposes 1 restroom for men and 1 for women; Johnny's has 2 for men, 2 for women and 2 for employees. Johnny's has 13 toilets, 14 sinks and 6 urinals; Pilot proposes 7 toilets, 6 sinks and 3 urinals. Showers: Johnny's has 1 washer and 1 dryer; proposed are 2 public washers and 4 public dryers and 2 washers and 4 dryers within the store. Recreation: Johnny's has a lounge; Pilot proposed a game room. There will be neither. Office: The manager's office and merchandise storage that exists will be continued as part of the proposal. Waste Storage: There are 6 cubic yard (CY) dumpsters, unenclosed and a 6 CY recycling dumpster; a private hauler comes 3 times a week; proposed is a 20 CY dumpster, it is believed that with the larger dumpster, a private hauler would only have to come once a week.

Fueling Station: Mr. McDonough said previous testimony indicated there would be no change in the number of pump islands, fuel dispensers and fueling positions. He also said comparisons had been made with existing and proposed changes at the Truck Stop. There will be three more gas pumps and fueling positions and the canopy square footage will increase from 3,600 to 2,124. Weigh Station: Mr. McDonough said there will be no change. Auto Repair Facility: The facility will be eliminated.

Mr. McDonough displayed Exhibit A-30 and provided testimony. Hours of Operation: He said Johnny's is open 24 hours per day and 365 days per year and that will remain the same with Pilot. Employees: There are 13 employees at Johnny's and Pilot proposes 12. Traffic Projections: Mr. McDonough said the nature of the traffic is pass-by, not destination. He indicated traffic projections were based on Mr. Staigar's testimony. Waste Removal: Refuse testimony provided above. The oil separator capacity at Johnny's 10,000 gallons and Pilot proposes 5,000 gallons.

Fuel Projections: It is projected that gasoline will increase from 65,000 gallons per month (GPM) to 140-160,000 GPM and Diesel will increase from 600,000 GPM to 800,000 GPM. Deliveries: Pilot projects 12-15 merchandise deliveries per week; there was no information available on deliveries to Johnny's. There are 2-2 Gasoline and diesel deliveries per day to Johnny's; projected are 3-4 for Pilot. There are 1-2 deliveries of Home fuel per day and that will not change.

Atty. Gross asked Mr. McDonough to provide information regarding opinions with respect to the variances requested. Mr. McDonough said there has been a significant focus with respect to traffic and environmental concerns, namely the septic, storm water management and operations of the site. He said Mr. Staigar's report dated April 7, 2005 said the proposed traffic volumes could be accommodated by the surrounding roadway network and site traffic would not impact adjacent intersections, with minor modifications to the signal timing. Mr. Staigar had also provided testimony in that regard, as well. Mr. Staigar also said the site plan had been prepared in a manner consistent with accepted traffic and engineering design standards. Mr. McDonough referenced Mr. Stout's July 20, 2005 report which stated the site is predominantly developed and free of environmental constraints. The report concluded that the minimal impacts of the site improvements would not adversely affect the site or surroundings.

Omland Engineering's Stormwater Management report and testimony indicated that the proposed plan complies with the Township's Ordinance; however, Pilot had agreed to upgrade the plan further. Mr. Wood, Omland Engineering, had also provided testimony. Mr. McDonough had taken into account Mr. Mulligan's testimony that site remediation work would accelerate if the site plan and variance application were approved. He said that was positive criteria for the use variance. Mr. Scott asked how the work would be accelerated. Mr. McDonough said that was an operational question and he would fall back on Mr. Mulligan's testimony. Mr. Bischoff said Mr. Mulligan did not say and he could not define accelerated. Atty. Gross said Pilot could when they have control of the property. Mr. Scott said "Just being proffered. It was something to be considered as positive". Mr. Gross said that was correct; however, applicant could not dig on the property until they have control. Atty. Gross asked Mr. McDonough about the prior and current zoning of the property. Mr. McDonough said the property is currently zoned Professional Office (PO). That zoning was adopted after Pilot filed the initial application with the Planning Board. The site had previously been zoned Special Commercial (SC) and the travel center use was permitted in that zone. The PO rezoning rendered the site non-conforming.

Atty. Gross asked Mr. McDonough the basis for his conclusion that Johnny's is a legally protected prior non-conforming use. Mr. McDonough referenced the 1993 Resolution about the uses. Mr. Gross asked Mr. McDonough to explain his position on whether the proposal is an expansion of a prior existing non-conforming use or is for a new use.

Mr. McDonough believes it is an expansion of a non-conforming use and therefore a D-2 variance, not a D-1 full use variance. He said no new use is coming on the property. Atty. Gross asked about the fact that the proposed building is new. The proposal is to demolish the existing building. Mr. McDonough said there are two lines of reasoning on that matter. He said first and foremost the site is a travel center. 90% is the fuel component and 10% is activity in the building. The use is staying substantially intact. Secondly, there is conflicting case law as to what constitutes abandonment. He cited Krul versus the Board of Adjustment of Bayonne. Mr. Scott said that case pertained to the destruction of the main building that was connected to other buildings. Only the main building was destroyed. Mr. Scott said Pilot would be destroying the entire building. Mr. McDonough said the building, but not the entire structure that comprises the travel center use. The fuel components are a substantial part of the use. The building in the Krul Case was destroyed by fire.

The William Hey case was also cited. It involved a proposal to knockdown a service station use and expansion of the use. Pilot is proposing a knockdown and reduction. Mr. McDonough said there is a question of what is considered total destruction. He said there is conflicting case law on that point. He felt it important to focus on the matter of facts and the matter of law as well. Mr. Scott asked Mr. McDonough if he was suggesting the law division decision was in conflict with the appellate law division. Mr. McDonough said he wasn't an attorney. Atty. Gross said Cox said there was conflicting law. Mr. Gross said there are factual differences that applicant thinks makes a difference. Mr. McDonough said the fact that Pilot is the contract purchaser and will go through with the purchase makes a difference in terms of whether the application qualifies for a D-2 variance. He knows that it's a key concern of the Board and Public as to traffic and environmental impact. From a planning standpoint in weighing positive and negative criteria Mr. McDonough had taken into consideration that Pilot is seriously considering a takeover of the premises as is. Atty. Gross asked Mr. McDonough if he considered in his testimony some of the pictures and descriptions as to whether he believed the site would qualify for a D-1 variance. Mr. McDonough said he believed it would. He said the site blends itself very well to this form of land use.

Atty. Gross asked Mr. McDonough if he had evaluated the positive criteria for the proposed D-2 variance. He wanted to make clear exactly what was being talked about when looking at what was being expanded. Mr. McDonough said there would be an expansion of the 3 diesel fueling positions and the associated overhead canopy, the conversion of one auto fueling position from gasoline to diesel and the convenience component being expanded from 717 s.f. to 3,783 s.f. Mr. McDonough said Mr. Staigar testified that truck traffic would increase by 18 trucks during the worst case peak hour p.m. period and auto traffic would increase by 54 cars during the worst case p.m. peak hour.

Mr. McDonough said five things were being proposed. There would be a diminishment of use since the motor vehicle repair use was being eliminated, the size of the restaurant components would be reduced, less seating and no on-site cooking and the overall building mass would be reduced. Better circulation patterns, access, queuing and parking are proposed. Site utilities, including storm water, septic and interior plumbing will be upgraded. Site amenities, including landscaping, lighting and signage would also be upgraded. Mr. McDonough said those issues would be addressed as part of the bulk variance request. He said the core question was whether the increase in site traffic and usage would exceed the carrying capacity of the property.

Atty. Gross asked Mr. McDonough if the positive criteria for the D-2 variance was evaluated? Mr. McDonough said they did. He cited several fundamental purposes of zoning that are advanced by expansion. The expansion should cater to a variety of uses in appropriate locations. He said the site is a logical location along a highway. It caters to the motoring public and professional driver. Planners look at the big picture to see truck stop and rest areas and a travel center to provide with rest, refreshment and refueling. Mr. McDonough said that could also carry forth towards a D-1 variance. Mr. McDonough said the goal is to promote the general welfare. He said there will be more truck and car traffic on Interstate 78 and the proposed use caters to the need to provide rest, refreshment and refueling, very important along commercial arteries and interchanges. Mr. Kirkpatrick asked who eliminating sit-down restaurant, recreational facilities, repair facilities and the chapel would help truckers rest. Mr. McDonough said the truck stop component would not go away. There will be increased space available for truckers to shop, fuel is available and truckers will be able to rest. He said there would be fewer places to sit and eat. A trucker could eat in the truck as well.

Mr. McDonough quoted from Cox (NJ Zoning & Land Use) wherein it is stated that in some cases special reasons may be found in the fact that a variance, if granted, would tend to minimize the non-conformity of a non-conforming use. He referenced *Mercurio vs. DelVecchio* wherein the Court found an addition to a nursing home was a minimal expansion because the building would be within the allowable maximum coverage. Mr. McDonough said the building coverage is actually going down, with the proposal. He also referenced the promotion of a desirable visual environment since there will be a newer building, improved parking, substantial plants and the site would be cleaned up and upgraded.

Both D-1 and F-2 variances must not have a negative impact on the zone plan or other impacts within the municipality. Mr. McDonough said Mr. Staigar had testified there would be no impact in terms of volumes and movement. Experts who have appeared before the Board concluded that there will be no substantial environmental impact on the Township's subsurface hydrologic resource and biologic sources such as flora and fauna. Mr. McDonough reemphasized that the storm water management system will be upgraded to conform to the Township Ordinance.

The subsurface sewage system would be upgraded as well. He also said Dr. Souza had considerable input and that should benefit the environment. Mr. Kirkpatrick wanted to know how Mr. McDonough had drawn the above conclusions since there had been no quantitative data of the existing condition or proposed pollutant generated by the facility. Atty. Gross asked that the Board hold their questions until Mr. McDonough had finished his testimony. Mr. Scott said that would be fine. Mr. McDonough said there had been testimony put forth by Whitestone Associates and Omland Engineers about potential water pollution and mitigative measures that have very specific quantifiable data. He mentioned the decrease of use overall. Mr. McDonough said there are regulations on air pollution and emissions and technology is forthcoming to make truck stops and travel centers less environmentally harmful. The noise from the site had been looked at contextually since there is ambient noise from Route 78. Mr. McDonough had looked at the impact on the neighborhood and did not see any substantial impediment to the privacy use or enjoyment of surrounding properties. Applicant is proposing to enclose the perimeter of the property with a solid fence and additional vegetation. Mr. McDonough said he would address the nuisance standpoint, lighting, pollution, signage and landscape relief later. He said there is no conclusive evidence that the proposed use would bring forth more crime.

Mr. McDonough concluded that the variance would not cause substantial impairment of the zone plan and Ordinance. He said the focus should be on the expansion itself and whether it brings the use more or less into conformance with the Ordinance. Mr. McDonough said the site is a permissive zone. It could have a significant commercial building on it.

Atty. Gross asked if applicant had requested bulk variances. Mr. McDonough said "Yes". If D variances were granted C variances would run with them. He said the bulk relief weighs on the negative criteria. The bulk relief relates to landscaping, signage and lighting. Applicant seeks a buffer variance for the loading area. He said that area is not internally landscaped but is buffered on the perimeter and because of that fact, Mr. McDonough feels there is substantial compliance with the Ordinance. The front yard parking has been eliminated with the proposal; therefore, that non-conformity goes away. Applicant will work to achieve full compliance with landscape/buffering requirements.

Mr. McDonough addressed the lighting. He said applicant proposes 13 poles that will be 26' high as opposed to the poles existing at the site that are 50' high. There will also be 8 poles that are 16' high and they are in compliance with the Ordinance. There are 11 lights along the front of the property that are 30' high. They will be reduced to 15'. Mr. McDonough said the area is dominated by lights along Route 173 and the I-78 interchange. He said there is parking variance requested for illumination. Applicant feels that increased lighting is needed under the canopies of the auto and diesel fueling area where operators need to work. Mr. McDonough said all lights will be focused downward and will be recessed.

Signage variances were addressed. The Ordinance requirement of 40 S.F. is for an Office Zone. Applicant proposes a 338 S.F. sign that is a reduction from the existing 422 S.F. sign. A height variance is requested from the Ordinance requirement of 14'. Applicant proposes a 25' Identification Sign (IS) and 21.3' for the Scale Sign. The existing IS is 30' high. The Johnny's sign is higher and sits on a rooftop. That sign is much less than the adjacent Exxon sign. The location of the sign is proposed at 7' versus 14' for height of a sign of 25'. Applicant proposes locating the sign where it presently exists. Mr. McDonough had spoken with Mr. Mulligan and applicant had consented to bring the IS into conformance with the Township's height and setback requirements. Applicant proposes and is allowed to have two free standing signs. Mr. McDonough said relief is necessary for the location since the signs are to be located along the respective frontage roads.. The sign for the Scale is located in the interior of the property and relief is needed. Industry Standards require a sign to be associated with the Scale.

A recess was taken at 9:20 p.m. The Hearing reconvened at 9:30 p.m.

Mr. McDonough mentioned the 3 building mounted signs versus 2 that are allowed by Ordinance. He said that is a reduction in the mass of existing signage. The proposed signage would identify Pilot Travel Center and Subway. Mr. McDonough indicated that was positive from a signage standpoint.

Applicant is seeking relief for impervious cover. The Ordinance requirement is 25% relief is requested for 56%. The existing coverage is higher at 56.5%. He said that represents an improvement. A front yard setback variance that exists will remain for the oil-water separator. Mr. McDonough said the application will not worsen the situation. He also corrected the record to state that the oil-water separator will be a 9,000 gallon tank, not 5,000.

Atty. Gross asked Mr. McDonough to address whether a COAH contribution would be required. Mr. McDonough does not believe a COAH contribution would apply.

Mr. McDonough said in looking at statutory criteria for a D Variance, the positive aspects of the application outweigh the detriments. The site is along a major transportation route, I-78, and will stay there. The site has operated as a truck stop and gas station for many years. The pre-existing non-conforming use may continue to operate in its present composition in perpetuity. He said there no indication of any intent to eliminate the existing use. Pilot is coming one way or another. Mr. McDonough said this is an opportunity for the Board to make this as good a reconstruction as possible. He believes the alteration represents a betterment of the site. He said the upgrade will be better than what is out there right now and will represent a better zoning alternative for the property.

Mr. Scott said the matter would continue. He thought it would be best to have a clean break with the direct rather than continue with the cross. Everyone would have a chance to absorb what Mr. McDonough said. The Hearing will continue on March 22, 2007. No further notice is required.

Atty. Gross asked if his client could come to a .workshop meeting to discuss some technical issues. Mr. Scott said his intention to have Board professionals sworn and give a presentation of their perspective at a workshop or regular meeting. He said he would be more comfortable with the regular meeting. Mr. Bischoff said the workshop is sometimes difficult, since some of the Board's professionals have other commitments.

Mr. Scott asked Atty. Gross if Mr. McDonough was still contemplated to be the last witness. Mr. Gross said "Yes". Mr. Scott asked Atty. Janacek if he planned to have witnesses. Mr. Janacek said "Yes", possibly two. He said reports would be submitted to the Board prior to testimony and that would give a better indication. Atty. Janacek he thought it would be at least one meeting. Mr. Scott told Atty. Janacek to copy Atty. Gross on all submissions to the Board office. Mr. Janacek said "Absolutely".

Approval of Minutes: Mr. Scott made a motion to approve the minutes of the December 21, 2006 meeting. Mr. Martin seconded the motion.

Vote: Ayes: Mr. Scott, Mr. Martin, Mr. Bischoff

Abstain: Mr. Lukasik, Mr. Kirkpatrick, Mr. Walchuk, Mr. Taibi

There was no further business to come before the Board and the meeting was adjourned.
(9:40 p.m.)

Grace A. Kocher, Secretary

