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Florence, New Jersey 08518-2323
May 15, 2006

The regular meeting of the Florence Township Planning Board was held on the above date at the Municipal Complex, 711 Broad Street, Florence, NJ. Chairperson Hamilton-Wood called the meeting to order at 7:45 P.M. followed by a salute to the flag.

Chairperson Hamilton-Wood then read the following statement: "I would like to announce that the meeting is being held in accordance with the provisions of the Open Public Meetings Act. Adequate notice has been provided to the official newspapers and posted in the main hall of the Municipal Complex."

Upon roll call the following members were found to be present:

Councilman John Fratinardo	Mildred J. Hamilton Wood
Mayor Michael J. Muchowski	Gene DeAngelis
John T. Smith	Sean Ryan
Philip F. Stockhaus III	

ABSENT: Dennis A. O'Hara
Thomas Napolitan

ALSO PRESENT: Solicitor Nancy T. Abbott
Planner Carl Hintz
Engineer Doug Traver (Substitute for Engineer Morris)

RESOLUTIONS

Resolution PB-2006-18

Resolution to meet in closed session for the purpose of discussing litigation.

Motion of Fratinardo, seconded by Stockhaus to approve resolution PB-2006-18.

Upon Roll call the Board voted as follows:

YEAS: Fratinardo, Smith, Stockhaus, DeAngelis, Ryan
NOES: None
ABSENT: Napolitan, O'Hara

Resolution PB-2006-19

Denying submission waivers and deeming incomplete the application of Frank Scamporino for Minor Subdivision and Preliminary and Final Major Site Plan approval for Block 159, Lot 5.02, located in an HC Highway Commercial Zoning District.

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Motion of Smith, seconded by Fratinaro to approve resolution PB-2006-19.

Upon Roll call the Board voted as follows:

YEAS: Fratinaro, Smith, Stockhaus, DeAngelis, Ryan
NOES: None
ABSENT: Napolitan, O'Hara

Resolution PB-2006-20

Granting submission waivers and deeming complete the application of Cream-O-Land, Inc. for amended Preliminary and Final Major Site Plan approval for Block 155.47, Lots 12.01 and 12.03, located in a GM General Manufacturing District.

Motion of Fratinaro, seconded by DeAngelis to approve resolution PB-2006-20.

Upon Roll call the Board voted as follows:

YEAS: Fratinaro, Smith, Stockhaus, DeAngelis, Ryan
NOES: None
ABSENT: Napolitan, O'Hara

Resolution PB-2006-21

Granting Minor Subdivision approval with variances for lot frontage and lot width to John and Jane Lane for Block 165.01, Lot 5.03, located in an R Low Density Residential District.

Motion of Smith, seconded by DeAngelis to approve resolution PB-2006-21.

Upon Roll call the Board voted as follows:

YEAS: Fratinaro, Smith, Stockhaus, DeAngelis, Ryan
NOES: None
ABSENT: Napolitan, O'Hara

Resolution PB-2006-22

Granting Minor Subdivision approval with design standard waivers to James Carnival, Jr. for Block 112, Lots 1 and 2 located in an RA Low Density Residential District.

Motion of Fratinaro, seconded by Stockhaus to approve resolution PB-2006-22.

Upon Roll call the Board voted as follows:

YEAS: Fratinaro, Smith, Stockhaus, DeAngelis, Ryan

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NOES None
ABSENT: Napolitan, O'Hara
MINUTES

Motion of DeAngelis, seconded by Ryan to approve the minutes of the regular meeting of April 17, 2006 as submitted. Motion unanimously approved by all members present.

CORRESPONDENCE

Motion of Smith, seconded by Fratinaro to receive and file correspondence A through T. Motion unanimously approved by all members present.

OLD BUSINESS

Chairperson Hamilton-Wood called for application PB#2006-04 for James and Maria Tomosi. Applicant is requesting Minor Subdivision approval for property located on Wallace Avenue and Seventh Street. Block 106, Lot 2.02.

Solicitor Abbott stated that the applicant's attorney had sent a letter requesting that the application be withdrawn.

Motion of Fratinaro, seconded by Stockhaus to dismiss the application without prejudice. Motion unanimously approved by all members present.

Chairperson Hamilton-Wood called for PB#2006-06 for Frank Scamporino. Applicant is requesting Minor Subdivision and Preliminary and Final Major Site Plan approval for construction of a 15,500 square foot retail center and a 2,000 square foot financial institution on property located at Route 130 and Harkins Drive. Block 159, Lot 5.02.

Chairperson Hamilton-Wood related that the application had been deemed incomplete on April 4, 2006 and since that time the Board's Professional's had met with the applicant.

Solicitor Abbott stated that she had a conflict of interest with this application. She said that David Frank, Esquire would be substituting for her. Mr. Frank's office is located in Springfield Township and he is the Solicitor for a couple of Boards in the area.

Chairperson Hamilton-Wood stated that the application was once again before the Board for completeness. She said that she understood that there were some documents and plans that were submitted that did not get delivered to the Board Engineer or Board Planner.

Robert L. Sexton, attorney for the applicant, agreed with Chairperson Hamilton-Wood's summary of the application. Attorney Sexton stated for the record that it was his understanding that revised plans were submitted to the Township on May 1, 2006. He

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said that he did not think that Planner Hintz or Engineer Traver had had the time to review the plans.

Chairperson Hamilton-Wood stated that it was her understanding that Planner Hintz and Engineer Traver only received partial architectural plans and no engineering plans.

Attorney Sexton stated that they had a report from Planner Hintz's office and a draft report from Engineer Traver's office. He stated that for the purpose of determining completeness only he thought that it would be appropriate to have the Board's Engineer address those two reports.

Chairperson Hamilton-Wood stated that certainly the Board would not be considering anything besides completeness for this evening. She stated that she was not sure what reports Attorney Sexton was referring to.

Attorney Sexton stated that there was a report from Planner Hintz that was dated April 4, 2006.

Mayor Muchowski stated that the Board did not have a copy of the draft letter from the engineer's office. Attorney Sexton stated that this application had been submitted on March 6, 2006. After that time there have been several additional submissions of engineering plans and drawings. They came in for completeness at the April meeting and they realized that there were things that had to be addressed. There was a meeting of the Board's staff and the applicant's staff on April 27, 2006. As a result of the meeting the most recent set of revised plans was submitted.

Mayor Muchowski answered that Attorney Sexton indicated that he wanted to review the Engineer's draft review letter. The Board members don't have a copy of the draft review letter.

Chairperson Hamilton-Wood stated that she was confused because the reports were not based on the final submission of the plans. Attorney Sexton stated that there had been earlier submissions. As a result of the April 27th meeting there were revisions taking into consideration comments that were made at that meeting. Chairperson Hamilton-Wood asked if the reports were based on the prior submissions of the latest submissions? Attorney Sexton stated that the draft letter that he received through the applicant's engineer was dated April 25, 2006. Chairperson Hamilton-Wood stated that she did not know why they would be dealing with a report from before the Professional's meeting and the suggested most recent submission.

Engineer Traver stated that they had drafted this report based on the original plans to be discussed at the April 27th meeting. The revised plans were never received so the report was left in draft form. Engineer Traver stated that the draft report was discussed point by point at the April 27th meeting.

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Attorney Sexton stated for the record that this application had been pending since March. Out of fairness to the applicant they had not received an engineers review letter until this draft letter was recently received. He stated that they are prepared to respond to the draft letter and tell the Board what has already been done and submitted as of May 1, 2006.

Chairperson Hamilton-Wood stated that she agrees that the application was filed a long time ago. The problem is that the report that Attorney Sexton wants to review does not reflect the most recent submission. She apologized that the application process takes such a long time, but stated that it was unfair to expect the Board to make decisions based upon information that the Board's Professional's have not had the opportunity to review and offer comments on.

Solicitor Frank stated that it was his understanding that the plans that had been submitted were specifically intended to address each of the points raised in Planner Hintz's letter and the Alaimo letter. He said that for purposes purely for completeness it is more for the administrative task of going through whether or not those items have been submitted. He said that waivers had been requested. He stated that it might be useful to proceed through the list of completeness items. Solicitor Frank suggested that a copy of the draft report from Alaimo's office could be quickly made for the Board members. This would at least facilitate that hearing of the waivers this evening so that completeness could be determined.

Chairperson Hamilton-Wood stated that she would rely on Solicitor Frank's professional advice but questioned that the Board would be deeming something complete or incomplete on a submission that they don't truly know whether the documents truly indicate what the letter indicates.

Mayor Muchowski stated that the applicant would indicate under oath whether or not the submission had been made. The quality of the submission may not be what the Board needs but that could be dealt with in the body of the application. He stated that he would like to allow the applicant to present something to the Board to move the application along.

Solicitor Frank stated that he did not have any legal concerns. The Board would be relying on the testimony of the applicant or the applicant's professionals as to whether submissions had in fact been made. The Board members did not object to continuing with the application for completeness.

Mayor Muchowski asked if there were any concerns on the time. Attorney Frank stated that the application had been deemed incomplete awaiting further submissions. He asked Attorney Sexton if the May 1, 2006 submissions would constitute a complete application or were there still waiver requests. Attorney Sexton stated that there were still waivers requested. Solicitor Frank stated that the clock would start on the May 1, 2006 date. The

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Board could hear this tonight, but if it had to carry until next months meeting it would not be a problem with time.

Solicitor Frank asked Attorney Sexton if they were going to declare a default approval due to time. Attorney Sexton stated that until the application is deemed compete, they understand where they are.

Chairperson Hamilton-Wood stated that the Board would begin with the review of Planner Hintz's letter while the copy of the engineer's letter was being made.

Planner Hintz referred to his report dated May 5, 2006. He stated that the Environmental Impact Statement had been submitted. Item 47.E regarding the wetland delineation letter, this could be waived by the Board. Item 49.W regarding the owner of the easements and 49.KK regarding the protective covenants or deed restrictions. Attorney Sexton stated that he had received a title search and this will be submitted to the Board. Item 52.C and 52.O regarding the location of the free standing sign. Attorney Sexton stated that they were not requesting any variances for the sign. There are multiple locations on the site where the sign could be located without variance and the applicant was asking for input from the Board. Item 52.H Planner Hintz stated that he did not receive the architectural for the freestanding building. Attorney Sexton stated that these are available and will be submitted.

Attorney Sexton stated that the waivers they were requesting were really nominal. Planner Hintz asked about the locations of the trees on site. Mayor Muchowski asked what submission waivers were requested. Attorney Sexton stated that he would allow the applicant's engineer to respond to that question.

Jeffrey Rauch, Feist Engineering was sworn in by Solicitor Frank. Attorney Sexton asked if in the interest of saving time and only for the purpose of completeness, if he could wait to qualify Mr. Rauch until a later time. Chairperson Hamilton-Wood agreed with this.

Mr. Rauch stated that the applicant was requesting a waiver of the wetlands delineation or the letter of exemption by New Jersey Department of Environmental Protection. He stated that he had reviewed that state mapping and this showed that there were no wetlands located within 200' of the property. Two sides of the property are bound by roads, one side is a warehouse with the railroad siding and there is a repair shop to the other side. The area is developed all around the site. The grades didn't show nor were there any signs of wetland vegetation on the site. He stated that there is an EIS that was submitted that describes the site and the vegetation on it. Mr. Rauch stated that they would apply for a letter of presence/absence or a letter of interpretation and submit this as a condition of approval. Mr. Rauch stated that this was the only waiver requested from Mr. Hintz's letter.

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Attorney Sexton stated that they currently are requesting a waiver for the sign location, but they are requesting input from the Board as to the best location for the sign.

Chairperson Hamilton-Wood directed the Board to the draft letter from the Board's engineer. Mayor Muchowski said that this report is marked draft and in the interest of trying to move this forward the Board is willing to review this draft report. He doesn't want to say that this is a full and final report. They may take the approach of a conditional approval that will allow the professionals to ensure that the application is complete as they move forward. This is an unusual step for the Board, but they would like to move the application forward if possible. Attorney Sexton stated that Solicitor Frank's suggestion of a possible conditional determination was good.

Mr. Rauch stated that as a result of the April 27, 2006 meeting an EIS was submitted, as well as a boundary and topographic survey. A number of revisions dealing with the site were made based on the Planner's report dealing with design issues.

Chairperson Hamilton-Wood asked that since the Board had not had a chance to review the report if the review could be done item by item.

Attorney Sexton asked Mr. Rauch if he had a copy of the engineer's draft report. Mr. Rauch answered that he did. Attorney Sexton then asked Mr. Rauch to address item No. 1 under Minor Subdivision Plan on page 2. Mr. Rauch stated that under the Minor Subdivision Plan items 1 through 7 no revisions had been made because they did not receive the letter until May 11, 2006 and they had submitted the revised plans on May 1, 2006. He stated that he had looked through items 1 through 7 and there were no problems with these.

Engineer Traver stated that Mr. Rauch may have received the letter on May 11th but the draft letter was reviewed with them in its entirety at the April 27th meeting so they knew what the comments were. Mr. Rauch stated that they did not know what the comments were. Mr. Rauch stated that he was not in attendance at the April 27th meeting, but he was represented at the meeting by Dan Giovanni from his office. Mr. Giovanni asked for a copy of the draft report and Engineer Morris who represented the Planning Board at the meeting stated that it could not be released because it was in draft form.

Chairperson Hamilton-Wood said that she was having a lot of difficulty because neither of the people who were present at the meeting and discussed the letter was present at this evenings meeting. Now Mr. Rauch is saying that they relied on this letter, but they didn't receive it until after they made the submission. She stated that this was not what the Board understood the situation as being when they agreed to start this process.

Frank Scamporino, Jr. was sworn in by Solicitor Frank. Mr. Scamporino stated that at the last meeting they came to for completeness they received no review letter. This draft is the first review letter they received from the Planning Board's Engineer. Engineer

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Traver stated that this was correct and it was also correct that the draft letter was reviewed in its entirety at the April 27th meeting. Mr. Scamporino said that he thought that he should have had a review letter before the April 17, 2006 Board Meeting. Chairperson Hamilton-Wood stated that it would depend on what submissions had been made. Mr. Scamporino stated that he did not get a review letter before the first meeting (April 17th). Engineer Traver said that the purpose of the technical advisory meeting was to go over the information with the applicant so they can revise their plans and get them into a position to come back before the Board for completeness or approval. The draft letter was gone over point by point at the April 27th meeting.

Attorney Sexton asked if they could address the items on the draft letter. Chairperson Hamilton-Wood stated that her concern was that the representation was just made that the applicant did not receive the draft letter until May 11th. If the letter were not received until May 11th, then the submissions made on May 1st wouldn't reflect any of the comments in the draft letter. She said that if all the documents were submitted and reviewed then they could get to completion. The Board is trying very hard to get there without doing their normal procedure, which is having an opportunity for the Professionals to advise them. She stated that the Board Members are all volunteers, if they can't use their Professionals advice they are at a huge disadvantage. Member Fratinardo and Member Stockhaus both agreed that it was very confusing and they did not feel that there was enough information to hold a vote on the completeness.

Attorney Sexton asked again if the Board would allow him to address the first 7 items under the Minor Subdivision heading in the draft letter. Chairperson Hamilton-Wood answered that she had asked for this and the applicant's engineer stated these items were not addressed because he didn't receive the letter in time. Attorney Sexton stated that he would ask the engineer again item by item.

Mayor Muchowski said that Mr. Rauch had clearly stated that he did not address these items. He said that he did not know how re-questioning Mr. Rauch would clarify anything. He stated that Mr. Scamporino was potentially justifiably upset with the way that the internal review process worked. The Mayor stated that he has two tasks at hand – reviewing an application and reviewing the procedure. He stated that he had begun reviewing the procedure to find out how this application is at this point for the second month in a row. He stated that he hasn't missed many meetings during his tenure, but in April he was out of town on a family vacation and was not able to participate in what took place. He said that as of now he can't ask the Board to be in the position of reviewing something that the applicant's professional staff stated that they had not revised.

Mayor Muchowski stated that he had begun an investigation as to what transpired from when the application was submitted to revisions that were asked for or submissions that were not complete. He stated that it is highly unusual that the Board has no idea what is going on at this point in time. He stated that unfortunately he couldn't in good

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conscience say that the Board can review the letters and give a conditional approval. He requests that this application be first on the agenda next month and that there is a meeting scheduled in the next few days between the applicant's professional's and the Board's professionals.

Attorney Sexton referred again to the draft letter and asked to review this. Chairperson Hamilton-Wood stated that even though the applicant testifies that he has the items, they have not been submitted to the Board for review. The Board has been as accommodating as it could be for its own comfort level.

Attorney Sexton requested a 5 minute recess. Motion of Stockhaus, seconded to Fratinardo to adjourn for 5 minutes.

The Board returned to the regular order of business.

Attorney Sexton stated that the comments by the Board were well taken. The applicant will schedule a meeting with the Professionals so that they can have a plan submission that is fully reviewed before the next meeting. He stated for the record that his client is quite concerned by the fact that it was the beginning of March when the application was submitted and they still don't have an engineering report that they can respond to.

Chairperson Hamilton-Wood stated that the Board appreciated the applicant's concern and will implore the Professional's to meet with the applicant as quickly as possible. Chairperson Hamilton-Wood asked if the plans could be submitted to the Board's Professional staff. Attorney Sexton stated that the plans were already delivered. Chairperson Hamilton-Wood stated that as she understood it Planner Hintz and Alaimo's (Engineer) never received the revised plan.

Mayor Muchowski stated that in the letter from Feist Engineering signed by Jeffrey Rauch – “ carbon copy Frank Scamporino, Robert Sexton – Carl Hintz, with enclosures via hand delivery, Frank Morris, with enclosures via hand delivery.” Mr. Rauch stated that the revised plans were hand delivered to their offices. Attorney Sexton stated that he would personally insure that the plans were delivered to Mr. Hintz's and Alaimo's offices.

Attorney Sexton stated that the draft report was very thorough and the Board will find that most of the items have been addressed. Member Stockhaus asked Engineer Traver what the anticipated time for a report to be generated after the receipt of the plans. Engineer Traver stated that the response would be available 1 week from the receipt of the plans. Member Stockhaus suggested to Attorney Sexton that he know the date when the plans are delivered and then follow up one week later to be sure that the report is finished.

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Attorney Sexton asked who the lead person at Alaimo's office is. Engineer Traver stated that the lead person was Frank Morris.

Planner Hintz stated that he needs the bank building architectural, and the revised plans. He said that his main concern was the tree location and the caliper size of the trees on the plan.

Engineer Traver stated that he needed the revised engineering plans.

Mayor Muchowski stated that he was going to consult Township Administrator Richard Brook to be consulted and possibly to attend the meeting to report on the progress of the application.

Attorney Frank stated that the application remains incomplete at this time. Attorney Sexton stated that they had sent out notice to all the property owners and requested that they not be required to re-notice. Chairperson Hamilton-Wood announced that this application would be carried over to the June 19, 2006 meeting of the Board. Additional notice will not be required. Attorney Sexton asked if the Board would determine the application complete and go ahead with testimony. Chairperson Hamilton-Wood stated that she appreciates the request however it is the Board's position that they do not usually do this and she cannot promise this. Attorney Sexton stated that this is an unusual situation and the applicant has been extremely patient. Chairperson Hamilton-Wood stated that if there is available time the Board might consider it, but it probably won't happen.

Motion of Fratinardo, seconded Stockhaus to deem application PB#2006-06 incomplete and carry it to the June 19, 2006 meeting with no further advertisement required. Motion unanimously approved by all members present.

Solicitor Abbott returned to the dias.

Chairperson Hamilton-Wood called for PB#2005-13 for Cream-O-Land, Inc. Applicant is requesting amended Preliminary and Final Major Site Plan approval with bulk variances for property located at 529 Cedar Lane, Block 155.47, Lot 12.01 and 12.03.

Arren Goldman from the firm of Greenbaum Rowe in Woodbridge representing the applicant Cream-O-land Dairy. Attorney Goldman stated for the record that this was a relatively simple application. The application is for amended Preliminary and Final Site Plan approval and they are seeking one variance for the installation of an 8' high security fence around the Cream-O-Land industrial plant on Cedar Lane. The approval is being sought for the fence and security gates.

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Attorney Goldman stated that on September 14, 2005 Cream-O-Land applied for and received a permit to install the fence. Subsequent to the issuance of the permit approximately 3,000 feet of fence were installed pursuant to that permit.

On November 3, 2005, Cream-O-Land received a letter from Thomas Sahol stating that the permit had been issued in error and construction had to cease until amended site plan approval was granted. Cream-O-Land was given 30 days to submit the application. The applicant chose to submit the application rather than dispute this with the Township.

Attorney Goldman stated that the applicant is seeking a variance for setback. He stated that as part of the application packet they submitted two relatively recent police reports showing that there were suspicious people on the premises.

Mayor Muchowski stated that over the years there have significant site plan additions to the site that haven't come in front of the Board. He asked if the expanded parking, stone parking lots, and other expansions were included in the request for amended site plan.

Attorney Goldman stated that the property had been re-surveyed and the updated survey had been submitted as part of the application. The focus of the application is on the installation of the fence. He stated that he was not aware of any improvements that had been made to the site that would require Board approval.

Mayor Muchowski asked if the applicant had referenced the 1996 plan versus what was surveyed and what was actually taking place on site. Attorney Goldman said that he would defer to the applicant's engineer on this issue.

James Marx, Matrix Newworld, had been qualified and sworn at the April 17, 2006 meeting. Mr. Marx submitted exhibit A1 a highlighted copy of the submitted site plan. He stated that the blue highlighting is the fence around the perimeter of the site. The orange are the driveways and roadways.

The fence borders the lot and mostly parallels the road. The setback from the road varies from 65' to 68'. The distance from that setback of 75' represents a line from the edge of the parking lot. The distance is roughly 8'. The fence borders around the property. The only variance that is required is for the front yard. There is a driveway off of Independence Road and another driveway from Cedar Lane.

Mayor Muchowski said that trucks regularly park on Independence Road. He stated that he did not think that this was part of the approval. Attorney Goldman stated that they were not seeking approval for that. Mayor Muchowski said that he didn't believe that the original site plan approval includes parking in the areas that have been designated as parking by the company. The parking and set-up of the site should be in configuration with the 1996 approval since the applicant has never come in for any other approval. If a parking lot had been added wouldn't an amendment to the site plan be required?

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Robert Schnier, Vice President of Cream-O-Land Dairy was sworn in by Solicitor Abbott. Mr. Schnier stated that the trucks are being parked in the area of Independence Road temporarily. He stated that although they maintain this area they do not own it. Mayor Muchowski stated that there have been several parking expansions since 1996. Mr. Schnier said that there has been some stone laid in the back, but other than that there have been no curbs moved or blacktop has been put down. Mayor Muchowski asked how many trucks could be parked in the stone area? Mr. Schnier stated that the stone area is actually being used for storage trailers. They are in the process of removing this and everything will be parked in the boundaries of the present parking lot. Mr. Schnier testified that the site plan that was approved in 1996 will be complied with and if the construction official from the Township determines that any other relief is required for anything on the site this will be addressed.

Member Fratinardo asked if this plan needed to be revised to take out the gravel parking lot? If the Board should grant the amended site plan and the gravel parking lot is shown on that plan, it would appear that the Board had approved the gravel parking lot when in fact they had not.

Attorney Goldman answered that the point was well taken and that as a condition of approval they could submit revised plans so that the records are clear. As Mr. Schnier said the intent is to comply with the 1996 approval as modified by the request for the fence.

Mayor Muchowski stated that it might be a good idea to do a site visit to incorporate everything that has been done and is going to be done. Mr. Schnier stated that he did not think that anything rather than the fence was not in compliance.

Mayor Muchowski said that he believed that the applicant might have exceeded the approvals that are in place on-site. Chairperson Hamilton-Wood said that the Final Site plan for 1996 would indicate how many parking spaces were permitted and where they should be located.

Mr. Schnier stated that they had exceeded this with storage and they are in the process of removing the storage. Mayor Muchowski stated that with a site visit they could get all the areas of the site into compliance.

Attorney Goldman stated that the applicant is looking to finish the fence and put the gate in due to the security concerns. They also want to comply with the 1996 site plan. Chairperson Hamilton-Wood stated that it might not be possible to comply with the 1996 plan. The plan should be updated to reflect current conditions on the site.

Mayor Muchowski stated that if a meeting were set up through the Township Engineer's office it would avoid involving the Code Enforcement official.

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Member Smith asked how serious the security breach was. Mr. Schnier stated that there are numerous people who come into the property who are friends of the employees. Other employees have complained to the management and the management felt that they have a responsibility to install the fence for security reasons.

Member Smith stated that there are people who had a concern over the fence in the front of the property. He asked if it would compromise the security if the fence came off the front edge of the building rather than going across the front of the property. Mr. Schnier stated that the front parking lot needed to be inside the fence.

Mayor Muchowski stated that Cream-O-Land had a beautifully landscaped property at the entrance to the town. They installed an 8' security fence on the wrong side of the hedges and took away from the aesthetics of the site. Mr. Schnier said that Cream-O-Land did not request the slats to be put in the fence. If they were removed would this improve the aesthetics? Mr. Marx said there were other considerations in the location of the fence such as existing lighting and landscaping and the fence should be set back some from the driveway. Mr. Marx said in his opinion the fence highlights the building.

Attorney Goldman said that from a legal perspective they have this application before the Board with respect to the fence and the variance and obviously the applicant has concerns about the security. They would like to move this application forward. The applicant would agree to a site visit if they have to come back for relief from this Board they would have to submit a new application anyway. He stated that the legal notice would not be sufficient.

Chairperson Hamilton-Wood said that the concern was that the plans don't reference the 1996 approval, if the Board approves the submitted plan there may be variances that were never asked for because it wasn't identified that they were required.

Mayor Muchowski asked how long ago the back parking lot and gravel parking lot had been put in. Mr. Schnier said that he didn't remember.

Solicitor Abbott stated that the application was for amended site plan and variance for the fence. What they have provided is not an amended site plan, but a present condition as-built plan. Because an amended site plan was not submitted, technically the only thing before the Board was the variance for the fence.

Member Smith asked if when they bought the building they owned the adjacent lot. Mr. Schnier stated that he did not know. He was not involved in the purchase of the property. Member Smith stated that Independence is a paper street that runs all the way back to the Turnpike Access Road. He stated that he thinks the lot that has the parking on it was a separate lot. Mr. Schnier said that when they moved in they probably bought the lot but he is not sure.

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Chairperson Hamilton-Wood stated that the Board has come to the conclusion that the application as submitted does not meet the requirements as an amended site plan. Engineer Traver stated that if this is an amended site plan you have to have the approved site plan from 1996 as your base map and show what is proposed.

Attorney Goldman stated that the first thing they did when they heard about this application was call the engineer who had prepared the 1996 site plan. He did not have a copy of the 1996 plan. Chairperson Hamilton-Wood stated that the Township did keep copies of all the site plans and could provide a copy.

Attorney Goldman said that if the Board wanted to do the site plan visit and then the applicant could do any revisions to reflect any differences. He said that he would like to keep this application alive because they may be able to prove that there are no differences from the 1996 plan. Mayor Muchowski stated that if there is something on site that the applicant wants to use it makes sense to have it added to the amended site plan approval.

Mr. Schnier stated that operationally they are moving out of town. Their corporate offices are here but they are relying on other properties. He said that he does not believe that they are out of compliance with the 1996 plan. Their concern is that they have employee complaints of safety and each month that goes by that they can't finish the project they are open. People are coming to the front of the building. The property is fenced but the gates have not been finalized.

Solicitor Abbott stated that the application had been deemed complete at the April 17, 2006 meeting based on what had been submitted. The Board should continue the application and schedule a site visit. If the site is different than what was approved in 1996 then the application will have to be amended.

Attorney Goldman requested an adjournment. Motion by Stockhaus, seconded by Fratinardo to adjourn for 5 minutes. Motion unanimously approved by all member present.

The Board returned to the regular order of business.

Attorney Goldman stated that the applicant wants to do the right thing. They are happy to have the site visit as requested. If there is something that has to be addressed with respect to the 1996 site plan and any deviations from it they will incorporate this into the revised plans. Otherwise they will submit a revised amended site plan. The applicant agreed to waive the time for Board action until the June 19, 2006 meeting or the next time the Board has a quorum.

Motion of Smith, seconded by Fratinardo to continue application PB#2005-13. Motion unanimously approved by all members present.

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NEW BUSINESS

Chairperson Hamilton-Wood called for application PB#2006-08 for Helen Szathmary. Applicant is requesting minor subdivision approval for property located at 351 Delaware Avenue, Roebling, NJ. Block 147.01, Lot 11.

Jonas Singer, attorney for the applicant stated that Mr. Szathmary would be testifying. The application was for change of lot line, not to create any additional lots. Mr. Szathmary lives in the rear of the property. His mother Helen Szathmary lives on Delaware Avenue. Mr. Szathmary's house fronts on Maple Avenue. Mrs. Szathmary is in attendance if additional testimony is required.

Carl Szathmary, 935 Maple Avenue, Roebling was sworn in by Solicitor Abbott.

Mr. Szathmary stated that he was the owner of 935 Maple Avenue and his mother owns 351 Delaware Avenue. He stated that the application is to extend his property. He said that 36 years ago he bought this lot from his mother. When he bought the property there was a swimming pool on the lot. Rather than move the lot line at that time, they decided to just leave the pool on his property. The problem was that the pool was on Mr. Szathmary's property and the filter and plumbing were in Mrs. Szathmary's garage.

Mr. Szathmary and his mother decided to move the lot line so that the pool would be entirely on her property. Mr. Szathmary lost approximately 26 feet from his property. The pool has since then been removed and the Szathmary's would like to move the lot line back to the original location.

Attorney Singer stated that relocating the lot line would make the lots almost equal in size. One measuring 7,875 square feet and the other measuring 7,125 square feet.

Mr. Szathmary stated that the lot line had been moved sometime during the 1980's.

Mayor Muchowski said that the Delaware Avenue lot currently measures 75' x 128'. The Maple Avenue lot currently measures 75' x 72'. Re-aligning this lot line will restore the lot lines to what they originally were.

Attorney Singer said they were seeking a C2 variance. The benefits will outweigh any possible detriments. Most of the variances are pre-existing. The only variance that they are creating are the lot area and because both lots will be more conforming they believe that it will be a benefit to the area and will not interfere with the intent and purposes of the zone plan.

Mayor Muchowski said that he doesn't see how granting this subdivision would have any negative impact on any of the neighboring properties. The Board agreed that there would

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not be any negative impact. Mr. Szathmary stated that he was not planning on building anything on his lot, he just wanted a larger yard.

Motion of Stockhaus, seconded by Smith to open the meeting to the public.

Hearing no one wishing to testify motion was made by Fratinardo, seconded to Stockhaus to close the public portion. Motion unanimously approved by all members present.

Motion of Fratinardo, seconded by Stockhaus to approve application PB#2006-08.

Upon roll call the Board voted as follows:

YEAS: Fratinardo, Muchowski, Smith, Stockhaus, DeAngelis, Ryan,
Hamilton-Wood

NOES: None

ABSENT: Napolitan, O'Hara

Chairperson Hamilton-Wood called for application PB#2006-11 for HAPCO Petroleum. Applicant is requesting amended final site plan approval with bulk variances for property located at Route 130 South and Cedar Lane, Block 159, Lot 13.01.

Robert L. Sexton, attorney for the applicant, stated that the applicant had made a mistake and needs the help of the Board. This is the new building on the BP gas station (former AMOCO). The Board in 2002 considered this application and granted a variance for 19' for construction of the building from the Harkins Drive property line.

The building was constructed and there is a situation where one corner of the building is where it is supposed to be and the other corner of the building is canted so that it is 7" over the variance that was previously granted. This fact was revealed when the as-built survey was done for the approval for foundations and footings, but by that point the wall had already been built. There is a two story building that had been constructed. There is no question that there is a mistake according to the survey plans. The applicant has met with Mr. Brook and other Township officials. Solicitor Abbott gave a legal opinion that in this situation an amendment to the variance would be required.

Babu Cherikuri, P. E., licensed engineer with Banc 3 was sworn in by Solicitor Abbott. Mr. Cherikuri was the engineer when the plan was approved in 2002. Chairperson Hamilton-Wood stated the Mr. Cherikuri had been previously qualified by the Board.

Mr. Cherikuri stated that a mistake happened during the construction. Basically the stakes were placed incorrectly. On one side the building was 6" more on the other side 7" less.

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Attorney Sexton stated that Mr. Chirikuri had been involved in the building industry as a civil engineer for 20 years and he was formerly a member of the Plainsboro Township Zoning Board. Attorney Sexton asked Mr. Chirikuri how often building mistakes like this occur. Mr. Chirikuri stated that this happens 25 to 30% of the time.

Mr. Chirikuri stated that framing and roofing had been done to this building. The building is made out of block.

Mayor Muchowski asked how long it took from the time the Township requested the foundation survey for the applicant to provide it? Mr. Chirikuri stated that his client asked him to provide the foundation survey on April 3rd. He stated that he completed the survey in about a week. Mayor Muchowski asked when the applicant was asked by the Township for the foundation survey. Attorney Sexton stated that he thought that either December of 2005 or January 2006 one of the inspectors was asking for the foundation and footing plans to be submitted. They were not submitted until April. Mayor Muchowski stated that the applicant continued construction at his own risk. Attorney Sexton stated that this was correct.

Attorney Sexton asked Mr. Chirikuri if there was anyway to fix this mistake. Mr. Chirikuri stated that the building could not be moved.

Mayor Muchowski noted several issues that had occurred over the last two years where the applicant had blatantly ignored requests from the Township regarding conformance to the site plan.

Attorney Sexton stated that the approval was originally in November of 2002. There was a time period after the approval when the applicant was not ready to submit for building permitting. The building permitting was delayed for a number of reasons. Some of them financial reasons and some to deal with coordinating with the Turnpike and there were some major revisions that had to be done with underground stormwater drainage.

Attorney Sexton stated that in about April of 2005 he was contacted by Richard Brook asking him to get back involved in the process because of situations. Mayor Muchowski stated that this was because of disregard by the applicant. The applicant had the diesel in place and they were operating under a TCO and every time the Township attempted to pull the TCO they were looked out as the bad guys. He said that even now there are problems. A grate was broken several months ago at the entrance to the site. There has been a saw horse marking the broken grate, but no attempt to repair the grate.

Attorney Sexton stated that there were three brothers who owned this business. Malkit Heir, Mukhand Heir and Avtar Heir. Avtar Heir is the gentleman who has been to all of the meetings in the past. Unfortunately there was a family emergency and Avtar Heir has been in India for several weeks. Malkit Heir is present at the meeting representing the business. Malkit Heir was sworn in by Solicitor Abbott. Mr. Heir stated that he was not

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aware of the problem with the broken drainage grate. Mr. Heir stated that he would check into this problem and try to correct it immediately.

Member Stockhaus said that there appeared to be a lack of responsiveness on the part of the Heirs. Now that they need something from the Board they will respond quickly, but when they are not in front of the Board and issues are brought up they are non-responsive. He stated that this needs to change.

Mr. Heir answered that he would try to make sure that they are more responsive to the Township's requests in the future.

Member Fratinardo asked if there were signs saying that trucks were not permitted to access the site from Cedar Lane. Attorney Sexton stated that he would make sure that the applicant checked on the signs. If they were not installed yet, he would make sure that they are installed.

Chairperson Hamilton-Wood asked Planner Hintz to review his report. Planner Hintz referred to his report dated May 5, 2006. In regards to completeness the applicant had requested waivers for an Environmental Impact Statement, the wetlands delineation, half cross sections of every 50', test borings to the water table or a depth of 10', and the water and sewer agreement. Planner Hintz stated that he doesn't have an issue with the granting of these waivers.

Planner Hintz said that the side yard setback was the setback of the property towards the rear away from Route 130 for the canopies. The front yard setback that was shown on the plans, they show a front yard setback from Harkins, Cedar Lane and Route 130. That setback line is 75'. This is where a variance was requested. The variance for the front yard setback was granted for 20'. It was offered in testimony that at one point the setback now is 18.4" or 17" off and another location about 6" to 8" off.

Chairperson Hamilton-Wood asked for an explanation of the discrepancy between the 19' and 20'. Solicitor Abbott stated that the side yard setback variance for 19' was granted for the canopy and the adjacent property. Harkins is the front yard and that distance was 20'. Chairperson Hamilton-Wood stated that the Board is looking at a discrepancy of a foot and a half at one end and 6" on the other end. She asked if the placement of the building had any effect on the remainder of the site plan (sight triangles, drainage, etc.) Solicitor Abbott stated that she had gone back and reviewed the minutes from 2002 and the setback was originally 30' but because there was concern about the circulation and the turning radius of the trucks exiting from the diesel tanks the building was moved closer to Harkins. The fact that the setback is back another 1.6' would improve the circulation of the trucks. Planner Hintz stated that he agreed with this but requested some testimony from the applicant regarding loading issues.

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Chairperson Hamilton-Wood asked if there would be an additional foot and a half of lawn or an additional foot and a half of sidewalk. Mayor Muchowski stated that the applicants notice was incorrect because the referenced the side yard setback when it was actually a front yard setback.

Attorney Sexton stated that the confusion there was that even though the property fronts on Route 130 because that property is located on a corner the other two sides are considered front yards also. Attorney Sexton stated that this was a mistake on his part.

Mr. Cherikuri stated that there is nothing behind the building so there should be no negative impact. The rear of the building faces Harkins Drive. He stated that there are no doors or first floor windows on the Harkins Drive side of the building. There would be no changes to the on-site traffic circulation or the parking.

Chairperson Hamilton-Wood said there has to be change somewhere because there is an additional foot and a half in front of the building. Will this be sidewalk or asphalt or grass?

Mr. Cherikuri referred to drawing C3 on the plan. He stated that the front of the building faces the gas pumps and the parking spaces. The as-built line will not change, but there will be a foot and a half more of grass. Planner Hintz stated that this was not a good idea the grass would not survive.

Attorney Sexton directed the Board to the Landscape and Lighting plan dated February 15, 2002. This plan shows the building in the approved location, not the actual location. Attorney Sexton stated that the area of 1 ½ feet that they are talking about will be taken away from the landscape portion behind the building on Harkins Drive. Planner Hintz asked what the width of the area that remains between Harkins Drive right of way and the edge of the building. He would like to see this area landscaped.

Mayor Muchowski asked about the location of the propane tank. Solicitor Abbott stated that a variance had been granted for the location of the propane tank. The propane tank to the property wall is 15'. Solicitor Abbott stated that the propane tank should be 25' from Harkins Drive. Mayor Muchowski asked if the propane tank was in the right place. He stated that there might have to be a site visit to see if the balance of the site is in compliance with the approved plan.

Chairperson Hamilton-Wood asked what the purpose of the sidewalk behind the building was for if there was no door located behind the building. Attorney Sexton stated that there was a door on the south side of the building.

Attorney Sexton asked Mr. Cherikuri if the architectural plans showed any reason for there to be a sidewalk at the rear of the building along Harkins Drive. Mr. Cherikuri answered no and said that the sidewalk could be removed to make up for the area that

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they are losing with the building and additional landscaping could be added at this spot. . Chairperson Hamilton-Wood stated that the Board is not interested in a small pie shape of grass in the front or a pie shape of concrete. The pavement should be uniform with the sidewalk.

Planner Hintz said that since the building is moving closer to Harkins Drive there should be a row of evergreen trees on the back lawn area. Chairperson Hamilton-Wood stated that this might affect traffic coming on and off the site. Mayor Muchowski said that they should look at the site now that the landscaping has been added. Attorney Sexton indicated that the applicant would be happy to add some landscaping. Mayor Muchowski stated that they might be able to create a planting bed with the elimination of the sidewalk close against the back of the building that will enhance and soften the side of the building to Harkins Drive.

Attorney Sexton stated that he had noted to reconfigure the parking lot area in front of the building so that the concrete sidewalk remains the width that was approved. Also consider a planting bed or landscaping in conjunction with the Planner behind the building. Chairperson Hamilton-Wood said they should look at why the sidewalk wraps around the building, was there a purpose for this?

Chairperson Hamilton-Wood asked if it had been decided that the propane tank was properly placed? Solicitor Abbott stated that the resolution says that the propane tank should be 25' in. Mayor Muchowski said that there seemed to be some confusion as to where the tank is actually located. He again suggested a site visit.

Attorney Sexton stated that it should have been set at the distance that was indicated on the approved plans. Solicitor Abbott referred to a copy of the approved plan. This indicated a relocated propane tank that is set back 17' from the Harkins Drive property line and 20' from the Route 130 property line. Attorney Sexton stated that this was different than what was shown on the resolution. Solicitor Abbott said that you have to go by the approved plans. On the as-built plan the propane tank is correctly located.

Mayor Muchowski asked if everyone was comfortable with the location of the propane tank. Member Fratinardo asked if the propane tank was already installed. It is. He then asked if it would be difficult to move the propane tank. Attorney Sexton stated that he appreciated the comment. The applicant relied on the plans when they installed the tank. The tank has bollards surrounding it and is on a concrete slab. It would be difficult to move. Attorney Sexton said that Mr. Chirikuri reminded him that one of the reasons for re-locating the propane in the beginning was to keep it as far away from the building as possible. Attorney Sexton asked for a two minute recess. Motion of Stockhaus, seconded by Fratinardo to adjourn. Motion unanimously approved by all members present. Motion to reconvene by Stockhaus, seconded by Fratinardo. Motion unanimously approved by all members present.

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Attorney Sexton said that to address the Board's concern the applicant is willing to do whatever will make the Board comfortable. However, there would be a minimum expense of \$5,000.00. The electrical lines and underground conduits are already in place. This would involve removing the bollards and shifting the propane tank closer to the parking area. If this is what the Board wants, the applicant can add some concrete padding on the east side and shift it over. This is an expensive proposition. This is as-built as the plans were approved.

Chairperson Hamilton-Wood stated that the plans were approved with the building in another location also. Mayor Muchowski said that a site visit was required. He said that it should be determined that the location is safe in relation to the existing location of the building and the traffic pattern. He stated that in his opinion the stop order on the building should remaining place until the applicant repairs the grate and does the things that they have promised to do. Unfortunately, the applicant does not have a good record on responding to repair requests from the Township.

Attorney Sexton asked if once the grate was repaired and Planner Hintz was able to do a site visit, then the stop order would be removed without a further visit to the Board. Chairperson Hamilton-Wood stated that she was comfortable with this. Chairperson Hamilton-Wood stated that the Board would ask Township Engineer Dan Guzzi to visit the site to determine the safety of the location of the propane tank.

Solicitor Abbott stated the condition as follows: the broken grate to be repair, no truck signs on Cedar Lane to be installed, planting and landscaping of the area behind the building on Harkins Drive in conformance with Planner Hintz, reconfigure the parking lot so that the sidewalk in front of the building is uniform, Township Engineer to check the safety of the location of the propane tank and make sure that the applicant is in compliance to the site plan, Planner Hintz to confirm that the sidewalk around that back of the building can be removed, submit revised architectural plans to Planner Hintz.

Motion of Stockhaus, seconded by DeAngelis to approve the application with the conditions as stated.

Mayor Muchowski said that he hopes the applicants disregard for the rules and regulations that we all function under will cease. Un-timeliness has been a significant problem in dealing with this site. This is unacceptable. Mr. Heir stated that they would be at the site for a long time and will improve their response to Township requests.

Upon roll call the board voted as follows:

Yeas: Fratinardo, Muchowski, Smith, Stockhaus, DeAngelis, Ryan,
Hamilton-Wood

Noes: None

Absent : Napolitan, O'Hara

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Motion of Fratinardo, seconded by Smith to go into closed session. Motion unanimously approved by all members present.

The Board returned to the regular order of business.

Motion of Fratinardo, seconded by Stockhaus to adjourn. Motion unanimously approved by all members present.

John T. Smith, Secretary

JTS/ne