

Florence, New Jersey 08518-2323
July 20, 2009

The regular meeting of the Florence Township Planning Board was held on the above date at the municipal complex, 711 Broad Street, Florence, NJ. Vice Chairman Lutz called the meeting to order at 7:30 p.m. followed by a salute to the flag.

Board Clerk Erlston then read the following statement: "I would like to announce that this meeting is being held in accordance with the provisions of the Open Public Meetings Act. Adequate notice has been given 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:

Mayor Bill Berry	Sean P. Ryan
Mildred Hamilton-Wood (LATE)	David Woolston
Tim Lutz	Paul Ostrander, Alternate No. 1
James Molimock	Frederick Wainwright, Alternate No. 2
Wayne Morris	

ABSENT: None

ALSO PRESENT: Solicitor David Frank
Engineer Dan Guzzi
Planner Joseph Petrongolo

Solicitor Frank administered the oath of office to James Molimock (who was changed from Alternate No. 1 to full Board Member to fill the Class IV vacancy left by the resignation of Gene DeAngelis), Paul Ostrander who moved from Alternate No. 2 to Alternate No. 1 and newly appointed Alternate Member No. 2, Frederick P. Wainwright.

RESOLUTIONS

There were no resolutions for approval at this time.

MINUTES

Motion of Ryan, seconded by Morris to approve the Minutes from the June 15, 2009 meeting as submitted. Motion unanimously approved by all members present.

CORRESPONDENCE

- A. Letter from Land O' Lakes, Inc. dated June 11, 2009 regarding "2010 Safe Streets to Transit Grant".
- B. Letter from State of New Jersey Council of Affordable Housing to Mayor

William Berry dated June 18, 2009 recommending approval of Florence Township's petition for third round substantive certification.

- B1. Letter from State of New Jersey Council of Affordable Housing to Mayor William Berry dated July 8, 2009 granting 3rd Round substantive certification to Florence Township.
- C. Letter regarding New Jersey Economic Stimulus Act of 2009, including information on Non-Residential Development Fee and Affordable Housing.
- D. Compliance review letter from Planner Petrongolo dated July 1, 2009 regarding NFI Warehouse site.
- E. Compliance review letter from Engineer Priolo dated June 30, 2009 regarding NFI Warehouse site.
- F. Letter from NJDEP dated June 30, 2009 regarding a Letter of Interpretation, Presence/Absence for NFI Real Estate, Block 160.10, Lots 20-22.
- G. Letter from John Gillespie, Esq., attorney for NFI responding to Engineer Priolo's June 30, 2009 compliance review letter.
- H. Letter from NJDOT dated June 17, 2009 granting conceptual approval to NFI for access application.

Motion of Ryan, seconded by Berry to receive and file Correspondence A through H. Motion unanimously approved by all members present.

Vice Chairman Lutz called for Application PB#2009-04 for Zarah's Enterprises, LLC. Applicant is requesting Minor Site Plan approval with bulk variances to convert former bar/restaurant to medical staffing office on property located at 202 Foundry Street, Block 14, Lot 1.

Applicants Rafat Olajide, Soladime (Sola) Olajide and applicant's Engineer Robert Stout were sworn in by Solicitor Frank. Solicitor Frank stated that Mr. Stout had frequently appeared before the Board as an expert in civil engineering and it would be appropriate for the Board to waive the statement of his qualifications. The Board agreed that Mr. Stout should be accepted as an expert.

Applicant's attorney Ted Costa stated that the applicants would like to convert a pre-existing building, which has been used in the past as a bar/restaurant to an office use. He said that this bar has been closed for some time and the site has become run down. The applicants are not proposing to continue the bar/restaurant use but are proposing a much

less intensive use. They would like to convert this to office space for their medical staffing company. This will not be a retail site at all.

Engineer Guzzi stated that the Board must first address the issue of completeness and referred to his July 7, 2009 review letter. He stated that the majority of the waiver requirements listed in his report Items A through L are site plan data. Since this site is an existing improved site and there are no additional site improvements proposed he would support the request for waivers. There needs to be testimony given in support of Item F – Clear Statement of Proposed Use. No statement of proposed use has been submitted regarding the type of operation, hours of operation, and the plans for the existing second floor residential use.

Responding to questioning Mrs. Olajide stated that the second floor of the building is currently being used as 2 separate apartments. She stated that they intend to continue the use and keep the same tenants. No changes at all are proposed for the second story. The first story is presently vacant.

Attorney Costa asked Mrs. Olajide to give an explanation of the business. Mrs. Olajide stated that she was a registered nurse in New Jersey and has been practicing for 12 years. She stated that the company is Quality Health Care Services. They are currently operating from 117 Andrews Drive. They obtained a license from Florence Township permitting them to run the business from the basement of their home. They have been in business for 3 years. The reason for moving out is to expand the business.

Mrs. Olajide stated that the business was a medical staffing home care agency. There are 1 or 2 people in the office to answer calls. Most of the work is conducted outside of the office. The staff calls in to get their assignment and then goes to the client's home to provide the service; they do not have to come to the office. The person in the office is just for administrative purposes to do the paperwork. There will not be any retail customers coming to the facility. No services would be provided at the facility.

Attorney Costa said that the duties of the office staff are to use the telephone and arrange for the staffing of other locations. The personnel never have to set foot in the building. Mrs. Olajide agreed with this statement. She said they anticipate having an administrative/clerical assistant to help do the paperwork and payroll. She stated that most of the time the registered nurse does not stay in the office, but goes out to do patient assessments in the client's home. Mrs. Olajide stated that basically they needed to have one person in the office to answer the phone and do paperwork.

She stated that the main reason for moving from the basement of her home is because she wants to expand the business. The State requires that the home health aids and the registered nurses have one continuing education hour every month. Currently they send the paperwork to the employee, the employee reads it over and then sends it back to the office for review. When they have the office if there is a problem with the paperwork then they can come in to the office for review.

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Mrs. Olajide stated that they don't want to work from their basement any more – they want a real office.

Mrs. Olajide stated for the last 3 years there has only been herself and one other employee in the office. Attorney Costa asked about available parking. Mrs. Olajide stated that there is only on street parking on the 2 sides of the building.

Solicitor Frank asked for a clarification as to the number of employees. Mrs. Olajide stated that the main business is having the employees go to the client's homes. The only reason for the office is for a phone contact for the client's and the employees. None of the patient care is done in the office. The office is mainly for paperwork. Solicitor Frank asked if there was an interview process when a new employee is hired? Mrs. Olajide stated that there was and what she has been doing is having the potential employee fill out all the paperwork and submit it. She then reviews all the paperwork. She then sets up an appointment for an interview at an office in Burlington that allows them to use the space when necessary. She stated that she would prefer to conduct the interviews at this new office proposed for 202 Foundry Street. She stated that they have been hiring approximately 1 employee per month.

Engineer Guzzi asked for a description of the apartments. Mr. Olajide stated that there was a one bedroom apartment and a 3 bedroom apartment. Mrs. Olajide stated that currently there were 2 tenants and they were planning on keeping these tenants.

Engineer Guzzi asked for the square footage of the structure. Mr. Stout answered that the downstairs was 2,050 sq. ft. and 1,789 sq. ft. upstairs. Engineer Guzzi stated that the description of the use given by the applicant was sufficient. He stated that most of the other waiver items in his letter are site plan items. He recommended that if the Board was satisfied it would be okay to deem the application complete.

Member Morris asked for the number of employees. Mrs. Olajide stated that they currently employ 8 people. These employees do not report to the office. They call on the phone to get their assignment. They have direct deposit of their paychecks. This will be the continued business practice in the future.

Mrs. Olajide stated that she only anticipates one person per month coming to the office for a pre-employment interview.

Motion of Ryan, seconded by Berry to deem the application complete.

Upon roll call the Board voted as follows:

YEAS: Berry, Lutz, Molimock, Morris, Ryan, Woolston, Ostrander
NOES: None
ABSENT: Hamilton-Wood

Mr. Stout stated that the submitted plan is a modified survey. They are not proposing any site improvements outside the existing conditions. The first floor (old tavern) is 2,050 sq. ft. and the second floor (apartments) is 1,789 sq. ft. The property is on a corner lot. On-street parking is available on Second Street and on Foundry Street on the same side as the building. The opposite side of both streets is posted as no parking.

Mr. Stout said that the proposed use should be less intensive than the tavern use. The applicant is only proposing the owner and 1 or 2 other employees working on site. The hours of operation would be 9:00 a.m. to 5:00 p.m. Monday through Friday. There will be no weekend hours.

Member Morris asked if a sign was being proposed. Mr. Stout stated that there would be a sign but at this time the applicant does not have a logo. Once a design is agreed upon a sign package will be submitted to the construction office. The sign will comply with the ordinance requirements.

Engineer Guzzi stated that on his July 7, 2009 report there are a number of existing non-conforming conditions. The lot is undersized. The zone permits minimum lot area of 20,000 sq. ft. the existing lot is 2,677.88 sq. ft. The lot is non-conforming with respect to width, depth and frontage. The building is non-conforming with respect to front yards on Foundry and Second, side yards, rear yard and maximum building coverage. There is no change proposed that would impact these conditions.

Engineer Guzzi reviewed the items listed on page 3 of his report.

Item 1 regarding the existing residential use. The applicant has given testimony on this.

Item 2 regarding the break down of the square footage for office use and residential use. Testimony has already been given for this.

Item 3 required variance for a fence in the front yard setback. Mr. Stout stated that the building is located on the property line. There is a small section of fence that runs from the corner of that building to the corner of adjacent Lot 3. This is an existing condition on the site and no change is proposed.

Item 4 regarding off-street parking. Engineer Guzzi stated that the NC zone requires 6 on site parking stalls for the proposed uses. There is nowhere on site to provide on site parking so a design waiver/variance is required. The Board needs to be satisfied that the available street parking will be sufficient to support the proposed uses.

Item 5 regarding a loading space. Mrs. Olajide stated that no deliveries are expected. Engineer Guzzi stated a design waiver would be required for the loading space.

Item 6 regarding signage. The applicant stated that the signage would conform to the ordinance.

Item 7 regarding barrier free accessibility. Engineer Guzzi stated that right now the first floor of this building is not accessible. Since this is a commercial use and will have to be accessible there may have to be a ramp installed. Mr. Stout stated that there is one step up to the building, approximately 8". If a ramp is required they could create on the side door off of Second Street. Attorney Costa stated that he believed that the threshold for accessibility was 2,500 sq. ft. and the first floor is under that. He also suggested that since no customers would be coming to the establishment, the need for the handicap ramp for the 8" is not necessary. Engineer Guzzi stated that this is a construction code issue that will need to be resolved.

Solicitor Frank asked if the adjoining properties were fully developed? Mr. Stout stated that they were. He stated that there was green space next to the building but this is the back yard of the adjacent home.

Engineer Guzzi asked for testimony regarding the adequacy of the on street parking. Mrs. Olajide stated that in her opinion the available on street parking is sufficient. Attorney Costa summarized that knowing that this was converting from a bar/ restaurant establishment to a non-retail professional office with a limited number of employees there will be less traffic and noise and in his opinion this will be an improvement to the area.

Motion of Berry, seconded by Ryan to open the hearing to the public. Motion unanimously approved by all members present. Seeing no one wishing to testify motion was made by Ryan and seconded by Berry to close the public portion. Motion unanimously approved by all members present.

Motion of Berry, seconded by Morris to approve Application PB#2009-04.

On the Question:

Engineer Guzzi asked if the Board was okay with the sign being approved administratively. The Board stated that they were.

Solicitor Frank stated that testimony had been given that the hours of operation would be 9:00 to 5:00 Monday through Friday. This is an important factor in the adequacy of the on street parking and if the Board thinks it appropriate the hours could be added as a condition of approval. Mrs. Olajide agreed to this.

Solicitor Frank stated that in the event that a barrier free space is required it would be located off of Second Street in the location that was pointed out by Mr. Stout.

Solicitor Frank stated that testimony was given regarding the level of staffing and as this impacts the parking it should be added as a condition. Attorney Costa asked that the approval not be limited to one employee as this use is a great improvement over the previous tavern use. He asked to have up to 4 employees including Mrs. Olajide.

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Chairperson Hamilton-Wood arrived at 8:03 p.m.

Council Representative Ryan asked if there were plans for aesthetic improvements? Mrs. Olajide stated that they would make the site look nice.

Solicitor Frank reminded the Board that they were still looking to establish the number of employees. Member Wainwright suggested Mrs. Olajide plus 2 additional employees. Attorney Costa stated that the tenants of the apartment do not have cars as they are low income tenants. He stated that there is room for at least 4 cars along the 2 sides of the building. Attorney Costa asked the Board to not limit the applicant to only 2 employees. He suggested that there be approval for a total of 4 employees.

Mrs. Olajide stated that she is trying to expand the business. Now they are a Medicaid provider and if the State requires that they have 1 or 2 people in the office all the time, they would have to be in the office. If the State required more people in the office they would have to comply. Mrs. Olajide stated that she would like to have herself plus 3 other people, a total of 4 employees.

Mayor Berry revised his motion to permit a total of 3 employees (Mrs. Olajide plus 2 others) and the other conditions that were previously stated, Member Morris seconded the revised motion.

Upon roll call the Board voted as follows:

YEAS: Berry, Lutz, Molimock, Morris, Ryan, Woolston, Ostrander
NOES: None
ABSENT: Hamilton-Wood

Chairperson Hamilton-Wood apologized for arriving late and took the Chair.

Chairperson Hamilton-Wood called for Application PB#2009-05 for Wawa, Inc. Applicant is requesting Amended Preliminary and Final Major Site Plan approval including the relief from a condition of approval restricting the parking of tractor-trailers on property located at Route 130 and Cedar Lane, Block 163.02, Lot 13.

Member Wainwright recused himself and left the dais as he lives within 200' of the subject property.

Attorney Tim Prime stated that he represents the applicant and will have 2 witnesses testifying this evening. David Wisotsky and Steve Hasher were sworn in by Solicitor Frank.

Mr. Wisotsky stated that he is employed by Bohler Engineering and is the civil engineer for the applicant. He stated that he is a licensed professional engineer in the states of New Jersey, New York and Connecticut. He has a Bachelor's and a Master's degree in

civil engineer and has 17 years experience. Mr. Wisotsky stated that he has appeared before many Board's throughout the state and has been accepted as an expert.

The Board accepted Mr. Wisotsky as an expert.

Steven Hasher stated that he is the General Manager of Wawa Food Markets, Route 130, Florence Township store.

Attorney Prime stated that the site was located on Route 130 and Cedar Lane. It was part of the original Cedar Lane subdivision and was one of the first convenience stores with gas that Wawa built. Originally the site was just on the front lot. Due to the amount of traffic at the site, Wawa and Florence Township discussed enlarging the site. Wawa purchased the rear lot. Originally Hunt Circus Drive bisected the lot. Wawa and Cedar Lane relocated Hunt Circus Drive to its current location and then consolidated the 2 lots into one. The whole purpose of buying the lot was to add truck parking for the site. Wawa proposed a plan that had multiple truck parking spaces for tractor-trailers and oversized trucks on the site. However, the Township at the time was concerned with a truck stop on this site and generally throughout the township and passed an ordinance that limited tractor-trailers on any one site to no more than 6.

Wawa amended its application and submitted an application showing 6 oversized truck parking spaces, which was very similar to the plan that is being reviewed this evening. At the time the Board did not want to approve any oversized parking spaces for this site.

Chairperson Hamilton-Wood said that she did not believe that this was an accurate statement. She said that there had been an agreement regarding security cameras and Wawa withdrew the security cameras. Attorney Prime stated that he was going to explain that issue. He said that Wawa withdrew the application for the 6 spots. The Board approved the spots but required that surveillance cameras be utilized on the site. The Wawa operations people reviewed this and they indicated that they would not use the surveillance cameras for many reasons including liability. Wawa then abandoned the 6 tractor-trailer parking spaces. The Board said that they would not approve the oversized spaces without some means of enforcement. Wawa elected to try to enforce the prohibition against tractor-trailers by the utilization of electronic gates. The store was constructed with additional parking in the rear and electronic gates at both Hunt Circus Drive location where you enter and exit the site.

Attorney Prime continued that almost immediately there was a problem with the gates and it has continued to be a problem. Wawa contends that the prohibition against tractor-trailers is unworkable on this site and is impossible to enforce. Trying to enforce it is creating safety issues for the public. It overtaxes the Wawa personnel and the Florence Township Police Department trying to enforce this. Wawa is requesting that this prohibition against tractor-trailer be lifted.

Attorney Prime stated that the application has 4 components. First the elimination of the restriction on tractor-trailers, Wawa is amenable to continuing to close the rear parking

lot between the hours of 9:00 p.m. and 5:00 a.m. This not an issue about the rear lot. The rear lot is not busy and doesn't have to be open all night. Wawa is proposing a modification to the approval to allow removable bollards in lieu of the mechanical gates. They propose to revise the site plan to provide for the 6 oversized tractor-trailer parking spaces so that if the Board eliminates the restriction there will be a place for tractor-trailers to park. Finally, the existing signage at the site has to be replaced and new signs installed. There was a meeting on site between Wawa representatives and the Florence Township Police Department and a general agreement as to where the signs should be located.

Attorney Prime stated that subsequently a memo had been received from the Police Department outlining some changes to the sign package. These change are acceptable. The content of the signs depends on the outcome of the hearing.

Mr. Wisotsky submitted exhibit A1 which is a copy of the previously approved site plan last revision dated 11-19-07. He stated that in the back parking lot right now there are 34 regular sized parking spaces. There are 6 signs around the site that prohibit tractor-trailer trucks, but encourage truck parking at the rear lot. It was envisioned that this lot would be used by regular sized truck – not tractor-trailers. The gates are located where the entrances are. At the present time the stanchions for the gates are still there but the gates themselves have been knocked down.

Mr. Wisotsky submitted exhibit A2 dated 6-5-09 and is titled rendering exhibit 1 of 1. This is the proposed site plan that was submitted as part of the application. This illustrates the existing striping and the proposed striping. The circulation flow on the lot will work the same way. Trucks and/or cars can enter into the site on the south side and the exit is on the east side. The proposal is to have 5 striped tractor-trailer spots measuring 13' x 108' and 1 tractor-trailer space measuring 13' x 75'. In addition there are 8 remaining parking spaces out of the 34 that were there that would remain in the same place at the very north end of the lot. The circulation around the site has been sized to allow for a WB-50 truck. 108' is much longer than a WB-50 truck, which is approximately 50' long. The reason being is for the circulation to allow the trucks to access the spots.

Mr. Wisotsky stated that the only other change would be the gates. The proposal is to remove the gates and in their place would be a series of removable bollards. The details of these bollards were included in the plan that was submitted to the Board.

Mr. Wisotsky submitted exhibit A3, which is sheet 2 of 2 of the amended site plan. This shows the details of the bollards and the change in the signage for the site. The bollards are removable and will be managed by the store employees themselves. There is a magnetic base piece that is fixed to the pavement. The bollard itself is a 4' high 2 ½" orange colored cylinder with 2 white stripes on the top. These are put in place and are magnetically locked in place. It is very difficult to remove them by hand. There is a prying tool, which allows you to remove them. They will be stored in a bin during the hours that the parking lot is open. The magnetized plate stays in place all the time.

Chairperson Hamilton-Wood asked for an explanation as to why this would be more successful than the current gating system. Mr. Wisotsky answered that they had found through Wawa Operation's testimony that tractor trailers actively want to use this lot and the site. The problem is that the gates are being broken by the tractor-trailers; the bollards will simply be knocked over.

Chairperson Hamilton-Wood said that the real point of the bollards is that if the trucks knock them down it doesn't matter, where if they knock down the gates they are broken. This does not seem to be a better method of policing the back lot at night. It won't keep the trucks out any better than the gates. Attorney Prime said that the bollards are to close the rear parking lot to everyone at night. Chairperson Hamilton-Wood said that this was what the gates were for. Attorney Prime stated that the gates were not broken at night. He said that their testimony would be that the night parking is not a problem. The day parking is when the tractor-trailers try to get in there.

Mr. Wisotsky stated that the only other change to the plan is the signage. Currently there are 6 signs that control the directional truck traffic and signs that combine the hours of the lot and directing traffic as how to get into the lot. Those signs will be replaced with 6 Wawa directional signs that match the existing signs. They will be the same size as the existing signs and will indicate tractor-trailer parking.

Planner Petrongolo asked if there were 6 total Wawa signs or 6 plus the 2 existing. Mr. Wisotsky answered that there were 6 plus the 2 existing. He stated that there would be 2 signs at the entrance of the lot indicating the hours that it is operational.

Council Representative Ryan asked for the specifications of the bollards. Mr. Wisotsky answered that they do have the cut sheet for the bollards, but the cut sheet does not indicate a foot/pound or torque required to take it off. The fact is that you cannot remove this by hand, but a truck could knock them down.

Mr. Wisotsky stated that the bollards are made of a heavy orange plastic with 2 white reflective bands around the top.

Chairperson Hamilton-Wood stated that the Board would take a short recess. The Board returned to the regular order of business.

Attorney Prime stated that there was some confusion as to the actual number of signs on site. After discussion it was determined that there would be 5 directional signs on site.

Mr. Wisotsky submitted exhibit A4 dated 7-20-09 titled Truck Turning Exhibit. This shows the back portion of the lot. Each truck is color coded to make it easier to see each truck turning into the lot from Hunt Circus Drive and entering into a parking space without overlapping into the other truck path. The striping was extended to make sure that each truck could identify their chute leading into the space.

Engineer Guzzi said that having the striping so long could encourage double stacking of tractor-trailers. Mr. Wisotsky stated that there is the possibility of double stacking 2 WB-50 or smaller trucks but this was not the intent. Engineer Guzzi suggested dashing part of the way to still guide the trucks in but as an indicator that the parking space is not meant for two trucks stacked. Mayor Berry suggested dashing it in yellow.

Member Woolston stated that WB-50's are rare today. He stated that the average trailer is 48' plus the tractor is another approximately 13'. Engineer Guzzi stated that 70' would accommodate an average sized tractor-trailer, but would not give the appearance of a dual parking space. Solicitor Frank asked if WB-67 could maneuver into these spots. Mr. Wisotsky said that it could.

Member Woolston asked what would be done if all the spaces were full and another truck pulled in. Attorney Prime stated that this would be an enforcement issue and the police would have to be involved. Member Woolston stated that this would then be burden to the town and it shouldn't be – it should be Wawa's responsibility. Attorney Prime stated that Wawa could not issue tickets.

Mayor Berry asked if in addition to dashing the line would it possible to move the wheel stop back to make the spot smaller. Engineer Guzzi stated that this might not leave enough room for maneuvering. Solicitor Frank stated that if you pull it back too far the area in front of the truck parking would become an unmarked truck parking space.

Mr. Wisotsky said that there are "No Parking" signs proposed. There will also be "15 Minute Only" parking signs and the Florence Township Police Department suggested adding "No Idling" signs, which they will comply with.

Attorney Prime stated that they disagreed with the review letter submitted by the Florence Township Environmental Commission referring to the site as a "truck rest stop". Mr. Wisotsky stated that this site is not a truck/rest stop. The Commission commented that there would be gas and oil pollution cause by idling. Attorney Prime stated that it was against State law to idle and signage is proposed prohibiting idling.

Chairperson Hamilton-Wood asked if refrigeration trucks would be included in the no idling prohibition? Attorney Prime stated that there would be no special signage for refrigeration trucks.

Attorney Prime stated that they would comply with the 4 changes outlined in the review letter from the Florence Township Police Department dated June 25, 2009.

Chairperson Hamilton-Wood stated that the plans indicate that the "15 Minute Parking" signs are going to be removed. Mr. Wisotsky said that the signs will remain and the site plan will be revised to show this.

Attorney Prime stated that he would move on to comments offered by Planner Petrongolo in his review dated July 16, 2009. Responding to Attorney Prime Mr. Wisotsky stated

that there would be no change in the landscape plan, no change in the signage besides what has already been discussed and no change to the lighting plan. Planner Petrongolo ask for the height of the existing light poles because large tractor-trailers can cause shadowing that impact on the overall lighting scheme. Mr. Wisotsky stated that he did not know the actual height of the light poles but they are +/- 20' high. The light pattern is distributive around the site and the position of the existing lights would counteract any issue that would arise from shadowing.

Attorney Prime said that they would agree to the 4 items outlined in Engineer Guzzi's letter dated July 14, 2009.

Attorney Prime called Steven Hasher. Mr. Hasher stated that he was a general manager for Wawa Food Markets. He has been at the Rt. 130/Cedar Lane location for 8 months. Attorney Prime said that he had made representations to the Board about the history of the site and certain site conditions. Mr. Hasher stated that the statements were accurate and he would adopt them as part of his testimony.

Attorney Prime said that he had indicated to the Board that after construction Wawa has had problems with the gates being hit constantly and broken. Mr. Hasher said that this was an accurate statement. Attorney Prime stated that Wawa operations had supplied an email outlining repairs to the gates. Repairs were made on June 4, 2008, October 6, 2008, October 27, 2008 and November 4, 2008. These repairs were in addition to minor repairs done by Wawa techs that were not listed on the email. Chairperson Hamilton-Wood asked if this email had been submitted to the Board? Mr. Prime said that the Board did not have a copy of the email. Chairperson Hamilton-Wood stated she felt that the Board should have a copy of the email as Mr. Hasher has only been with Wawa for 8 months and these incidents pre-dated his employment. Attorney Prime stated that Mr. Hasher was testifying that this was the business record that was kept. Attorney Prime stated that he would supply this information to the Board. Attorney Prime indicated for the record that this was an email from Operations that he had requested for Mr. Hasher to review prior to attending this meeting.

Solicitor Frank stated that Mr. Hasher was not testifying to what actually happened, but he was testifying about what was told to him through the records. Mr. Hasher agreed.

Mr. Hasher stated that on May 18, 2009 the gates were finally removed. So for a little over 2 months the gates have not been there. He said that for most of the time that he had been manager the gates were broken.

Member Ryan asked if the service report indicates whether gates malfunctioned or if there was malicious damage to them? Attorney Prime stated that according to the records that were supplied to him the gates were repaired because they were broken. Member Ryan asked how were the gates broken? Attorney Prime stated that the gates were broken by trucks. Member Ryan asked if the gates were working properly? Attorney Prime stated that according to the email these repairs were all conducted outside of the warranty period. There were some issues initially with the gates functioning initially.

Member Ryan asked how the gates worked? Were they request exit motion detectors? Attorney Prime stated that it was a sensor.

Chairperson Hamilton-Wood said that she thought the gates were timed – down at 9 and up at 5. Attorney Prime stated that he was not qualified to answer that, but he would get the answer. Mr. Hasher did not know as the gates had been non-operational.

Chairperson Hamilton-Wood said that in her earlier question about the bollards Attorney Prime had indicated that Operations would supply testimony on how the gates were broken. Attorney Prime stated that he had said that the gates were run over by trucks. Chairperson Hamilton-Wood said that when she asked about policing and how the bollards would be more effective because the gates had to be down, Attorney Prime indicated that testimony would be given on that. Attorney Prime stated that he would get to that. He asked if he could finish the testimony and then give the Board the opportunity to ask questions.

Mr. Hasher agreed with a comment made by Attorney Prime stating that when the gates were operational there was a problem with illegal tractor-trailer parking around the site, specifically on Route 130 frontage, along the jug handle and along Hunt Circus Drive especially between Wawa and Burger King. Attorney Prime stated that there were complaints from customers not being able to see out onto Route 130 as the trucks were parking illegally on Rt. 130 and blocking vision. Mr. Hasher agreed that when the gates were broken or since May 18, 2009 when they were removed there has not been a problem with tractor-trailers parking on the streets illegally. Trucks were coming into the lot, visiting the store and leaving.

Attorney Prime asked if there had been a problem with vehicles parking in the rear lot at night? Mr. Hasher stated that there had not been. There were plenty of spaces in front of the store to handle customers that come in at night. Mr. Hasher stated that if a tractor-trailer does visit the site at night they park in the front parking lot.

Mr. Hasher stated that there are no issues with parking on the site at night or with the 15 minute parking limit. Mr. Hasher stated that there have been no complaints from neighbors or from customers regarding the tractor-trailer parking. The only complaints regarding the tractor-trailer parking have come from the Township Administrator.

Attorney Prime asked if 6 tractor-trailer parking spaces were adequate. Mr. Hasher stated that it was and most of the time it is less than 6. He said that there are approximately 20 tractor-trailers per day with the majority in the morning peak hours.

Chairperson Hamilton-Wood said that Mr. Hasher had indicated that there was no problem with over night parking. She asked if Wawa kept a log or employee record as to what trucks are parked in the lot and does an employee go out and check the back lot. Mr. Hasher answered not they did not. Responding to a question from Attorney Prime Mr. Hasher stated that they do not encourage their employees to go out and confront drivers for safety reasons. He stated that if a driver is in the store they would approach

them and tell them that they are not allowed to be in the lot and that they must leave as soon as possible.

Chairperson Hamilton-Wood asked for a clarification of how the gates were broken. Mr. Hasher said that tractor-trailers were running over the base of the gates when the gates were open and damaging them. Engineer Guzzi said he was still confused. He asked if the trucks were in the parking lot at 2 in the morning and trying to get out or were they in the parking lot at 3 in the afternoon and couldn't get out. Mr. Hasher stated that he really couldn't answer those questions as he had only been employed at this location for 8 months.

Planner Petrongolo asked if the gates didn't stop the trucks how were the bollards going to stop the trucks? Attorney Prime stated that the bollards were not going to stop the trucks. The idea is to not have the prohibition at all. The bollards will provide a visual barrier and the idea is to keep people out of the lot at night. The testimony that was offered was that night parking is not really a problem. Trucks are on site during the day.

Chairperson Hamilton-Wood asked again how the gates were broken. Attorney Prime stated that he had another witness who might be able to clear this up. Scott Kent was sworn in by Solicitor Frank. Mr. Kent stated that he was an area manager for Wawa he has been with the company for 29 years and has overseen this store for at least the last 4 years. Mr. Kent said that to the best of Wawa's knowledge the gates were never broken in the evening. Truck drivers would cut the turn too short, go up on the curb and take out the whole mechanism. There was often extensive damage to the structure itself. They even installed bollards on both sides to try to prevent the trucks from hitting the mechanism. Even this didn't work. The gates are run by sensors. They would close at 9:00 in the evening and open at 5:00 in the morning, but they were down a great deal of the time due to the amount of damage that was caused to them and the time required to get the replacement parts to repair the damage.

Engineer Guzzi asked if there were sensors to get into the parking lot. Mr. Kent stated there were no sensors to get in. The in gate was only closed at night. The exit was always closed and there was a sensor to open it. Mr. Kent said that a lot of times when the exit gate was going up the drivers would misjudge it and drive through and hit the gate. He said that they installed additional sensors to alert the gates earlier but this still did not solve the problem.

Chairperson Hamilton-Wood asked if there was a plan to change the turn radius. Mr. Wisotsky said that the driveway was a 40' width driveway and trucks can make that swing so there is no intention to change the radius. With the bollards this won't be a problem because there is no structure.

Chairperson Hamilton-Wood said that she thought that testimony had been given that no nighttime parking is being proposed for the back lot. Mr. Kent stated that this was correct. He said that they don't anticipate anyone driving through the bollards. They are not aware of any damage being done to the gates during the evening.

Chairperson Hamilton-Wood asked if it was Wawa's intention to have truck traffic coming to the front parking lot in the evening? Mr. Kent answered that the approval that they have stated that tractor-trailers can't enter the front lot of the property. Chairperson Hamilton-Wood stated that tractor-trailers are 24 hours 7 days per week prohibited from the front lot. Chairperson Hamilton-Wood asked where landscaping trailers, UPS truck, boat trailers and people towing campers are supposed to park now. Mr. Kent answered that when the improvements were done they created a 2 sided store. The whole back area is all new additional parking. The front parking lot and side of the store has ample parking area for cars. Someone with a larger vehicle would drive around to the back of the store and take up multiple spaces. This is separate from the truck parking lot. He stated that during the day these vehicles would share the oversized lot with the tractor-trailers.

Chairperson Hamilton-Wood asked where the loading dock was for the Wawa truck. Mr. Wisotsky answered that the loading area was on the side adjacent to Burger King. Mr. Hasher stated that there was 1 tractor-trailer delivery a day at the loading dock. Gas is delivered once or twice a day to the tank field adjacent to Cedar Lane.

Chairperson Hamilton-Wood said that one of the Board's concerns when they heard this application before was how to control the back lot. Solicitor Frank stated that the ordinance requires the Board to address this. Chairperson Hamilton-Wood asked what is the plan when the 7th truck comes to the back lot. Attorney Prime stated that they would just have to park in an open space. Mr. Kent said that when trucks come in to Hunt Circus Drive and see that the lot is full they would just continue along Hunt Circus Drive and back onto Route 130. There is no other access to the rear lot or to the front lot from Hunt Circus Drive.

Chairperson Hamilton-Wood asked if there was a plan to enforce the 15 minute parking? Mr. Kent said that they do spot check and if they do see someone outside for an extended amount of time and it creates an issue they can notify the police department, but they are trying to take the burden off the police department. Chairperson Hamilton-Wood said that it appears that Wawa will agree to the rules but there is no plan to enforce the rules. If calling the police out will be the method of enforcement it won't be any different that what currently exists.

Engineer Guzzi stated that the difference would be that if the bollards were knocked over then they can be put back up. Chairperson Hamilton-Wood stated that the testimony was that nighttime was not the problem so even though the bollards may work more conveniently they may not be any more effective than the gates.

Planner Petrongolo asked for a description of the bollard process. Mr. Kent said that the bollards would be kept in a storage shed. Every day at 5:00 a.m. an employee will take the bollards down and store them in a shed and an employee will replace them on the base at 9:00 p.m. each evening.

Chairperson Hamilton-Wood asked if Wawa was still against surveillance cameras? Attorney Prime stated that they did have surveillance cameras in the front of the store. The issue operationally with the rear of the store was the concern about the liability if something happened in the rear parking lot. He said suppose something happens in that back lot and the tapes were subpoenaed and the question arose as to why Wawa didn't attempt to prevent this?

Council Representative Ryan stated that he understands the concern with liability as operating a business but there is video surveillance in the front parking lot and the interior of the store, making the assumption that both are recorded wouldn't there be the same liability concerns in the front parking lot and the interior of the store? Attorney Prime asked what good would it do for the tractor-trailer parking if they have the surveillance cameras back there? There would be a record of the tractor-trailers out there. Member Lutz stated that there would be a record of who knocked the gates over. Attorney Prime stated that they know who knocked the gates over.

Council Representative Ryan said that the same argument be made about having video surveillance and utilizing that as a means to debate liability concerns? Attorney Prime agreed that it could. Chairperson Hamilton-Wood said that her thought was that video surveillance would act simply as a deterrent.

Planner Petrongolo stated that the Board approved the oversized parking spaces before with the condition of the surveillance. Attorney Prime stated that it never got to the approval stage. Chairperson Hamilton-Wood stated that this was because Wawa withdrew the request because they didn't want to do the surveillance, although the approval was to leave the lot the same and keep that back lot for oversized vehicles like landscaping trailers, etc. anything that was clogging up that front lot especially in the morning hours. Everybody agreed that the early morning hours are tough with people stopping for coffee and gas and the lot getting clogged up with the various sized vehicles. Everyone agreed that this was a dangerous condition as it existed and something needed to be done to improve this.

Attorney Prime stated that Wawa was glad to have the rear lot and is still glad to have the rear lot. Chairperson Hamilton-Wood stated that it was a necessary thing.

Planner Petrongolo stated that Resolution PB-2006-14 indicates that when you had received your previous approval you were granted 6 oversized parking spaces conditioned upon that the applicant monitored the back lot. PB-2006-14 was the resolution amending that approval. Attorney Prime stated that he couldn't recall if the resolution was ever memorialized, but apparently it was. Planner Petrongolo said that the question would be that if the Board had granted approval at that time with the condition what has changed now for the Board to lift that condition. Attorney Prime said that there is now experience with the condition. The testimony is that there is no problem with the gates down. There is definitely tractor-trailer traffic at the site. They are finding a way in no matter what. When the ban is in effect the tractor-trailer drivers are still coming to

the site, they are just parking illegally on the surrounding streets and causing safety problems.

Attorney Prime said that it was his understanding that the Board had approved a supermarket shopping center across Cedar Lane from the site. He asked if there was a tractor-trailer prohibition against that site. Chairperson Hamilton-Wood stated that there is no tractor-trailer parking on that site – only loading and unloading. Attorney Prime stated that you don't know if tractor-trailers will park at this supermarket site because it is not open yet. Planner Petrongolo said that the supermarket site plan did not have a proposal for oversized parking spaces. Attorney Prime said that Board could lift the ban on tractor-trailers and Wawa would leave the parking lot unstriped. Chairperson Hamilton-Wood stated that one of the reasons that there were concerns about the tractor-trailer parking was the possibility of the tractor-trailers staying in the site for an extended period of time. She stated that there were many factors that went into the decision to limit the oversized vehicle parking to a minimum.

Attorney Prime stated that based on the testimony presented on the record this evening that since the gates have been inoperable there haven't been any complaints, there have been no problems at the site, no incident reports, no liability reports. Mr. Kent stated that the gates were damaged for a significant amount of time.

Chairperson Hamilton-Wood stated that the signs were still up that indicated no tractor-trailer parking so any driver who wanted to abide by the sign wouldn't park there even though the gates were not there. She said that if the gate was down and the drivers are not respecting the no tractor-trailer parking sign for the lot what would make them respect the no parking along Cedar Lane or Rt.130? Attorney Prime stated that the ban is unrealistic. It doesn't make any sense and it has been nothing but a hassle for Wawa and the Florence Township Police Department. He stated that he respects the Board opinion in trying to make this work. There were concerns expressed by the Board. Wawa didn't appeal the decision. They tried it and it did not work hence the application this evening. Attorney Prime stated that Wawa is a taxpayer in Florence. There are 2 stores here. They are trying to be reasonable and work with the Board, but this is not something that can be enforced without going way beyond what would be expected of a business in the township.

Solicitor Frank stated that the Board has a couple of functions here. The first function of the Board is to review applications to determine whether or not they meet the standards of the ordinances that they are charged with administering. The second level function is when they are faced with problems that present requirements for variances or waivers, to try and take the public policy and make it fit in a way that is workable with the applicant and the community. Chairperson Hamilton-Wood has been articulating the concerns that led to the original ban but also really speaking directly from the ordinance that they are supposed to be administering. He continued saying that the ordinance is actually a little broader than what we are talking about tonight. First it has a broader definition of trucks and truck stops. It's any combination of trucks including a trailer or straight truck. We are focused on tractor-trailers so the Board in its previous discussion has gone a

considerable distance down the road of trying to work through the public policy issues. This needs to be understood and recognized.

Solicitor Frank stated that in sect 91-3 under truck stop “the owner of the site shall be required to authorize enforcement of the parking limits, including limits on location, number and time by the Township on the site.” This is the Title 39 authorization – the invitation of the police to come on site. Then it continues, “The parking of any single truck or oversized vehicle shall be limited to not more than 15 minutes.” So when the Board is speaking about that 15 minute limitation it is addressing directly a standard in the ordinance. It is not inventing the standard. This is something that the Board is charged with administering. The next sentence of the ordinance says, “Any approval of a site plan shall include provisions satisfactory to the Planning Board for monitoring enforcement of the parking limitations by the owner.” So when the Board is asking, “What are you going to do to make this work?” The Board is administering the ordinance as it is presented to them. Wawa is coming in to tell the Board that what was presented before doesn’t work. It is not the Board’s burden to resolve that wholly. It is the Board’s responsibility to work with the applicant to resolve the situation, but the applicant has to propose to the Board as to how it would be resolved. Solicitor Frank stated that it is not the Board’s obligation to waive this condition because the applicant claims that it is unworkable or because the police lurk in the background. The ordinance says that it is the applicant’s obligation. The ordinance continues “In addition the monitoring plan shall include provisions for the maintenance of the monitoring record and the availability of those records to the township for a period of one year.”

Attorney Prime said that ordinance applies if it is a truck stop. If there are less than 6 trucks it is not a truck stop. That ordinance defined truck stops and allowed them under conditions – none of which apply to Wawa.

Solicitor Frank read from the ordinance “lands and buildings providing services including any of the following uses: food services, convenience store sales and services, motor vehicle fueling stations, motels, retail services, and with parking for more than 6 trucks or other oversized vehicles in excess of ¾ ton gross vehicle weight or requiring parking spaces in excess of 10’ x 20’. Solicitor Frank stated that he is not sure whether Wawa is a truck stop or not. He stated that Wawa very carefully defined the dimensions of the site to demonstrate that they are not a truck stop.

Chairperson Hamilton-Wood stated that the testimony was that Wawa was going to bring other trucks in to park on the spots and the other oversized vehicles across the other striped spots. Attorney Prime stated that the ordinance doesn’t prohibit this. Chairperson Hamilton-Wood and Member Woolston both stated that Wawa then becomes a truck stop. Attorney Prime said that the Board could give any interpretation to the ordinance that they want. Wawa’s position is that they are not a truck stop and they are not proposing to become one. If this is an issue, it is a separate issue.

Solicitor Frank stated that Wawa must be very careful about how many trucks are on site, because it is not just tractor-trailers. Attorney Prime answered that their resolution allows Wawa delivery trucks, smaller trucks, landscaping vehicles.

Chairperson Hamilton-Wood stated that she thought the purpose of tonight was to amend that resolution. Attorney Prime agreed that it was to remove the prohibition on tractor-trailers.

Planner Petrongolo said that surveillance cameras would give the ability to monitor the 15 minute parking. The applicant has stated that they don't want to have to confront any drivers in the parking lot. Attorney Prime stated that the testimony has been given that that there are no problems with the 15 minute parking limit, there are no complaints or summonses.

Chairperson Hamilton-Wood stated that Wawa's own testimony was that they do spot checks and yet know one really knows what the situation is. Attorney Prime stated that the testimony is that they do spot checks and try to prevent extended parking. Planner Petrongolo stated that if they had a surveillance camera they would be able to see if someone was out there and if necessary take action including calling the police. Attorney Prime asked what that had to do with the prohibition against tractor-trailers? He stated that Wawa is willing to leave the 15 minute parking limitation in effect. Council Representative Ryan stated that Wawa has no plan to enforce the 15 minute parking limitation. Attorney Prime stated that they are enforcing it by spot checks. Council Representative Ryan asked how this enforces the 15 minute interval that they are responsible to enforce on the site? Attorney Prime stated that they spot check and they tell people if they are there too long. That was Mr. Kent's testimony.

Planner Petrongolo said that his understanding is that Wawa is asking for approval to amend the parking lot to include the ability of 6 tractor-trailers and with the requirement of the parking it has a camera monitoring system. Attorney Prime stated that there was no camera monitoring in their resolution. Planner Petrongolo stated that this was in the prior approval. Attorney Prime said that the prior approval required the gates and Wawa is asking to have those replaced by the bollards. Planner Petrongolo stated that the prior approval did not permit tractor-trailer parking. The original approval permitted the tractor-trailer parking with the surveillance cameras. Attorney Prime stated that this was not relevant to this application.

Chairperson Hamilton-Wood stated that whenever the Board is charged with approving a resolution they need a comprehensive plan. Wawa's comprehensive plan to enforce the 15 minute parking and that is part of this application, so in her opinion is relevant, is to continue with the spot checks. Attorney Prime agreed and stated that their resolution requires 15 minute maximum parking for any vehicle, not just tractor-trailers. Wawa has no problem with this continuing.

Chairperson Hamilton-Wood said that in her opinion Wawa has a problem with setting up an effective monitoring system. She asked for testimony regarding the frequency of

the spot checking. Attorney Prime stated for the record that Wawa believes that the spot checking is effective.

Mr. Kent stated that as Wawa associates do tasks in the stores they do visual checks. He stated that for the safety of the employees they do not go into the back lot. There is no set schedule for checking. The checking is random throughout the course of business.

Mr. Kent continued that they really haven't had a major problem with a lot of trucks in the lot. Chairperson Hamilton-Wood stated that this was because they were not permitted in the lot at all. Mr. Kent stated that they do come in. Chairperson Hamilton-Wood stated that you can't really compare the situation when they open the lot for truck parking to the situation that exists now where truck parking is prohibited.

Member Woolston said that the testimony was that there is not a dedicated employee to police this. Mr. Kent agreed that there was not. Member Morris asked if Wawa instructed all their employees to randomly watch the parking lots? Mr. Kent answered not all employees. The key individuals such as the facilities person, the fuel people who are responsible to maintain the outside of the property do spot checks. It has not been instructed for cashiers or deli workers to spot check. If someone is on a break at the designated smoking area in the back and sees something suspicious then they are instructed to report it.

Attorney Prime stated that he does not want this to be adversarial. It has been a bone of contention between the Board and Wawa since they originally came in. Wawa has made a substantial investment in Florence Township. This is a very profitable location. He stated that Wawa would just like a compromise that everyone can live with. Due to the proximity to both New Jersey and Pennsylvania Turnpikes tractor-trailers are going to be visiting the store. They are either going to park in the lot or they will park along the roads. Chairperson Hamilton-Wood said that at the original hearing when Attorney Prime said that Wawa was going to withdraw the request for tractor-trailer parking she replied that they would come anyway. Attorney Prime said that he knew at the time that they should not agree to it, but they felt that they had to give it a shot since they weren't going to do the cameras.

Chairperson Hamilton-Wood stated that there is a prior approval that stated that the Board would grant the truck parking with the cameras. Attorney Prime said that the cameras would not solve the problem. They would not keep tractor-trailers out of the parking lot.

Council Representative Ryan said that technology has made great advances and through the use of the internet a camera could be linked to the police department so the police could monitor the activity. Attorney Prime asked if Council Representative Ryan really wanted the Florence Police Department monitoring the Wawa surveillance camera at the back of the lot to see if there is a tractor-trailer out there? Do you want the guy who is pumping gas to run out back and tell a driver to leave the lot? Council Representative Ryan said that what he would like is for Attorney Prime and Wawa to demonstrate a

means for enforcing the 15 minute rule and that hasn't been presented as of yet. Attorney Prime stated that the 15 minute rule has nothing to do with this application this evening. Wawa is not asking to amend or change to approval regarding the 15 minute rule.

Solicitor Frank disagreed saying that Wawa is asking for relief from a condition of a prior approval. Attorney Prime said that the relief was only from the condition of banning tractor-trailers. Solicitor Frank said that Wawa is asking to change the terms of the prior approval by having a condition lifted. Attorney Prime said he is not asking to have condition of approval No. 14 in the prior resolution that prohibited any vehicle from parking on the lot any longer than 15 minutes lifted.

Chairperson Hamilton-Wood asked that if the ban on tractor-trailers is lifted, how would Wawa police the lot so that tractor-trailers do not park for longer than 15 minutes. Attorney Prime stated that they will continue to do what they have been doing so far and there is no evidence that it has been a problem. The problem that they have is the police department and Wawa trying to grapple with a condition that hasn't turned out to be realistic. They are trying to prevent a problem that doesn't exist.

Solicitor Frank stated that he had just been handed a copy of a public safety system incident report dated 7-16-09 that will be marked as exhibit B1. The report time is 1:34 a.m., location Wawa on Route 130. The report stated "Sergeant Scully reports that he has moved on 3 tractor-trailer "overnighters" from the Route 130 Wawa lot." Solicitor Frank said that this is the indication that on the evening of 7-16-2009, which was a few nights ago there was a parking problem at the Wawa. Solicitor Frank stated that he did not know how that call was initiated. The Wawa personnel may have initiated it, but what the Board is asking for is for there to be some routinized method for that call to be initiated by the Wawa personnel. Chairperson Hamilton-Wood stated that this call should be made before the trucks are there long enough to become "overnighters."

Mr. Kent said that when Wawa met with Police Chief Fazekas they agreed that when the gates were shut down there would be a release that would allow the trucks to exit. If any truck remained in the lot after the designated time of 9:00 p.m. they would notify the police. Also if there were specific concerns for example a truck dropping the trailer and leaving they would notify the police. Mr. Kent stated that in his opinion the proposed bollards would eliminate any over night issue. He said that Wawa could have initiated this call, but he was not aware of any recent issues. Chairperson Hamilton-Wood stated that Mr. Kent's testimony was that if someone was in the lot after hours Wawa would call the police. On this report there were 3 trucks that were there 4 1/2 hours after the 9:00 p.m. closing time. Mr. Kent said that you don't know when the trucks entered the lot. He continued that the bollards would eliminate that problem. Right now there is no gate to keep people out of the lot. Mr. Kent stated that they would bollard the entrance to the lot first and then when all trucks had exited they would bollard the exit.

Solicitor Frank stated that the prior testimony was that there was not going to be any interaction between Wawa personnel and truckers in the parking area, but now you are saying that there will be interaction because once you install the bollards at 9:00 you are

going to invite those truckers to leave or call the police. Mr. Kent stated they don't want to have interaction. When the bollards go up the truckers will know that the lot is being closed. He said they don't experience a lot of tractor-trailer traffic during the evening hours so he doesn't anticipate that there will be tractor-trailers in the lot when they put the bollards up. He said there might be some smaller trucks in the lot at 9:00 at night.

Chairperson Hamilton-Wood stated that in other matters the Board has requested traffic counts. Would it be appropriate to ask for a traffic study as to what is actually the situation in the parking lot? Wawa is testifying that trucks are not a problem and maybe all the Board's concerns are for naught.

Solicitor Frank said that conversely Wawa has testified that if the Board doesn't allow tractor-trailers to park in this area they will park illegally on the street anyway and that has been their experience.

Engineer Guzzi said that a survey of the trucks over a period of time would give some insight. Right now the lot allows no tractor-trailer parking. There is certainly the potential to have more tractor-trailer parking in the lot if it is permitted.

Planner Petrongolo said that since the lot is currently posted as no tractor-trailer parking it would be difficult to compare the current site to what could be a condition in the future. He said there might be other Wawa's that could provide some data. Chairperson Hamilton-Wood said that the Board had asked for comparisons when the original application was heard, but there were very few Wawa's with the same setup. Attorney Prime stated for the record that Wawa was moving away from the oversized tractor-trailer parking at all their new stores.

Mayor Berry said that if Wawa was moving away from tractor-trailer traffic at their new stores why would they want to allow tractor-trailer parking at this site. Attorney Prime stated that the tractor-trailers are already there so they are trying to accommodate them. He said that they could leave the parking lot not striped for the tractor-trailers and let them continue to park wherever they want to. He said that they are not trying to encourage tractor-trailers but to accommodate them because they are there.

Engineer Guzzi stated that the reality is that the trucks are already coming there and the question is how to best accommodate them and control the situation.

Member Lutz asked Engineer Guzzi if he felt that the bollards were the best protective method to close off that lot? Engineer Guzzi said that the advantage of the bollards over the gates is that there is less of a chance of them being damaged so that they can't be used. If a truck wants to get into the lot it will run over the bollards, but the testimony was that the bollards can be knocked down by a truck but won't be damaged. This is a deterrent. If there were a truck in the back lot at night and it was spotted during one of the spot checks then the police would be called. The problem with the gates is that once they are damaged and out of service, then there is nothing there to deter the trucks from coming in.

Attorney Prime stated that Wawa doesn't believe that this will completely solve the problem, but that by letting the trucks in, especially during the day, it will be self policing. Engineer Guzzi said that from a traffic safety standpoint if they are inevitable you really need to be able to accommodate and control them. Chairperson Hamilton-Wood stated that she has never seen one truck stop that has been controlled. She stated that she understands that Wawa doesn't consider this a truck stop, but once you open this lot to tractor-trailers and there is a place for the trucks to go, there will be 15 trucks in the 6 truck lot and they will find a place to park because that is what they do.

Attorney Prime asked if there was a site plan solution like landscaping or an island that would provide a physical barrier for more than 6 trucks? Chairperson Hamilton-Wood stated this is the question that the Board is asking Wawa. Once you allow 6 trucks in how do you police the site from more trucks than permitted? Attorney Prime stated that Wawa thinks that they can meet the 15 minute parking and keep 6 trucks a time in the lot. He said that this is easier to do and an easier thing for the police department to assist with than the total ban. The total ban has been the problem. There is no enforceability without a major effort by Wawa and the police department.

Mayor Berry stated that he thought the testimony was that Wawa would send employees out to tell trucks to leave after 15 minutes. Mr. Kent stated that look for specifics that the chief of police pointed out like somebody sleeping in their cab or anything of that nature. If they see someone in there during the daylight hours and they have been there over 15 minutes an employee will politely ask a driver to move on. He stated that there was no plan to have employees spot check every 15 minutes but if an employee notices someone in the lot for an extended amount of time during the daylight hours they would ask the driver to leave. Employees are not asked to approach trucks in the evening hours.

Attorney Prime stated that he did not feel that it was bad to call the police if someone is parked in the lot for a long time or overnight. This is something that Wawa can work with the police department to alleviate. The total ban has been the problem.

Member Woolston asked if the total ban is lifted would Wawa institute some security to enforce the 15 minutes to allow the trucks in and out and keep illegal parking off the streets. Attorney Primes stated that this was what they were hoping for. Member Woolston asked if Attorney Prime was saying that they would employ someone to do this. Attorney Prime said no there would not be a dedicated employee. Member Woolston asked where is Wawa's part kicking in to help the Township? Attorney Prime answered that Mr. Kent had just explained how they would police with spot-checking. Member Woolston said that Attorney Prime was missing the point. If the Board grants the variance to allow the parking Wawa has to enforce the 15 minutes to get the truck in and out to keep them off the street. Attorney Prime said that Mr. Kent just testified that they would do that. Member Woolston said that Attorney Prime just said that they won't, which is it? Attorney Prime said that he didn't say that they wouldn't. They will continue with the process that they have now. They will do spot checks and tell people to move on. Attorney Prime said he was speaking about over night parking where they would call the police.

Member Woolston said that testimony had been given that there would be no issue at night because of the bollards. Will Wawa hire someone to enforce the 15 minutes during the day to keep trucks off of Hunt Circus Drive, Cedar Lane, etc.? Attorney Prime stated that Wawa has personnel that can do this. The gas attendants are outside and they can check this. Chairperson Hamilton-Wood stated that the gas attendants are not anywhere near that lot and it's impractical to expect them to go around the building.

Council Member Ryan stated that video surveillance would detect, deter and document activity in that parking lot. Attorney Prime said that he appreciated the concern but Wawa will not do this.

Member Lutz asked if there had been any thought by Wawa as to setting up a time schedule on spot checking and then logging it into a book. Attorney Prime stated that they do periodically check the lot. Member Lutz asked to take "periodically" out of the picture and present a structured plan for checking.

Mr. Kent said that if they have to have an associate spot check every 15 minutes and record in a log there would have to be a dedicated associate needed from 5 in the morning until 9 at night. He said that when Wawa made this substantial financial investment in this building it was to eliminate a major safety concern that Florence Township had for many years. Florence Township had a concern about the safety of the customers and the issues in the front parking lot with tractor-trailers blocking cars and not letting them into the lot. Wawa made a substantial investment trying to eliminate a concern of the community. Mr. Kent stated that Wawa is getting away from tractor-trailers they are not their revenue source. The investment that Wawa made in the back and to the whole property was to eliminate a safety issue. He stated that Wawa has been a great member of the community and a great partner. There are 2 beautiful stores in this community. Wawa has made a significant investment into this Township. This investment was done because of safety concerns that were presented to Wawa due to the tractor-trailers, concerns about the cars traveling down Route 130 at 55 miles per hour and crashing into a car that is waiting at the Wawa entrance on Route 130, the jughandle backing up, the police having to almost have their own dedicated officer to give out tickets into the lot. Mr. Kent stated that the lot was built in agreement with the Township. He stated that he had been there since day one and some of the things that were talked about with the previous mayor none of those things have come to pass. He stated that it is not reasonable for Wawa to dedicate an employee to spot checking the lot. He stated that they are not trying to grow their business; they are trying to make their property safe for the Florence community. He stated that this was not a profit driven decision, it was a safety driven decision.

Mayor Berry asked if it would be possible to just make this a car parking lot and eliminate trucks altogether? Attorney Prime stated that they didn't have to stripe the lots. Mr. Kent said they never needed the extra parking spots; this was only to address the safety concern.

Council Member Ryan stated that it was probably before his time but he would like to know who constantly raised the safety concern to Wawa. Mr. Kent said that the police always had issues. Customers would be blocked in by tractor-trailers and they would call the police and complain. He stated that he couldn't give names but the former mayor, some council members, administrator and people who would shop in the store expressed concerns regarding parking lot safety.

Attorney Prime stated that this was a multi million dollar improvement that has benefited the store. Everything is fine, but there is just some problem with tractor-trailer parking. Wawa's testimony is that this is not a major problem. There was an incident report submitted tonight, Attorney Prime said that he is not saying there aren't occasional problems, but we have been over and over this tonight. We can talk about a camera and the employees and those trucks are going to be there whether Wawa takes their picture or not and whether they send an employee out to check or not.

Chairperson Hamilton-Wood said that she knows that the Board had an approval based on tractor-trailers permitted with security cameras. She said that the camera would be a deterrent and alleviate some of the Board's concerns. She asked if there were any chance that Wawa would think differently regarding surveillance cameras. She said that rather than just removing the ban and leaving it as it is she would be much more comfortable with the condition of surveillance cameras. She stated that it shouldn't be an insurmountable cost.

Attorney Prime stated that the cost wasn't the issue. Wawa is concerned that with a camera was liability, the duty to monitor and privacy. He stated that he had spoken to Wawa about this and they were not going to do it.

Council Member Ryan asked if it was Wawa's position that there was a higher probability of an issue taking place in the rear of the store as opposed to in front of or inside of the store. Attorney Prime said that the cameras in the front of the store are for the gas, and the possibility of someone being robbed. This condition doesn't exist in the back. Solicitor Frank stated that it is acceptable to have cameras to protect against theft from the store, but it is not okay to have cameras to protect public safety concerns? Attorney Prime stated that he did not appreciate that comment as he is trying to answer the questions and represent his client.

Solicitor Frank stated that the standard for this Board is whether it is arbitrary, capricious and unreasonable. The Board is subjected to that standard, but isn't there also a reciprocal responsibility for an applicant not to be arbitrary, capricious and unreasonable? Attorney Prime stated that he doesn't think that they are doing that. Solicitor Frank said in the context of refusing to do something that the Board has conditioned an approval on for reasons of corporate policies. Attorney Prime stated that he thinks that applicants disagree on conditions of approval all the time. He said that he did not think that it was arbitrary, capricious or unreasonable for Wawa for say that they are not going to put video cameras in the rear of the store. That is their position if it is arbitrary that would be the topic for another discussion.

Attorney Prime said that Wawa is of the position that there is not a problem. The Board is trying to legislate a problem that does not exist. He stated that Chairperson Hamilton-Wood and he have disagreed about this for years. Wawa doesn't see the problem. They are running a business and are a substantial taxpayer. They believe that that they have a right to run their business the way they know that it should be run. They are having a problem now with the artificial Board created ban on tractor-trailer that they are trying to eliminate.

Chairperson Hamilton-Wood stated that she took exception to that statement. This problem is not Board created. The Board approved the tractor-trailer parking with the cameras. Wawa withdrew the application for the tractor-trailers. Attorney Prime stated that Wawa disagrees with the Board, as there was no reason for the cameras or the prohibition of the tractor-trailers in the first place.

The Board took a short recess. The Board returned to the regular order of business.

Mayor Berry suggested that the application be continued to allow for a meeting between representatives of Wawa and Florence Township to try to work through the issue and bring a good plan back to the Board. Attorney Prime agreed to this proposal. Chairperson Hamilton-Wood suggested that if there are any other facilities like this that are working please bring information about that. Mayor Berry said that the Board wants something that would work for Wawa as well as for the Township.

Motion of Woolston, seconded by Lutz to open for public comment. Motion unanimously approved by all members present. Hearing no one wishing to comment motion was made by Ryan, seconded by Woolston to close the public portion of the hearing. Motion unanimously approved by all members present.

Attorney Prime requested a continuance until the September 21, 2009 meeting of the Board. He stated that Wawa would extend the time limit for Board action.

Motion of Berry, seconded by Woolston to accept the request for continuance.

YEAS: Berry, Hamilton-Wood, Lutz, Molimock, Morris, Ryan, Woolston
NOES: None
ABSENT: None

Member Wainwright returned to the dais.

Chairperson Hamilton-Wood called for application PB#2009-06 for Church of Saints Francis and Clare. Applicant is requesting Preliminary and Final Major Site Plan approval with bulk variances to permit construction of a parking lot on property located at 1290 Hornberger Avenue. Block 145, Lot 1.

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Chairperson Hamilton-Wood stated that the Board had received a letter from applicant's attorney, David Roskos requesting a continuance until the August 17, 2009 meeting of the Board.

Motion of Berry, seconded by Lutz to continue as requested. Upon roll call the Board voted as follows:

YEAS: Berry, Hamilton-Wood, Lutz, Molimock, Morris, Ryan, Woolston
NOES: None
ABSENT: None

OTHER BUSINESS

Florence Township Council Resolution No. 2009-172 establishing a "Green Team".

Chairperson Hamilton-Wood asked Mayor Berry if there was a process for the appointment or if they should ask for a volunteer. Mayor Berry stated that he was looking for a volunteer. He stated that Jim Molimock was the Planning Board representative to the Environmental Commission and asked Member Molimock if he would like to sit on the Green Team. Member Molimock said that he would prefer to not be part of the Green Team as he is finding it difficult to get to the Environmental Commission meetings.

Mayor Berry asked for a volunteer. Member Lutz asked if there was a schedule for the Green Team meeting? Mayor Berry asked Council Representative Ryan to speak about the Green Team. Council Representative Ryan stated that they have tentatively set up the Green Team meeting for the 3rd Thursday of each month. It is anticipated that there would be one meeting per month.

Council Member Ryan said that Sustainable Jersey is a program that exists to create a path to sustainability for municipalities. There is a long list of tasks that are spelled out for every municipality. Florence Township is already set up to participate in the program. In order to implement the program an organized structure is necessary and that is why the Green Team is being established. He stated that it was determined that it would be appropriate to have representation from the Planning Board, Zoning Board, Environmental Commission, Township Council and citizen members as well.

Chairperson Hamilton-Wood asked when the anticipated first meeting of the Green Team would be? Council Representative Ryan said that he would be attending the Zoning Board meeting to give an overview and ask for a volunteer to serve. The Environmental Commission is going to meet the 1st Thursday in August to finish doing the appointments.

Chairperson Hamilton-Wood said that if no one is sure if they have available time the Board should table this until next month and give the members a chance to check their

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schedules so that that someone can volunteer. Council Member Ryan said that he would have additional information at the next Planning Board meeting.

PUBLIC COMMENT

Motion of Morris, seconded by Woolston to open the meeting to public comment. Motion unanimously approved by all members present.

Seeing no one wishing to offer comment motion was made by Lutz, seconded by Morris to close the public comment. Motion unanimously approved by all members present.

Motion was made by Berry, seconded by Molimock to enter into closed session for the purposed of discussing litigation. Following closed session motion was made by Berry, seconded by Lutz to return to the open meeting. Motion unanimously approved by all members present.

There being no further business motion was made by Berry, seconded by Lutz to adjourn at 10:40 a.m. Motion unanimously approved by all members present.

David Woolston, Acting Secretary

DW/ne