

**BOARD OF ADJUSTMENT
MEETING MINUTES
AUGUST 22, 2007**

Meeting called to Order by Chairman Novellino at 7:31 p.m.

Reading of Adequate Notice by Mr. Morelli.

Salute to the Flag.

Roll Call: Present: Devine, Morelli, Novellino, Lambros, Iradi, Bailey and Conoscenti. Absent: Barthelmes, Curcio

APPROVAL OF MINUTES: July 25, 2007.

Grammatical changes made as discussed.

Mr. Morelli made a Motion to approve and Mr. Conoscenti offered a Second. Roll Call Vote: Morelli, Conoscenti, Devine, Bailey and Novellino voted yes to approve.

NEW APPLICATION:

Z07-08 MILLSTONE TOWNSHIP – Block 57 Lot 16.01. Located on Burnt Tavern Road. Property consists of 1.980 acres located in the BP Zone. Presently the property is occupied by a two-story, ten-bedroom home and a one-story property manager's residence utilized as part of the Township's Plan for Affordable Housing. The Township proposes to subdivide the property, share the existing driveway and construct a two-story, 4,000 s.f., 5-bedroom dwelling on new Lot 16.02 consisting of 43,406 s.f. (0.996 +/- acres) in compliance with the Township's Plan for Affordable Housing. Deemed Complete 8-1-07. Date of Action 11-28-07.

Simon Kaufman representing the Township. Attorney Greg Vella read the Noticing packet and found same to be in order to accept jurisdiction. He read the Exhibits into evidence as follows:

- A-1 Jurisdictional Packet
- A-2 Web Notice Posted
- A-3 Application dated 8/1/07
- A-4 Planner's Report dated 8/13/07
- A-5 No Exhibit
- A-6 Minor Subdivision Plan prepared by Yorkanis & White, Inc dated 5/9/07
- A-7 Plot Plan & Septic design Plans prepared by Avakian, Inc dated 8/7/07
- A-8 Soil Testing Results prepared by Avakian Inc. dated 8/22/07
- A-9 Proposed Floor Plan prepared by RBA

Entered into evidence is A-9 Proposed Floor Plan prepared by RBA and A-10 revised plot plan.

Planner Richard Coppola explained that his report addresses this project, which is a capital improvement project for the Township.

Mr. Kaufman explained the project to the Board. The Township proposes to subdivide the property into two lots. The proposed new lot is to be used to construct a single house for five persons and 1 caretaker. This will go toward the COAH obligation of the Township as the units will be COAH certified.

Attorney Vella explained why the application is before the Board. The Township is the applicant. It was his opinion that anytime the Township wants to do a capital expenditure he feels the Planning Board is the correct Board to address those issues and in this case the township appeared before the planning board to review the capital expenditure. He advised that even though the Town does not have to also appear before the Board of Adjustment, the Township is taking a prudent position in appearing before the Board of Adjustment for this use variance. He feels that the Township has gone above and beyond what they have to do from a legal standpoint.

Sworn in is Donna Blaze, the CEO of the Monmouth Housing Alliance, also known as the Affordable Housing Alliance. Ms. Blaze stated that they manage the Millstone House. She explained that they work with many municipalities to achieve their COAH housing obligation. They do not provide supportive services but rather help find the service. United Cerebral Palsy of Monmouth County would be the service provider for the proposed housing. Currently, the proposal is a single-family ranch home. The residents would be physically disabled. Five residents and one live-in staff attendant would occupy the home. The level of the housing originally proposed was two-story which would not work well to accommodate the disabled residents. A ranch-style home works for these residents' needs. Ms. Blaze described the site. A farm/nursery surrounds the site with no residential neighbors. LATICIN is the name of the supportive service group for the proposed home.

Planner Richard Coppola sworn in as the Township's professional land use planning consultant representing the applicant. He explained that the Planning Board and the Township Committee came up with a Fair Share Housing Plan in keeping with the requirements of the COAH. The plan is crafted in such a way to provide housing that uses septic and well to meet Millstone's constraints in that area. He explained that COAH credit is given to the Township for the housing provided by this proposed project. One bed equals one COAH credit. Additionally, there is a rental bonus credit involved. He stated that this project is part of the adopted plan element by the Planning Board and endorsed by the

Township Committee. The applicant is coming to the Board of Adjustment to keep the ball rolling toward completion of this project. Funding for the project is provided via Ms. Blaze's office and via grants. He explained that it is very important that the subdivision be created in order to keep the funding coming. He advised the subdivision must be granted before funding can be obtained.

Mr. Coppola stated that the positive criteria for a use variance is addressed as the use is an inherently beneficial use to provide affordable housing. Mr. Coppola stated that this use is in conformance with the Master Plan's Housing Plan and does provide an appropriate location. In this case, the existing site is presently occupied by affordable housing – the existing Canwright/Millstone House. Mr. Coppola reported that there is no necessity of cutting a new driveway since driveway access will be shared between the two facilities. The project provides a benefit to public good and public welfare both locally and regionally. Mr. Coppola then went over the negative criteria. The building is smaller, one-story with less visible impact than the existing building. There is a commitment to have an architectural treatment compatible with the present Canwright House. Mr. Coppola stated that they are just dealing with a new structure and no parking cuts are required with minimum tree removal on site. They are making every effort to do the least amount of disruption to the existing site and area. He offered that the location does not impact any residential neighborhood. The project promotes the intent and purposes of the zone plan by effectuating a specific portion of the Master Plan. The bulk variances were then addressed by Mr. Coppola. The bulk variances required for this project mostly deal with existing conditions.

Mr. Coppola summarized that what is most important for affordable housing is to get a suitable site, with the least amount of destruction to the environment. In this case, the two individual lots functioning as one entity and sharing a driveway provide a minimal amount of environmental impact on an existing affordable housing site.

Mr. Coppola then addressed Exhibit (A-4) and stated The Planning Board found the project met the Master Plan requirements. He then went over his report. Mr. Coppola suggested to the Board that a requirement of approval should be the architecture is compatible with the existing building. The professional staff could review the architecturals and if they are not compatible, the professionals would refer the matter to the Board. Due to the nature of occupants, the shared parking works well. Engineer Matt Shafai explained that the Monmouth County Board of Health (MCBOH) has the new septic plan to review and approve.

Regarding case law supporting Mr. Coppola's statement on the inherently beneficial use, Attorney Kaufman cited the Sica v. Board of Adjustment Township of Wall. Attorney Vella **agreed** that the applicant proved their case under inherently beneficial use. This is not mentioned in the Master Plan because this is site specific.

Comment [MAN1]: Greg, is this accurate ?

Sworn in is Matt Shafai, P.E. He prepared a plot plan and disposal plan design. He explained that the septic plot plan is for an ordinary single-family house. Two test pits were done to satisfy the ordinance in accordance with section 11-33 of the Ordinance. Mr. Shafai reported that no contaminants were found as a result of the report.

Mr. Kaufman provided his summarization.

The Board discussed the application and its beneficial use. They found that it promoted the zone plan and addressed the negative criteria. It was the consensus of the Board that the professionals would review the architectural drawings to ensure conformance with the board's condition that architectural treatment be compatible with the existing Millstone/Canwright House. Chairman Novellino advised that he did a site visit and agreed with Mr. Coppola's assessment of the parking as being satisfactory. Mr. Lambros complimented the Township on its coming to this Board for its input.

Attorney Vella went over the conditions of approval to include that the architectural drawings would be compatible with the existing Canwright House, The architectural drawings would be subject to the approval of the Board Planner and Engineer and approval of the MCBOH, etc.

Attorney Vella advised the Board that they could vote on the bulk variances, use variance and the minor subdivision with one motion to cover all three types of approvals. Five positive votes would be needed to approve the project as it is a use variance application.

Mr. Morelli made a Motion to Approve and Mr. Lambros offered a Second. Roll Call Vote: Morelli, Lambros, Devine, Iradi, Bailey, Conoscenti and Novellino voted yes.

Z07-05 SACCO, MICHAEL – Block 12, Lot 1.12. Located at 208 Disbrow Hill Road. 5.8 acres located in the RU-P Zone. Applicant seeks to construct a single-family, 2-story, 3900 s.f. dwelling. Variance needed for lot size. Deemed Complete: 7-12-07 Date of Action: 11-9-07. Not heard at the 7-25-07 Meeting due to improper noticing.

Attorney Vella advised that he has read the noticing packet and finding same to be in order, accepts jurisdiction over the application.

Attorney Vella read the Exhibits into Evidence as follows:

- A-1 Jurisdictional Packet
- A-2 Application dated June 6, 2007
- A-3 Plot Plan prepared by EPA Land Development dated 2/6/06, last

revised 6/6/07

A-4 Deed from Profaci to Sacco Dated 8/1/03

A-5 Freehold Soil Report dated 7/24/07

Chairman Novellino explained to the audience that the applicant was not heard last month due to noticing errors by the applicant.

Arthur Burgess appeared representing the applicants. He explained that the applicant purchased the property in 2001 and does not live in the Township. The applicant was unaware to the zoning ordinance change that affected the property. The property is over five acres in size. On both sides and to the rear of the property, the lots are similar in size.

Mr. Edward Padalano PE, PP, LS. presented his credentials. The Board then accepted his credentials. He explained (referring to Exhibit to A-3) where the buildable area is located in accordance with the ordinance. He stated that wetlands are located to the northeast side of the property. A conservation easement was established with the subdivision. He expressed that a problem arises when they try to place the 150 ft. circle on the plan. Mr. Padalano stated that when the lot was approved, the circle requirement was 125 ft. The property borders on Monroe Township. Houses are located on the three lots that surround the property. The surrounding lots are 5 and 4 acres.

Mr. Coppola stated that the applicant has more than one acre of critical acres. However, the 150 foot circle crosses over the conservation easement which necessitates a variance. The height of the structure would be less than 35 feet. The proposed size of the structure is a footprint of 72 x 35 (approximately 5,000 s.f.) and the house to the north is roughly the same size.

Attorney Vella stated that for the record the, Deed between Mr. Profaci and to Mr. Sacco has a Deed restriction that the proposed structure cannot be less than 2,800 s.f. Mr. Padalano stated that the set backs are similar to what is required with the 10 acre zoning and they comply with that.

Engineer Matt Shafai asked if they would be proposing conservation easement monument placement. Engineer Shafai asked for clarification of the building set back from the conservation easement.

Mr. Lambros asked about the ordinance that changed the circle and rectangle size change and Mr. Coppola indicated it was passed in 2005. Engineer Shafai advised that this ordinance change is the only reason that the applicant is before the Board this evening. He clarified that if the conservation easement was not there, the applicant would have met the new circle and square requirements. The applicant is now short by 25 feet. Planner Coppola advised that it is a conformance control and uplands are required as the wetlands buffer.

At 8:46 p.m., Chairman Novellino opened the application to the public.

Sworn in is Antal Hilbert, 204 Disbrow Hill Road. They are the residence located to the east of the property. Their home is 3200 s.f. The distance from their house to the property line is 85 feet. His concern is the applicant's driveway would be close to their property. Engineer Shafai advised that the driveway could not be moved much due to the conservation easement. Mr. Padalano stated that the driveway would be 25 feet off of the property line. There would be very minimal clearing and trees would be left remaining between the driveway and Mr. Hilbert's property line.

Planner Coppola and Engineer Shafai discussed that although the entry point would not change when you come into property the driveway could be skewed to the east to provide more buffering to the neighboring property. They discussed that this would not effect either the conservation easement or the wetlands.

Sworn in Mr. Sacco, the applicant. He explained there is a culvert, which would make moving the driveway difficult. The driveway would be tree-lined on both sides as it would be cut through the existing trees. Mr. Hilbert's concerns are thus addressed.

Jane Meggitt of the Examiner sworn in asked about Rosemont Farms Subdivision approval that was mentioned. Engineer Shafai clarified that the subdivision had not been approved recently but a while ago.

At 8:57 p.m., Chairman Novellino closed the application to the public

Attorney Vella read the conditions of approval. The Board would either have to grant a waiver to use the existing concrete conservation easement monuments since they are already set or require that the new post style monuments be utilized to mark the conservation area.

At 9:03 p.m., the application was opened to the public again.

Eric Davis 210 Disbrow Hill Rd., applicant's neighbor asked if fill is to be brought into property. He is concerned fill would kill the existing trees. Mr. Padalano advised the house would be raised above existing ground level using fill. This is necessary based on the septic system design.. Mr. Padalano indicated Mr. Hilbert and Mr. Davis' homes are constructed the same way. Matt advised this is not unusual. Matt clarified where the fill would be.

Pat Butch. Chairperson of the Open Space and Farmland Preservation commission testified. She suggested that using the new posts for marking the conservation easement is important and she explained that they provide a better visual indicator than the old concrete monuments.

At 9:08 p.m., the application was closed to the public.

The Board discussed requiring that the conservation easement monument placement use the new posts marked with the proper identification markers. The Board made the placement of the new conservation monuments and markers a condition of the approval. Engineer Matt Shafai would also review and approve the location of the driveway.

Mr. Iradi made a Motion to approve and Mr. Morelli offered a Second. Roll Call Vote: Iradi, Morelli, Devine, Lambros, Bailey, Conosenti and Novellino voted yes to approve.

At 9: 11 p.m., the Board recessed for a short break.

At 9:22 p.m., the Board returned to hear the next application.

Z06-05 537 ABR, LLC - Block 60.01, Lot 15.01. 4.02 Acres located in the HC Zone at 490 Monmouth Road. Applicant seeks use variance to construct a two-story 9,820 s.f. building for car wash and service area.

Attorney Kenneth Pape advised that this is a continued application. It is the third hearing date on this application. He explained the request is for use variance relief for a tunnel-style car wash and an automobile lube attached with it. Rogan and Brandon O'Donnell are the applicants, Michael Geller is the design engineer, Jonathan Szap is the traffic engineer, Mr. Leo Zona would provide testimony as an experience operator and Greg Clark is the project architect.

Mr. Geller P.E., P.P. is testifying as a professional engineer. Since the last hearing, he has revised the plans to remove the warehouse building and set the project back further from the road to create a greener area and a larger drying area. The queue for the cars would now hold up to 28 cars.

Attorney Vella marked additional exhibits into evidence:

- A-19 Web Notice for 8/22/07 Meeting Posted on Website
- A-20 Preliminary and Major Site Plan prepared by Geller Sive & Co. dated 5/2/07, last revised 7/25/07
- A-21 Bach & Clark Main Level Plan dated 6/25/07, last revised 8/01/07

Mr. Geller marked two additional exhibits into evidence:

- A-22 Mounted colored rendition of revised Site dated 6/26/07, last revised 8/21/07
- A-23 Architectural with overlays

Mr. Geller testifying as an architect/engineer and referring to A-22 explained the changes. The car wash building went from 120 feet to 108 feet in length. The rear line remains in the same location. The front is expanded from 140 to 152

feet to provide more vehicle drying area. Stacking spaces were lengthened with two stacking lanes to provide for 28 cars. Mr. Geller explained how they calculated the required space. Signs are to be located at the end of stacking lane that would advise customers "no stacking beyond this point". The right lane would not be blocked and always be open as a bypass. He amended the parking plan to increase from 28 to 29 parking spaces as a result of eliminating the warehouse feature.

Mr. Geller advised that the wet pond retention basin would refill when it reaches a certain level. He explained how it functions and answered a previous question the Board had regarding ground water when a severe drought situation exists. Mr. Geller indicated a wet basin is a more expensive basin and is not required but this is what the applicant offers. It can serve for a fire protection source of water and it is part of the best management practices for stormwater management.

Mr. Geller then testified as a professional planner. He referred to Exhibit A-13, aerial of the property as it relates to surrounding properties and explained that general commercial uses are on Route 537 as well as single-family dwellings. He explained the area is a mixture of newer commercial, older commercial and some conforming and non-conforming lots. The area is highway commercial in nature. He described businesses found in the HC and NC Zones. He reviewed the Master Plan as it related to this application. He addressed the special reasons for the car wash and automotive services.

The applicant entered into evidence A-24, Copy of the Monmouth County Map and subscribed a five-mile and ten-mile circle depicted some existing sites that are tunnel-style wash facilities or lube facilities. Mr. Geller explained that this is to demonstrate there is a regional need for a car wash. Gas stations in the area only provide for pumping gas services and not automotive services. Mr. Geller stated that when the Township was proposing a car wash ordinance, this site would have met those requirements. This site has no wetlands or flood plains, no steep slopes, no limited soil conditions. The uses proposed are clean uses and typical of facilities found in the HC zone. They are managed in a responsible manner. Rt. 537 is a good location for this type of business. He indicated the fresh water used is five gallons of water usage per car per wash. He offered that this is a clean use as opposed to the way cars were washed in the past.

Mr. Pape entered into evidence A-25 NJDEP poster regarding washing cars. Water usage for septic purposes (excluding the fresh water used for car washing) on this site would be less than what is allowed. They would use 750 gal/day when 2,000 is allowed. They are preserving the mature oak trees on the premises in addition to the proposed landscaping. This meets the scenic corridor objective of the town and the County. Mr. Geller stated that the project would generate less traffic than many permitted uses and that less parking is needed

then most uses in this zone. Mr. Geller explained how this application is advancing the goal of the economic element of the Master Plan.

Marked into evidence A-26, Copy of the Township's zoning map wherein the zones are highlighted that are non-residential stating that the economic development base is limited. Mr. Geller stated that the architectural plan promotes the aesthetically desirable goal of the Master Plan.

The negative criteria is addressed. Mr. Geller stated that the proposed uses are consistent with the development on the Route 537 corridor. He offered that the use is consistent with highway commercial development in general. The uses would blend in with the other uses on Route 537. The Stormwater Management best practices met the negative criteria. He stated that this application would advance goals of the economic development plan. It preserves the rural character of the property. Mr. Geller offered that this is an appropriate location for the facility. Applicant's project is not a detriment to the Master Plan goal for further highway commercial development. The building and impervious coverage is consistent with the HC zone.

Mr. Coppola asked for clarification that this is a car wash and lube together. Mr. Geller stated that Manalapan has a combined car wash/lube facility. Mr. Coppola asked for clarification when Mr. Geller refers to the car wash, he meant to include the lube as well. Mr. Coppola wanted to bring it to the Board's attention that the proposed Township Ordinance mentioned by Mr. Geller was never adopted and would not allow the lube facility use; it only permitted a car wash as a conditional use.

Mr. Coppola stated that regarding the economic development aspect of the Master Plan no specific uses were listed in that portion of the Master Plan. The Master Plan is silent on car washes. He explained that just because the car wash is not an included use in the Master Plan it does not make the use inconsistent with the Plan. The proposed ordinance, which was not adopted, allowed for car washes as a conditional use in the HC and HC 1 zones but that ordinance would not allow the lube facility use.

Mr. Lambros asked for clarification of the impact of the wet basin in a drought situation. Mr. Geller provided the information he gathered.

Mr. Zona, who was previously sworn in, testified again. Mr. Pape asked that the changed plan that now allows queuing of 28 spots would be adequate to also support weekend traffic. Mr. Zona stated that it is more than adequate. The drying area has been changed and Mr. Zona feels the amended area is to his satisfaction. Mr. Zona has never come across an underground water holding tank breaking. Mr. Bailey asked about the water left on the car. Mr. Zona advised it goes into the holding tanks, the water is recycled and used on the next car. He explained how he as the operator allots for evaporation and balances the system.

The dry off area is heated. Mr. Pape explained that cars would be turned away because there is a sign indicating no stacking past a certain point. Mr. Lambros asked about water usage and Mr. Zona explained about the water used to balance the system. Evaporation of water was also discussed.

Engineer Matt Shafai asked if any pre-cleaning is done prior to entering the car wash. Mr. Zona stated no. Mr. Shafai asked about car wash operations in a drought situation. Mr. Zona stated that the only car washes allowed to stay open were reclaim systems, which this car wash would be. Mr. Shafai asked if there were any rules in New Jersey concerning car washes in drought conditions. Mr. Pape advised that the water usage would be metered and monitored monthly by the MCBOH.

Mr. Szap, who was previously sworn in as applicant's traffic engineer, testified again. The revised plans allow for one hour's worth of queuing by his estimation.

At 10:49 p.m., Chairman Novellino opened the application to the public. He gave the public a sense of direction to the public's questions and testimony. This is a use variance and advised the public that it is most important to limit their testimony to facts related to this specific property and primarily to the proposed use as this is a bi-furcated application and the site plan approval would come later.

Joan Marasek, 463 Monmouth Road, Jackson New Jersey was sworn in. She fully opposes the car wash and auto lube and offered that it would have an adverse impact on her premises across the street. She was concerned about the water supply and offered that the head aquifer of the Toms River is located here. Entered into evidence is Exhibit P-1 Jackson Twp. Tax Map. Ms. Marasek explained where that she is located and she has been there for 30 years. Her property was a former preserve for tigers and is 60 feet from the proposed project's property. She offered concerns about the wet basin and that a car wash may deplete the water supply or contaminate the water supply should there be a leak. In addition, she has a concern regarding the issue of monitoring the facility. Mrs. Marasek was reminded by the chairman to stay on track with relevant questions and testimony related to the application. She voiced her environmental concerns such as noise, air and water pollution.

Mary Pinney, 25 Parkside Way, Millstone was sworn in. She indicated that the Township permanently tabled an ordinance to allow a car wash and that she feels it is not a big impact to traverse somewhere else to have your car washed. Given the environmental pressures in the Township a car wash is not a necessity. She stated that the statistics presented this evening by the applicant show that it is not that far to go to have your car washed.

Bennie Quaglierini, 3 Gaston Mill Ct. Millstone was sworn in. Mr. Quaglierini felt that there is a water problem in the town. He stated there are facilities located

within 8 miles that provide this service. Residents must travel to purchase their groceries anyway. He stated that he lost his well recently.

Raymond Landofi, Clarksburg, was sworn in. His parents lost their well and explained it was a very expensive ordeal. He also has concerns about the environment in terms of contaminating the water supply. Mr. Pape asked when his parents' original well was built. Mr. Landofi state in 1981 and it was a shallow well.

Eric Davis, 210 Disbrow Hill Rod, Millstone was sworn in. He asked Mr. Zona about the discharge systems. He explained the material of the tanks is concrete pre-cast tank. Mr. Davis advised that he is the Chairman of the Environmental Commission in Town and their charge is to raise public awareness of any issues that may affect Millstone. Mr. Davis has concerns about the maintenance issue. He questioned whether this use is beneficial to Millstone.

Barry Frost, Clarksburg was sworn in. He clarified his previously stated comments at prior hearings had to do with reliability and voiced concerns that there are no guarantees that something won't go wrong. He stated that the statistics presented by the applicant reflect that car wash and lube facilities are close by. He voiced that the applicant has to prove his point as to the use being beneficial. Mr. Frost feels this use is not good for Millstone and asked the Board to make a decision that is right for the Township.

Chairman Novellino closed the public portion at 11:23 p.m.

Mr. Coppola stated that regarding special reasons, it is not an inherently beneficial use in accordance with Medici criteria. The applicant must prove that the use promotes the general welfare and that the site is suited for this use. The location is along the roadway, no critical areas on the site and the development of the site promotes the economic development of the site. There would be minimal water use for septic. He explained the four purposes of land use law; to promote general welfare, to promote desirable visual environment, and compatibility with the development of adjacent towns. The question for the Board is whether the applicant is really showing that this site is particularly suited for this use and does this use promote the economic development portion of the Master Plan? He offered that this may or may not be a true argument – the board needs to decide.

The negative criteria arguments are the environmental features, the wet basin, specimen trees are located to the front of property, the consistency of the use with uses in this area and the stormwater management compatibility. Mr. Coppola said that these are for consideration but the use is not inherently beneficial.

The governing body is the entity empowered to change the zoning. The Master Plan is silent on the car wash use. The governing body could add the car wash use to the zoning ordinance without changing the master plan since the master plan is silent and had considered it but tabled it. The bottom line is that the governing body considered the car wash use but was not ready to adopt it and it was tabled indefinitely. Mr. Coppola offered that the Zone Plan is a blend of the Master Plan and Ordinances and the Town was saying "not yet" with respect to an ordinance allowing car washes.

Mr. Pape summarizes. This use is a familiar use and part of the commercial fabric. It is not a novel use. The HC zones are where the towns want to see the commercial uses. He offered that this is a viable use for this site and stated that car washes are not a site of environmental contamination and are constructed to be environmentally safe. The architectural will be high end, along with the landscaping and this would keep in with the rural character of the Township. Special reasons are on the record in order for the Board to grant this use variance. He asked the Board to consider taking a vote on each use (car wash and lube facility) separately.

Chairman Novellino asked Attorney Vella to comment on the Township Committee not electing to adopt the ordinance at this time and about separating the vote on the car wash and the lube facility uses.

Attorney Vella advised that just because the governing body did not adopt the ordinance at this time it does not mean that the Board does not have a right to grant the use variance. This is not dispositive for the Board granting the use variance but rather a factor the Board should consider. In addition, the applicant has to prove their case for a use variance. It is up to the Board to decide if the applicants have satisfied their burden.

Concerning whether to vote on the use variance separately, Attorney Vella stated that the testimony as presented makes it hard for the Board to separate the two issues because the Board heard it as a package. To separate it now would be difficult for the Board to do. Attorney Vella stated that the application before the Board is for a lube and a car wash together and the board has every right to vote on it that way.

Chairman Novellino felt that the positive criteria had not been satisfied and he explained that there are other conveniently located facilities that offer comparable services in surrounding towns. Regarding the negative criteria, he felt that while it may not be an immediate environmental disaster, there were valid concerns and significant environmental risks identified by members of the public. Mr. Novellino indicated he feels it is not appropriate for the Board to grant a use variance on this application. Mr. Morelli agreed. Mr. Lambros does not see an inherent benefit about this use of the proposed site. He is concerned about the center lane on Rt. 537. He voiced his concerns about the water usage and chemical

usage and felt that not enough testimony was given on the lube aspect of the application. He offered that the governing body tabling the ordinance is important. Mr. Conoscenti stated that had a problem believing the business would be turning patrons away if the queue for car washes was full. Mr. Bailey had concerns regarding the center lane, how much water would be used and the strain on the aquifer.

Mr. Morelli made a Motion to Deny and Mr. Iradi offered a Second: Roll Call Vote: Morelli, Iradi, Lambros, Devine, Bailey, Conoscenti and Novellino vote yes to deny the application.

OLD BUSINESS:

The architectural standards draft ordinance was previously sent to all Board members. Chairman Novellino sent his comments to board members and professionals via email and also included suggested enhancements regarding energy conservation.

Mr. Coppola advised he felt that the Town has a pretty good start on the Standards and they would be refined over time. Mr. Coppola advised that some applications where the ordinance applies may not fall under the jurisdiction of either the planning or zoning board. Everyone will have to get used to the ordinance provisions and there are waiver conditions built into the ordinance to enable applicants to appeal. The ordinance tries to promote a quality approach to the architectures. Mr. Coppola then read the chairman's suggested enhancements to the board.

The Board unanimously agreed to recommend the ordinance and suggested enhancements to the township committee. Chairman Novellino indicated he would prepare a draft letter indicating the Board's support for the ordinance and suggested enhancements for the Board to review and approve that ultimately would be sent to the Township Committee with a copy to the Planning Board chairman.

Seeing no other business, by unanimous vote, the meeting adjourned at 12:15 a.m.

Respectfully Submitted,

Pamela D'Andrea
Board Secretary