BOROUGH HALL, 201 EAST MAIN STREET
Incorporated December 30, 1887
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GEORGE R. DEMPSEY, JR.
Mayor

BARBARA ILARIA
Municipal Clerk

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

JOSEPH R. DeIORIO
Municipal Administrator/
Chief Financial Officer

The Manasquan Planning Board held a Regular meeting on Tuesday, August 2, 2011 at 7PM in the Borough Hall, 201 East Main Street, Manasquan, New Jersey.

Chairman John Burke called the meeting to order stating that this is an Open Public Meeting published and posted according to law. He then asked everyone present to please stand and salute the Flag.

ROLL CALL:
Board Members Present:
Mayor George Dempsey, John Muly, Patrick Callahan, Joan Harriman, Councilman Owen McCarthy, James Coakley, John Burke, Leonard Sullivan, Jay Price and Peter Ragan
Professionals Present:
Geoffrey S. Cramer – Planning Board Attorney
Albert Yodakis – T & M Associates Engineer/Planner
Board Members Absent:
Michael Sinneck

John Burke said the first thing this evening is he would like to announce unfortunately that James Coakley is attending his last meeting with the Planning Board. He has known Jim for many, many years. He has been a very excellent member of the Board and we are very sad to see him go. But, unfortunately he is choosing to move out of Manasquan.
Mayor George Dempsey said he would like to say a few words about Jim also. Jim was a very active First Aider in our Town for many years and did a fantastic job with that. He has been on Tourism more than ten years that he knows of and runs our Sand Castle Events and many other events and he will still serve on Tourism because we don't have a residency requirement and we are not going to let him off the hook. Jim thank you for all the years on the Planning Board. There was a round of applause from the audience members.

John Burke said the first item on the Agenda is a presentation from Chris Rice, Architect on the Eastmond Beach Office, before Mr. Rice starts he would like to just inform you this is a courtesy presentation from Mr. Rice and from the group that is doing that, any questions, comments or anything on this should be directed to the Town Council. This is an open item with the Town Council, we not open it to the public tonight and we will not hear any questions or comments from the public tonight. Chris said also Joe DeIorio, Borough Administrator and Wally Wall, Beach Manager are here as well in case there are any questions the Board might have that he can't answer. Chris started by giving a brief summary of what is happening. Each Board Member had a printout in their packet with pictures showing the existing building and the proposed building. Chris had a 3-D colored rendering of the proposed building. He said the building would be taken down and

replaced with a similar sized building except that of course it will be a new building that will meet Code. The new building will be safer, free from floods, on pilings. They are working within a similar footprint as far as the easterly edge goes and the width of the building, however we are adding an approximately 20-foot addition toward the parking lot, going west. He proceeded to explain the proposed project which is subject to change as it is in the early stages. One thing he did mention is that there would be public bathrooms men/women because there are none close to Main Street presently. Wally Wall gave input to the project also. Board members asking questions or statements were John Burke and Joan Harriman. Joe DeIorio said we are looking at a building that is over a half a century old. The existing building is in disrepair and would cost more to fix it than it would to replace it. Also, as it exists it doesn't meet Code or flood. The material and color used will fit in with the Beach area. John Burke asked when they proposed to begin the project and Joe said they have not received final approval from the Governing Body and there is the issue of finances. Joe DeIorio said as the project moves along the Planning Board should feel free to contact him if they have any input, also the public can come to the Council meetings or contact him directly.

<u>APPLICATION #05-2011</u> – Malick, Joella and Harvey – 20, 22 First Avenue – Block: 165 – Lot: 2.03, 3, 4 – Zone: R-4 – This application is carried from the July 5, 2011 meeting, it is for a minor subdivision and Bulk Variances. Mark Aikins introduced himself as the attorney representing the applicant. He said the Malick's are with him this evening as well as their Planner Mr. Kniesler. Geoff Cramer swore in the witnesses and the Board's Engineer. Frederick Kniesler, Jr. gave his credentials which were accepted by the Board. He did the subdivision in 1990 for the American Timber Company along the Beachfront in Manasquan, at the time he was working for Birdsall Engineering at the time. Mr. Aikins explained the application to the Board stating that this is to take an existing lot that is unimproved and add into two existing lots that are non-conforming, thereby essentially re-subdividing the property and reducing the existing non-conformities for those two lots. The property is located along First Avenue; it's in the R-4 Zone. He then asked Mr. Kniesler to orient the Board as to the particulars relating to the property and structures that are on the property and to walk the Board through the many existing Variances that are appropriate and applicable to this property, although no new Variances are proposed to be created in connection with this subdivision. John Burke asked if this property appeared before this Board or the Board of Adjustment before on a subdivision. Mr. Aikins said he would have to ask the property owner. John said it must have been the property next door. Mr. Kniesler said these two properties are a little unique in as much as beachfront where the triangle lot in back was originally a building lot attached to one of the front lots. The Malick's now want to eliminate that third lot and create two more conforming lots, not change either of the structures that are there or the improvements on the site. It should be noted that with many of the Beachfront properties they are also providing access from the new house on lot 1.01 across the backs of the two new lots, lot 3.01 and 3.04 to maintain beach access for that property also. As he mentioned he worked for Birdsall Engineering when we did the subdivision for the American Timber Company, we created about 400 lots with about 1200 encroachments, Variances, easements, whatever to make everything work to maintain some sense of continuity and access for everybody involved. Over the years Manasquan has been unique in that all these bungalows were

built, winds came, tides shifted, people added a sidewalk here a wall there, whether it was their yard or not it worked for the good of the neighborhood and it was a handshake thing. Most of you realize houses are one and one-half story each; they are situated such that nobody's really looking into the other person's yard. Decks are situated for privacy and everyone has access to the beach. To the north of this property is a new house and also the Sea Girt National Guard Training Camp encroaches to the East and then to the South and West are single-family residences. They are not proposing any improvements to the site. He addressed the existing Bulk Variances on both lots. He said if in the future if any changes or modifications were to be made to these houses they would be back before this Board. They are using the land they have to make the total lot area more conforming. John Burke said so what we're looking at is eliminating the lot in the back and actually adding that property to the two other lots. So now these lots are going to stay the same width, but they are now basically going to get a lot longer. John asked them if they had a copy of the T & M Letter and they said yes they do. Al then addressed his report. He said as far as the encroachments go, there are a number of encroachments, they do have a wood walkway and part of their deck in the 3-foot wide access and also there is a wood border that meanders over the property line. Is there any opportunity to easily clean these up? Mr. Kniesler said no if you look at the site given the improvements on the lot next door, the wall and the fence are kind of like where they have to be. Mr. Aikins referencing Valerie Bill's letter dated July 5, 2011 recommends a number of licenses, easements and he would stipulate to you and the Board members that should the Board see fit to grant approval on a conditional basis it would be subject to the applicant submitting the proof of those easements and/or licenses to reconcile those points. He believes that they can all be satisfied one after the other with the appropriate documentation; it's just a question of going through and doing each one, exhibit a, exhibit B, and so forth. We would be prepared to stipulate to that as a condition. John Burke said the one that's listed as the Borough of Sea Girt might be a problem because that's also the National Guard Army Camp. Mr. Aikins said we would seek a license agreement with them so that if at some point in the future they deemed that to be required to be removed it would be removed, but by the same token and to the extent that it does not cause a problem we would propose to address it with a license so that status quo could be maintained, after all its existed that way for a number of years. John Burke asked about the one encroachment on the Borough of Manasquan property, you are going to have to bring that up with the Town Council. Mr. Aikins said yes sir, the same thing we would seek license agreement from the Governing Body here in the Borough so that if the Governing Body deems it appropriate at their discretion if there is a problem in the future they direct us to remove it, but if it's not a problem today, we don't believe it's a problem from the applicant's standpoint, hopefully the Borough from the Borough's standpoint, the Governing Body doesn't believe it's an issue, we seek to continue the status quo and yet preserve the Borough's rights by a license agreement which I'm sure Mr. Cramer will advise you and the Borough Attorney would more adequately protect the Borough in that situation. It wouldn't be an easement; it would be a license, far less in desirability from the applicant's standpoint, far greater in desirability from the Municipalities standpoint. Al Yodakis asked if the subdivision would be filed by Deed. Mr. Aikins said we could file it either way by Deed or by Plat. Mr. Yodakis said it doesn't make a difference. Mr. Aikins said he tends to think that with minor subdivisions it's easier to file them by Deed, so that's fine. Al said we will need to

review them. Mr. Aikins said we will stipulate as to the requirements for the new lot descriptions. John Burke said he would like on the record that this is not a subdivision by right, because these are not conforming lots. Mr. Aikins said they concur, they are not conforming lots, the silver lining is to a degree that they become less non-conforming. Joan Harriman asked what is the purpose of doing this, because if there is no change going to be of the houses and no change on the property, what is the purpose. Mr. Aikins said the purpose is to make the existing lots with the houses on them a bit more desirable and a bit more private and to eliminate the building lot from the front. Owen McCarthy asked what Mr. Aikins means by more private. Mr. Aikins said in other words they would not have a house in front of them, theoretically there is a possibility of building a house on the lot that is being subdivided, that would be taken away therefore those privacy rights to my way of thinking become enhanced. George said its land locked, how would they ever get back there to do that? Mr. Kniesler said from his recollection when we created the R-4 Zone, there were several properties along the Beachfront that were split as this property was, and if you had the Beachfront access you were allowed to build a house in that area. The Mallick's have opted to not explore that possibility but yet make these two lots with beach access. At the same time giving lot 1.01 access to the beachfront also. That's the easement along the Sea Girt line. Joan Harriman said you are really increasing the density. Mr. Kniesler said Mrs. Harriman we are talking about 25-feet wide here and as I mentioned before, anything they do they have to come back before this Board, because the lots are non-conforming, even after this action. What we are doing is we are taking away any future chance of having three houses in this area; it's just going to be for two houses that are here. John Muly said he would just add that the Technical Review Committee took a look at this and we felt that it made sense to eliminate one non-conforming lot and bring two others closer to being conforming than what we have at the present time. John Muly made a motion to open the meeting to the public, motion was seconded by Mayor Dempsey all in favor none opposed.

There was no audience participation.

John Muly made a motion to close the public portion of the meeting which was seconded by Patrick Callahan, all in favor none opposed.

Motion to approve the application with the stipulations that were outlined by Al Yodakis was made by Leonard Sullivan, motion seconded by John Muly.

<u>Board Members Voting Yes</u>:

Mayor George Dempsey, John Muly, Patrick Callahan, Joan Harriman, Councilman Owen McCarthy, James Coakley, John Burke, Leonard Sullivan, and Jay Price

<u>No negative Votes</u>

APPLICATION APPROVED

Mr. Aikins said he will get the easements licenses and then perfected by Subdivision Deed.

<u>APPLICATION #07-2011</u> – Constantino, Michael – Manasquan Plaza, Inc. – 95, 97, 99 Atlantic Avenue – Block: 31 – Lot: 2.01 – Zone: B-1 – Joseph Lane is the attorney representing the applicant's. Geoff Cramer swore in witnesses, Ray Carpenter, and John Rea, Michael Constantino was already sworn in at the last meeting. John Burke said the Board would hear from the professionals first. Ray Carpenter is a Professional Engineer and he was the first to speak. The Board accepted his credentials. Mr. Carpenter prepared a Site Plan for the property in question. He said he had a two page Site Plan that

was submitted with the application showing the location of the property which is in the B-1 Zone on the corner of North Main Street and Atlantic Avenue. He took the Board through the Site Plan which is based on a current Survey of the property, showing the parking configuration, this building and the relationship with property lines, they are proposing a picnic table on the southeastern corner of the site. In the Zoning Schedule they have listed all the requirements of the Zone, obviously there are some pre-existing conditions, existing lot coverage, parking spaces where they only have 19 and 22.8 are required. From an engineering standpoint, nothing is really changing on the site, the lighting, the landscaping, the drainage, the access to the site, pretty much what you see out there now is what is going to be, but there is going to be an additional sign on the fourth unit which is going to be identical to the sign on the other three units and there will be a door to the fourth unit which will be identical to the doors on the other three units. Reviewing Mr. Yodakis' letter from an engineering standpoint, traffic and parking requirements he will leave up to Mr. Rea to discuss. This is a limited site plan since there are really no site improvements proposed other than the picnic table on top of an existing parking slab that exists on the site. Mr. Lane asked Mr. Carpenter if the applicants told him why they wanted an outdoor picnic table. Mr. Carpenter said he believes it's a nice thing to have for people to sit outside and socialize. Mr. Lane asked what would be the impact to the surrounding neighborhood of having that limited outdoor seating. Mr. Carpenter said minute you are going to have maybe only probably six people sitting at the table having ice cream. You are not going to have twenty five people sitting out there having dinner. There will be a negative impact to the neighborhood. Mr. Lane asked him to comment to the Board on the positive impact. Mr. Carpenter said what you have here is something of a neighborhood facility, it services the neighborhood well, he doesn't think it's over intense; the parking is more than adequate. He has never seen the parking lot full and he has been there on numerous occasions. He has seen a lot of kids waiting in line for ice cream but they all came either walking or on bikes. He thinks it's a nice thing to have for the neighborhood. He doesn't see any negative impact to this site. There is no expansion of a pre-existing condition. There are no changes to the existing configuration or site. Owen asked Mr. Carpenter regarding the picnic table, what's there now? Mr. Carpenter said a bike rack, but that's going to be moved over to a little grass area next to the picnic table. There will still be a bike rack and a picnic table. The bike rack is not affixed to the ground. John Burke asked if they subdivide this will there be changes to the mechanicals, air conditioning and heating and so on and where are those units going to be. Mr. Carpenter said he would leave that up to the applicant to explain that, to his knowledge he doesn't think there are going to be any changes. Owen asked if there was going to be any lighting where this picnic table is being proposed. Mr. Carpenter said no, there is soffit lighting along the overhang along the entire building and you have an elevated light and all the light shows right on the building, it's designed that there won't be any light spillage onto Atlantic Avenue or beyond the property lines, it's all designed to light up the front of the building the parking area. There is actually no light that shines away from the building. Michael Constantino in answering the question regarding mechanicals stated there are four air conditioning units on the building right now, its air condition/heat, so basically there are four of them so the deli has two units so one of them is going to be used for that store. There are no additional units, they are brand new units actually and they are on the roof and they are not moving. Next an attorney Robert Guttmann stood to speak.

Mr. Guttman said he is an attorney and has entered his appearance previously when he was here, he represents Alan Meyer receiver for Clark Brothers, Inc. which is the adjoining property owner to this particular site. He said he has a couple of questions. He asked what types of businesses presently exist there. Mr. Lane said the corner double unit is the family market, it's a deli, not really a deli but more like a corner market. Then the Dairy Queen which is the next unit, then the cleaners. Mr. Guttman asked if that is the way it's been since the start of this site. Mr. Guttman said to his knowledge, yes. Mr. Guttman asked how he would classify the Dairy Queen, would you classify that as counter service? Mr. Lane said yes. Mr. Guttman asked if Mr. Lane was aware of the original Resolution from 1993 the preliminary site plan approval that was granted by this Board back in February 1993. Mr. Lane said he has read it, yes. Mr. Guttman asked if he could have Resolution #08-1993 marked, John Burke said it's already in the packet. Mr. Guttmann said he will save the traffic portion for the traffic expert but he directed Mr. Lane's attention to paragraph #11, he read it into the record. "The applicants propose three stores in total on the site. The lead store will be utilized and operated as convenience store. The other two stores would be leased to tenants in low traffic type businesses (examples provided by applicants were a real estate office and accountant's office). In fact from day one it wasn't a real estate office and an accounting office put into this strip mall is that correct? Mr. Lane said not to his knowledge. Mr. Guttmann asked if he was familiar based on this Resolution then turned to #6 page 7, no portion of the premises shall be utilized as or for a medical office, café or restaurant, there shall be no counter or table service provided in the convenience store proposed for the subject site. How would you classify the Dairy Queen, would you classify that as a counter service, café or restaurant? Mr. Lane said he thinks you just stated that convenience store would not have counter service. It did not state that there wouldn't be counter service in the other stores. Mr. Guttmann read the first sentence again, "no portion of the premises shall be utilized as or for a medical office, café or restaurant". Would you classify the Dairy Queen as a café or restaurant? Mr. Lane said no. Mr. Guttmann asked if Mr. Lane was familiar with Resolution #22-2003, an application by Const Brothers, Inc. seeking the same approval they were seeking today. He said that should also be in the packet. Mr. Guttmann said he was sorry that is not the one that we're seeking. This is an application seeking benches for the Dairy Queen Rental unit which was ultimately granted. He directed Mr. Lane's attention to paragraph #7, page 3. It says Mr. Constantinou testified that theirs is a fast food restaurant. Would you like to change your testimony as to whether the Dairy Queen is a restaurant in fact or a café? Based on Mr. Constantinou's testimony that it was. Mr. Lane said we are walking a fine line here, any facility that provides food could be considered a restaurant. My definition of a restaurant is a facility where food is served and it's eaten within the premises. Mr. Guttmann said but don't you agree sir that based on this Resolution, the first Resolution which this Board granted there was a concern for traffic with regard to this particular shopping center and the only thing that was proposed at the time was a convenience store as well as a medical office and accounting office and they noted it should be leased to low traffic type businesses. There is a statement in here that the Board did not want to see restaurants, cafes or what they would classify as high traffic type business, when in fact there is a high traffic type business such as the Dairy Queen, isn't that correct? Mr. Lane said he thinks the Traffic Engineer will testify as to the amount of traffic and why that should not be considered high traffic. Mr. Guttmann

said I will direct your attention to paragraph #5 of the 1993 Resolution. This is a condition put on by the Board in granting the approval, the service center proposed shall not be utilized for the location of more than three stores. What you are proposing here today is actually in contravention of that particular Resolution isn't that correct? Mr. Lane said that's what we're here to get approval for, that's why we are here, we are here to get permission from the Board. Mr. Guttmann said so basically what you are asking for here today is something in which the Board said specifically they did not want to give you as a basis for the approval back in 1993, but you are now back here a second time, if I understand from the Resolution I think it is Resolution #26-2000 by KBRG, Inc. the same situation was requested and was denied by the Board is that correct? Mr. Lane said he is not familiar with that one. Mr. Burke said we don't have that one, Mr. Guttmann said he apologizes that is not the one. Mr. Lane said he objects to this line of questioning, he doesn't see how it relates to the testimony that Mr. Carpenter testified to. If he has objections, he can bring them up at the public portion of the meeting. His questioning can go on forever; it should be limited to the questioning given by Mr. Carpenter. Mr. Cramer said he thinks the Board should take notice of these prior Resolutions, he thinks the gentleman is merely attempting to highlight/underscore those conditions in prior Resolutions of the Board that may be appropriate for the consideration of the application this evening. Mr. Guttmann said thank you Council, he thinks the Engineer has testified that there will not be negative impact with regards to this application and he is only seeking to show that there will be a negative impact, something that the Board has already determined which would be race judicator which is that the Board already denied this application on two prior instances, the first one was a statement that a condition of the approval was not more than three units would be permitted and the basis for that there was a Variance that was sort for parking as well as for the width of the parking spaces. There was a public outcry with regard to the number of units due to the increase in potential traffic with regard to the center and the Board was very cognizant of that fact and specifically stated only three units would be permitted. The applicant then in subsequent years came back to the Board and again sought a fourth unit, the Board again denied it and said no we will not permit you this particular relief, the applicant is coming back now, it was denied a second time, now they are here seeking to do this again, there hasn't been a change circumstance and there is no reasons for the Board to permit such a thing to happen. The Board put specific requirements on the types of units that should be constructed here. The applicant misrepresented the types of units that would be constructed with the exact opposite; they put a Dairy Queen, a Dry Cleaner, and both very high traffic type businesses. So what the applicant is seeking here now is to even further exacerbate a difficult and problematic traffic situation with regard to this. He had no further questions. Mr. Lane said he thinks Mr. Guttmann has misconstrued the Board's Resolution of 2003, what it said was if there was going to be a request for a further subdivision we would need a full site plan and a Traffic Engineer's report which is why we are back here today. That's why we have Mr. Carpenter and we have Mr. Rea testify. The Board did not ever say there couldn't be a fourth unit, they said if we were going to subdivide we would need a site plan and traffic report. Mr. Guttmann said he does have one more question, you testified about the no negative impact this would have, are you familiar with the situation of environmental contamination with regards to this property? Mr. Lane said the proposed use of the building has no impact on that. Mr. Guttmann said

are you aware of the environmental contamination involving this particular piece of property? Mr. Lane said the alleged contamination, yes. Mr. Guttmann asked if he was aware of the NJ DEP investigation and a holding of responsible party with regard to the applicant in this particular matter. Mr. Lane said he is not aware of that, that's something that, present the documents, I don't know. Mr. Guttmann said if there was contamination, do you know what PCE is used for? PCE is a chlorinated solvent commonly used in dry cleaning operations. And there is a Dry Cleaner on this particular site. If there was found to be a substantial contamination of PCE on this property would that in any way change your opinion with regard to the negative criteria with regard to this application? Mr. Carpenter said no because what we are proposing is not an expansion of the Dry Cleaners. Mr. Lane then called John Rea, he is a principal with McDonough and Rea Associates, Traffic and Traffic Transportation Engineers, they are located at 1431 Lakewood Road, Manasquan, it's a Manasquan mailing address, it's actually in Wall Township. He is a licensed professional engineer, his field is Traffic Engineering, he has an Undergraduate Degree in Civil Engineering, a Masters Degree in Transportation Engineering, he has held a professional license for the last 32 years and he has testified as an expert witness in front of numerous Planning and Zoning Boards including this Board when the original application for this site was approved back in 1993. The Board accepted Mr. Rea's credentials. Mr. Lane asked Mr. Rea if he had an opportunity to do a traffic analysis of the site in question as it relates to the proposed use. Mr. Rea said yes, actually what we have done is we've gone out and done some traffic and parking counts, they were done in July of this year of 2011 in order to support the application and in terms of I know there has been some discussion of what's a high traffic generator, what's a high parking generator, what we have found is that and remember we did the original traffic study back in 1992 for the center, what we have found is that the actual traffic that's being generated by the three tenants on the property is approximately half of what we originally anticipated when we did our traffic study back in 1992. Let me explain a little bit what would make that happen. The Institute of Transportation Engineers publishes trip generation data for different Land uses which Traffic Engineers use in order to project traffic volumes when they do a traffic study for a development application. Back in '92 the data that was available to us for a building of this size which is 6800-square feet was what we used in order to project traffic movements onto and off the property. One of the things that the IT Data does not distinguish is if you have a 6800-square foot building it doesn't distinguish between whether you have two, three or four tenants within the building, it looks at the total square footing of the building in terms of how you project traffic volumes. Just to give you some numbers, back in '92 when we did the original traffic study we projected during the PM peak street hour that's the one highest hour of traffic flow during Monday through Friday in the afternoon, basically consistent with commuter traffic in the area, we projected 80 movements would enter the property and 80 movements would exit the property. When we did those counts in July of this year we actually found that the volumes were substantially lower, the highest hour in the afternoon during the weekday was between 6 and 7PM and there were 26 entry movements and 30 exit movements for a total of 56 driveway movements, less than half of what was originally projected. When we did our original projections for the Saturday peak hour, which typically occurs during the middle of the day on Saturday for a retail facility such as this we originally projected let me take a step back the PM peak hour the original projection was 60 inbound and 60

outbound movements, I just gave you the Saturday numbers, I got them mixed up. We are generating approximately half of that. For the Saturday peak hour the original estimate was 80 inbound movements and 80 outbound movements and the actual traffic counts for Saturday showed a peak hour of 39 inbound movements and 38 outbound movements, again approximately half of what was originally anticipated. We've also done some parking counts at the facility during the same days that we did the traffic counts, I've also made some personal observations myself, my office has been located in this area for the last 22 years, I go through the intersection and pass the site frequently on a regular basis, I've done some other observations and we have found that for the most part there are usually between 9 and 11 vehicles parked in the parking lot during peak hours. As you know the parking lot currently accommodates 19 vehicles. We did notice that the Dry Cleaners van was parked in the parking lot and I guess technically my understanding is based on the old Resolution the employees for these businesses are supposed to park in the Municipal Lot across Main Street. I think the cleaners van is there simply because I guess they make deliveries, they pick up and drop off the dry cleaning and they find it a little more convenient to use the lot itself and given the fact that the lot is not anywhere near capacity it seems to be working out ok. In short and in general in terms of the traffic and the parking that was anticipated originally for the stores that were in this building we are generating approximately half the amount of traffic that we originally thought we were going to generate and nowhere near the parking demand that we thought we were going to generate. Those are just the facts, it may have a lot to do with just the location of the site, Atlantic Avenue is a County Road but it's not a really heavily traveled County Road. Main Street has a moderate amount of volume as well, but the fact of the matter is the site is generating traffic well within what we originally anticipated and it's doing so safely and efficiently and the parking lot is well within its capacity during just about any time you go over there and take a look at it. The other thing to just briefly mention he knows everybody is aware of this the County recently upgraded the intersection of Atlantic Avenue and North Main Street, it seems to be operating a little bit more efficiently since the County installed the new traffic signal equipment. They have installed video detection cameras that detect vehicles to adjust traffic signal timing. They have also added a right turn lane on Eastbound Atlantic Avenue and everything seems to be operating a little bit more efficiently than it has in the past and generally speaking there are no operational problems at the intersection. Quite frankly I appreciate the opportunity to get some work to do but in most cases where there is not an expansion of a building it would be unusual for a Traffic Engineer to be called into a situation like this but I'm here tonight and that's my testimony. Mr. Lane asked if subdividing the Corner Market and making it two would that increase any parking or traffic demand at the site. Mr. Rea said realistically he does expect that if a new tenant comes in it's my understanding that the Corner Market which originally took 3400 square-feet essentially took two units, they only need one unit now so if you are going to bring another tenant onto the site his expectation certainly is that there will be an increase in traffic, often to the property and an increase in parking but given the fact that we are already generating half of what we originally anticipated in terms of peak hour traffic volumes he really doesn't see this being an issue. Mr. Lane asked Mr. Rea if he had an opportunity to review Mr. Yodakis' letter. Mr. Rea said he thinks most of what was in the review letter just basically asked for the testimony on the report that he provided tonight. My understanding is that the applicant will continue to agree to have the

employees of the different tenants' park across the Street in the Municipal Parking Lot and he thinks Mr. Yodakis has made a recommendation that any potential fourth tenant would be restricted to the hours of the existing tenants, 6AM until 11PM. He doesn't really have any issues with the review letter. Mr. Lane asked Mr. Rea if he happened to see Sgt. Michael Stoia's letter to Mary Salerno. Mr. Rea said he did not. Mr. Rea read the letter and said it basically concludes that the current design of the site meets the needs of the Borough. I would agree with that. Mr. Lane had no further questions. John Burke asked Mr. Rea if due to the proximity of the High School and the Elementary School do you think that your totals would be different during a month when school is in session rather than in July when no students are going to the school. Mr. Rea said perhaps, we are a summer community and there is a little bit of an uptake in traffic volume in July due to tourists being in Town and stopping at the Dairy Queen and perhaps at the Corner Market on the way to the beach, things of that nature but even if the High School were open and I understand some of the High School students may park in the Municipal Lot, chances are if they were coming to this site to buy ice cream or something from the Corner Market they wouldn't be moving vehicles around so they would probably be walking to the site if the car was already parked in the area somewhere so I don't think there would be a significant difference, quite frankly it might be a little bit higher or a little bit lower. Since the students are already there and I'm sure some of the seniors probably drive in terms of the activity on the site I don't see where that would be a significant impact on the traffic flow off and to the site. John Burke said in the 1992 traffic report, what month was that done in. Mr. Rea said those counts were done in August. John Burke said so both reports have been done in the summer, not during the school year. Mr. Rea said that is correct. Mayor Dempsey asked if he is reading the survey they submitted correctly which states they had nine illegal entries off Main Street and two thirds of them were on your Saturday survey. Could this possibly be increased when we get another store and more traffic? Mr. Rea said he guesses it's possible that could happen. It might call for a little bit more enforcement of the exit turn onto North Main Street is supposed to be a right turn only curb cut, but our traffic counters are instructed to record all movements made and as you can see we are averaging approximately one and in some cases two illegal left turns into that driveway, simply because people can do it. George said you had three in one hour, two in another hour and one in another hour. Mr. Rea said most hours it's one but yes there were two and three. It's not something that the applicant can control it needs to be enforced by the Police Department, the reason why it's happening in my opinion is because the traffic flow onto and off the site is substantially lower than we originally anticipated and people are taking the chance and they are doing it because they perceive that movement to be safe. I'm not justifying it I'm just saying why I think people are doing it. Councilman McCarthy said for the Saturday example, how did you select those hours is Dairy Queen open in the morning? Mr. Rea said yes, and basically what we do on Saturdays is we take a look at the middle of the day is when the traffic volume tends to peak at a retail facility such as this which is a small neighborhood type market plus the Dairy Queen, typically during the middle of the day on Saturday sometime between 11 in the morning and 2PM or 10 to 1PM right around lunchtime on Saturday is when the traffic flow at a small neighborhood retail facility like this would be at a maximum going onto and off the property. Owen said you estimated in the prior study that 80 vehicles went in and out. Mr. Rea said and it's a little less than 40 coming in and out. Owen said with 19 spots that

would be the lot turning over a little more than four times during an hour. Mr. Rea said yeah well each parking space turned over every 15 minutes that would be about right, yeah so, we originally anticipated the parking would be adequate under the assumption the employees parked over in the Municipal Lot and I think that was part of the rationale back in 1993 when the Board granted the Variance from he thinks 23 parking spaces were required to allow us to have 19. John Burke said Mr. Rea different types of businesses generate traffic at different hours, for instance the cleaners probably generates more traffic early morning with people dropping off and then around 5 or 6 o'clock with people picking up. Mr. Rea said that's correct. John said so you could possibly have higher traffic volume in the morning and in the evening with the cleaners. Mr. Rea said well we did do the evening count we did the 5 to 6PM count so we caught the afternoon peak hour for the cleaners, we got that. In the morning the Dairy Queen is not open; you pick and choose your peak hours based on what you really think are the peak hours. In the afternoon we have all three stores open. Mr. Rea said I have to tell you I was very surprised when Mr. Constantino called me and said I need you to come back and do another traffic study, I have been through that intersection on a regular basis for 22 years, I have never seen a parking problem at any hour of the day in that parking lot, I have never seen a traffic issue at the intersection of Atlantic and North Main. Owen McCarthy said there have been some delays going through that intersection. John Burke said he has experienced it too. Owen said he thinks that's something we may need to look at. Mr. Rea said it's a temporary backup, he understands but this is a temporary situation that's tied into cycling of the traffic light and once the light turns green for a particular approach and the traffic clears out. We are not talking about the traffic circle out at Route 35 for sure, that's a problem. Al asked if the use of the fourth store has been put on the record. Mr. Rea said he asked Mr. Constantino and right now apparently he doesn't have a tenant for the fourth space. Al said not knowing that if a higher intensive use was to go in there would the parking be adequate in the parking lot? Mr. Rea said based on the uses that are there already the quote unquote theoretical high intensity uses that we didn't want, a Dairy Queen, Corner Market which is essentially a convenience store, they are there already and they are generating half the traffic that we originally anticipated. He doesn't think and Mr. Constantino can correct me if I'm wrong, certainly I don't expect another convenience store to go in there and compete with the Corner Market. He probably has something in his lease that prevents that. The possibility of a real high traffic generator going into that last 1700-square foot space and exceeding what my original count projections were for the site is, I just can't see it happening. Al said the Board had originally considered a real estate office, a medical office, how do those parking counts compare with these two? Mr. Rea said a real estate office would clearly be one of the lowest traffic and parking generators, a medical office would be a little bit higher. John Muly said the Resolution said no medical office. It said accounting and real estate office. Al Yodakis said but your original counts were based on the thinking that these would be low intensive uses and office space. Mr. Rea said his original counts were based on what the Institute of Transportation Engineers told me for a 6800 square foot neighborhood commercial center what the traffic counts would be, I would say unfortunately although some people in the audience may not agree with me we haven't attained those counts, they are basically half of what we originally projected. Joan Harriman said in Brielle there is a problem because of a hairdresser that went in, it blocks up the entire Street. It's on the corner of Harris Avenue and Highway 71.

They have a small bakery there and next to it they put in a hairdresser, there are four or five parking places on the side and they park all the way down Harris Avenue, there is never any parking on the Street for the residents and they are quite irritated about it. To me a hairdresser is a high intensity place; because you have all the people going in waiting and I would like to if there was a way to exclude that type of business. Mr. Lane said there is a barber shop right across the Street so he doesn't know if his clients would want to put that in. Joan then asked Mr. Carpenter about the table and chairs outside and that he said there would be no problem putting them there, she changed that to the picnic bench outside. Her concern is voices at night, you are telling me that these places are open until 11 o'clock at night; this place is surrounded by all residential homes. Yet, the ice cream place is open till 11 o'clock at night, and you could have a gang of children sitting outside yelling or whatever and there is room inside of this establishment to put a table and a couple of chairs, is there any reason you can't put the table and chairs inside? Mr. Constantino said the whole purpose of the bench outside is more not for people to hang out it's more for, we see the kids on the bike path all the time, they throw their bikes and they sit on the curb, that's why we put a bench in front of our store so the kids don't sit on the curb. The same purpose there when they put their bikes on the bike path, something to sit down there so they don't just sit anyplace, that's the purpose of the bench. Mr. Lane said we are saying it's more of a security reason, families are coming into the strip mall, they have their bikes, they put them in the bike rack, now they are going into the deli or the Dairy Queen, it's the summertime people want to enjoy either a sandwich or an ice cream, they want to sit outside, they don't want to sit on the curb. Really there is no place except for the small bench. If a family did want to sit, two people could probably sit on the bench and the two kids would sit on the curb. Joan said that's what I'm asking inside would control the echoing of the voices, if there is a table and chairs inside, the doors are closed and it's not disturbing the neighborhood, that's just my feeling. Mr. Lane said we are only asking for one small picnic table, it's the summertime people like to sit outside and enjoy an ice cream or a quick sandwich, that's all we're asking. It's a small picnic bench, I've been there almost 16 years now and I've seen it firsthand exactly what happens. Mr. Constantino said that's more for the deli though, we're two stores down the bench we are proposing next to the bike rack next is at the far end where the convenience store is, there is no place for them to sit. Mr. Lane said we are just asking for a small little picnic table where a family would be able to come in and be able to sit down. John Burke asked Al Yodakis if we have some restrictions on inside seating on these two properties. Al said he believes there was something in one of the Resolutions. Al said the original Resolution stated there would be no counter or table service permitted in the convenience store. That is in Resolution #08-1993. John Burke said so you originally requested table service and we said no and now you are requesting to install four tables and sixteen chairs. Mr. Lane said not service at the table, they would have to go, pays for their stuff and then sits down. Mr. Callahan quoted from Resolution 1993 paragraph 6, "there shall be no counter or table service provided in the convenience store proposed for the subject site". Owen asked if you are talking about the corner market or the proposed new store. Mr. Lane answered the corner market. Owen asked then why would you need an outside picnic table? Mr. Lane said in the summer as my clients explained it to me kids ride there on their bikes and they sit on the curb with their feet in the parking lot. People come pulling in and they don't see them, they want to provide a spot for the kids to sit so they don't get run over by somebody

coming in not seeing or expecting a kid to be sitting on the curb, so at most six kids could sit on a picnic table. Owen said and he understands that's a legitimate concern but he thinks what Joan was hinting at we have to be nervous about the kids congregating if they are out there until 10:30 or 11 o'clock at night there are neighbors right across the Street and they would be hearing that and kids sometimes being kids it's not intentional but it can cause a nuisance for adjoining property owners. George Dempsey asked Al about #7 on his report, when we talk about the proposed tables and chairs be approved, the required number of parking spaces will be increased. One space is required for every two seats; eight additional parking spaces would be required for the 16 proposed seats. Where are they going to get them from? Al said what Mr. Rea testified to is that they don't need them. John Burke said then the question of the attorneys is that is this another Variance request? Because if putting those tables and chairs in there requires more parking places than you are creating a Variance request to ask us to allow you to have the site without the required 8 additional parking places. George said he doesn't think they meet the required parking places as it is. Al said that's why the Variance was granted for the original application. John Burke said so we currently have a Variance on parking, Al can you tell me what the actual requirement was and I know they have 19 spots. What was the actual requirement that they got the Variance on? Al said 23. John said so then if you add the tables and chairs you really should have 31 parking places, so now they are looking for a Variance for 19 parking places instead of 31. Al said it's a bit of an unusual situation in that the Use is changing and the parking spaces are staying the same. John Burke said the requirements are going up. Could those requirements change depending on what they are going to put in that new store which we don't know? Al said he would expect not unless they had tables because everything else would be based upon the square footage. Mr. Lane said the long and short of it is when you have tables and chairs, there is a greater likely hood that people will linger on the site and stay about 45 minutes, 20 minutes perhaps. He has heard Mr. Constantino's testimony and he seems to indicate that there are a lot of kids that are on the bike path that are basically sitting on the curb right now to have a snack or something from the convenience store and he wants to make things a little bit more convenient and a little bit more safe. I really think this is something that's up to the Board, I can tell you I don't think 8 additional parking spaces will be required for that number of seats and tables, but I do think a couple of additional parking spaces will be required but I don't think it will be 8. John Burke said but even though a couple is required, you can't produce any more parking places. Mr. Lane said not on the site as it stands, no 19 is about the maximum. Mr. Guttmann asked Mr. Rea if it was his testimony that this particular application will cause an increase in traffic as well as an increase in customers to the site, is that correct? Mr. Rea said no that wasn't his testimony at all. Mr. Rea said somebody asked him the question, it might have been Mr. Yodakis, do I expect that the fourth tenant will generate an increase in traffic and parking and my answer was yes. Mr. Guttmann said ok so it will cause an increase in traffic. Mr. Guttmann said so would you classify this particular application as a further intensification of the use of this site by adding a fourth tenant? Mr. Rea said no, because the original traffic report I did didn't take a look at specifically whether there was going to be three or four tenants, I looked at the overall square footage and I made some traffic projections which as I've indicated we are actually generating half of what I originally projected and it's inconceivable to me that the one space that's left to be rented out is going to bump the traffic generation up to a number

that was greater than what I originally projected. Mr. Guttmann is confused if you say that this fourth tenant will add an increase in traffic, how will this not be a further intensification of the use of the site? Mr. Rea said not from my perspective because I've already estimated that this site is going to generate a certain level of traffic, it will represent an intensification over what currently exists, but it will still be well within what I originally projected and what I told this Board would operate safely and efficiently. Mr. Guttmann said but not withstanding what you testified to the Board back in 1993 the Board still decided that they were not going to permit more than three units, are you saying the Board got it wrong in saying there should not be more than three units? Mr. Rea said not at all I'm saying we need to readjust our way of thinking based on real life operating conditions here in 2011. Mr. Guttmann said your 1993 traffic report stated that that particular site could have handled without a significant impact a fourth unit there at that time is that correct? Mr. Rea said I'm saying it could have easily handled those traffic projections which were 60 in bound and 60 out bound movements during the pm peak hour, 80 in bound and 80 outbound movements during the Saturday peak hour, and currently we are generating less than half of those traffic volumes. Mr. Guttmann said notwithstanding your recommendation and your opinion to the Board, the Board still decided maybe to err on the side of caution and deny and basically state only three units were going to be permitted at that particular time. Mr. Rea said they didn't deny it they limited the number of tenants to three and I understood when those deliberations were going on they were concerned, but I think now we have some data. We know what the site is generating, and in my opinion a fourth unit will not be an issue from the traffic input. Mr. Guttmann said when you originally came before the Board back in 1993, there were two Variances that were requested, correct. Mr. Rea said he knows one was the number of parking stalls he doesn't know what the other one was. Mr. Guttmann said why don't I read it to you, paragraph #5 of the #8-1993 Resolution page 2, "two Variances are required in conjunction with the subject development application, and they consist of a Variance from the parking stall minimum size requirements of 10-feet by 20-feet. The applicant proposes to construct parking stalls having a 9-foot by 19-foot dimension." Basically, there was going to be a foot less wide and a foot less long, is that correct? Mr. Rea said correct. Mr. Guttmann asked what impact does the size of the parking stall have to do with anything. Mr. Rea said none whatsoever, 9 X 19 parking stalls are actually a little bit larger than the standard 9 X 18 parking stall that everybody considers to be today's standard. Mr. Guttmann said so you are basically saying the minimum size requirement of 10 X 20 is just an arbitrary number that the Township had decided to adopt for this Ordinance, it isn't based on any particular standard at the time. Mr. Rea said I didn't say that, you just said it though. Mr. Guttmann said I'm asking you. Mr. Rea said a 10 X 20 parking stall is still the required parking stall required size in some Towns, other Towns have adopted a 9 X 18 it varies from Town to Town. My testimony is the State of New Jersey accepts a 9 X 18 parking stall in a Residential Site Improvement Standard. I have no issue with a 9 X 18 parking stall in a center like this. I have to tell you if we were coming in for an application for a Home Depot or a Lowes, something where people were bringing large packages out to their cars and needed a little bit of extra room, I would prefer a 10-foot wide parking stall. Not in a small center like this. Mr. Rea said a 9 X 19 parking stall is absolutely adequate. Mr. Guttmann said additional a total of 23 parking spaces is required by the terms of the Zoning Ordinance of the Borough of Manasquan and although it was testified they are 19

only 18 spaces are proposed on this site with regards to this application and that comes from the Resolution. Does that refresh your recollection? Mr. Rea said yes it does. Mr. Guttmann asked if that changed Mr. Rea's testimony as to whether there exist 18 verses 19 spaces right now. Mr. Rea said it further enhances and strengthens all the testimony I gave back in 1992 that I thought the parking would be adequate and it turns out it has been adequate. The Variance was always justified which was what I told the Board twenty years ago. Mr. Guttmann said so again the Ordinance is not necessary. Mr. Rea said you are putting words in my mouth, I never said that. You may feel that way, I don't. Mr. Guttmann said but I'm asking you the Ordinance required 23 parking places and 23 was not provided, correct. Mr. Rea said that is correct and over twenty years the site has operated without issues with 19 parking spaces. Mr. Guttmann said let's get to that, paragraph #9 which is on page 3 says and this is a finding by the Board "the subject intersection of North Main Street and Atlantic Avenue has had the highest single location accident rate in the Borough for several years, do you know that to be a fact sir? Mr. Rea said no I don't. Mr. Guttmann said so you are saying the Board got that one wrong as well? Mr. Rea said not at all, I didn't look into that because in my estimation our access design was safe and efficient and again it's turned out to be that way. Mr. Guttmann said so let's get to that, did you in providing the report research the accident rates with regards to this intersection? Mr. Rea said I can't recall what I did 20 years ago. Mr. Guttmann said presently with regards to your report. Mr. Rea said no. Mr. Guttmann said well that's really, I'm having difficulty understanding that, if the Board raised in 1993 a key issue as to traffic was the accident rate of this particular location, and they made a finding of fact with regard to that, why wouldn't you research that with regard to your report to rebut that presumption that the Board made a key basis of its determination on. Mr. Rea said because as he has indicated, he is very familiar with the site, I have gone through the site many, many times over the last 22 years, he has personally not seen anything unusual about the intersection in terms of accident experience, he can tell you that the County has just upgraded the intersection within the last year or two, they have enhanced and improved the intersection. The signal operation and as we all know this is an offsite intersection and he is not quite sure why we are talking about an offsite intersection with respect to traffic impacts, but he guesses Mr. Guttmann can ask him whatever he wants. Mr. Guttmann said I guess the Board got that one wrong as well, but let's continue. Despite the installation of a traffic signal at the intersection, there are still a number of accidents that occur at the subject location; again you said you didn't research this so I won't ask you about that. The Board made a determination, a finding of fact with regard to this and you haven't prepared to respond to the Board as to changed circumstances that would merit an application such as this here today, that's the whole idea of what you are here for today. Let's move on. The Board concludes, this is a conclusion that by the imposition of the restriction of the number of stores and type of stores and the elimination of left hand turns from the North Main Street exit and coupled with the improvement of the subject intersection together with a turning lane from Atlantic Avenue onto North Main Street will greatly remedy that problem and contemporaneously eliminate the eyesore that has afflicted this particular main entry point into the Borough for a great many years. Taking the first part of it, the Board concludes that the imposition of the restriction and the number of stores and type of stores. The Board is making a finding of fact and concluding that by restricting the number and type of stores is key to the issue of

affecting traffic accidents and traffic at this particular location, is that correct? Mr. Rea said I don't know what the Board was thinking when they reached those conclusions, I understand you just read it to me. Mr. Guttmann asked Mr. Rea if he knew why the Board would have made such a finding. Mr. Rea said they made the finding, I didn't. My testimony back in 1992 was that this site would operate safely and efficiently as it was designed and I think that has proven to be the case over the last 22 years. So, I don't know why you are trying to contradict my testimony from 20 years ago when everything I've testified 20 years ago turns out to have been truthful and correct. Mr. Guttmann said so I guess as we're re-visiting 1993 the Board got all of this wrong, they got all this wrong about the accidents, they got all this wrong about the number of stores, they should just have listened to you, the traffic was perfectly fine and dandy, they should just have allowed everything to happen, these were all requirements, they should have never been put in place in the beginning. John Burke said excuse me council, basically you're supposed to be asking questions, not giving a summation speech right now so I would appreciate it if you shorten them up a little bit and just ask specific questions of the applicant. Mr. Guttmann said he is just leading the witness with regard to cross-examination, he is just trying to ask his questions in that form, he apologizes and will ask more direct questions. Mr. Guttmann asked Mr. Rea how would he classify the neighborhood on Atlantic Avenue he thinks he testified it as a County Road. Mr. Rea said it's mostly residential in that area as you look closer to downtown there is a little more commotion. Mr. Guttmann said so it's residential in nature. He had no further questions. Mr. Lane had Mr. Michael Constantino as an additional witness who was next to testify. He is a principal in Manasquan Plaza; Inc. they own the property in question. He has owned the property since 1992. He runs the ice cream store with his brother. They have run the Dairy Queen since they opened up in 1993. One of them is always on site. Mr. Lane asked him if he has experienced any parking problems at the site and he answered no. He asked him if he witnessed any accidents and he said he did witness an accident in the parking lot. He said sometimes the trucks would be backing up and hit the top of the light. He is asking the Board to allow him to subdivide one unit into two units. The approximate size of the unit is 3400 square feet they want to subdivide that store to help out the tenant because he is having a difficult time. He wants to cut it in half, just subdivide it. He would put some sort of store that would benefit the entire complex, obviously he is not going to put in a tenant that would take so many parking spaces, that's how he makes his living so he doesn't want a tenant to take up all the parking spaces because that would affect his profit. Maybe a mom and pop type of store he really hasn't decided on it, he doesn't know. He doesn't have a tenant yet. The whole purpose to subdivide the store is to help the tenant who is there. The hours of operation would be whatever the hours of operation that they have now, he thinks they are from 6AM to 11PM. They would comply with the Ordinance of the Town. They would use the same type of sign that they have on the other stores. If kids come with their parents they use the bike rack otherwise they sit on the curb. They have a bench in front of their store which they had approved from the Town its working fine, there's no kids sitting on the curb. Jim Coakley said he is a little confused, if you go into the corner market now to the right there is a counter and a cook there, the left side of those 1700 square feet is a store. So we are taking away the store portion of what the corner store does? Mr. Constantino said yes. Jim said so we are being left with a food establishment rather than

an overall grocery store that happens to serve across the counter. It seems to me that what's happening here is we are changing the use of what's there now into something else. Mr. Constantino said there is a huge walk in box on the left hand side and he said he has no use for that, he's going to put a smaller box in. The groceries, he doesn't need all that space, that's what he told me. So he is still going to be selling groceries and delis but it's just going to be smaller instead of the huge 3400 square feet. Jim Coakley asked if the intent then to become more of a food establishment than a grocery type establishment. Mr. Constantino said no, they will still be selling the same amount of stuff it's just going to be smaller. He doesn't need the 3400 square feet; he just needs 1700 square feet. Patrick Callahan said he's going to be operating in a smaller space than what he currently does. Mr. Guttmann said he would like to cross examine Mr. Constantino, he said he testified back in 2003 in the Resolution #22-2003 paragraph 7 page 3, you testified that your business as Dairy Queen is a fast food restaurant, is that correct? Mr. Constantino said he didn't say that the Board considered it a fast food establishment and I didn't. Mr. Guttmann asked if he agreed with the Board's finding that he was a fast food establishment. Mr. Constantino said if they said I was then I was. Mr. Guttmann said so you're testifying now that you are not going to put any business in this fourth unit that is not going to use parking spaces is that correct. You said it's not going to take away a lot of your parking spaces, is that the testimony you said. Mr. Constantino said well I want a business that's not going to be high volume because it's not to my benefit and not to the other stores benefit. Mr. Guttmann said but you also testified in 1992 that you are intending to put in low traffic type businesses such as a real estate office and an accountant's office, is that correct? Mr. Constantino said I thought I was going to, but we saw that the retail market was better suited. Mr. Guttmann said so you actually put in higher traffic type services such as a fast food restaurant, then a dry cleaner is that correct? Mr. Constantino said not necessarily, Mr. Guttmann said so you are asking the Board to believe you even though you didn't say something then that was going to happen you are saying now for them to believe you that you are going to put in a low traffic business now. Mr. Constantino said I'm not an engineer, I don't know what high traffic is or low traffic is, the way the economy is now I don't know. Mr. Guttmann said so in other words if the economy changes and you have to put a high traffic business in this fourth unit you are going to put a high traffic business in. Mr. Constantino said absolutely not, it's not going to be to anybody's benefit. Mr. Guttmann said but in 1993 it was a different situation. Mr. Constantino said I don't think it was high traffic. Mr. Guttmann said so this fast food restaurant is not a high traffic business. Mr. Constantino said not mine isn't. Mr. Guttmann said a dry cleaner isn't? Mr. Constantino said he doesn't think so. Mr. Guttmann said let me ask you if you are aware of the current law suit being brought by my client against you and your brother and vast other individuals for contamination, environmental contamination on this property, is that correct? Mr. Constantino said yes, you brought a law suit against us. Mr. Guttmann said and the litigation has to do with perk contamination, is that correct? Mr. Constantino answered yes. Mr. Guttmann said and it's alleged that the contamination is from the Atlantic Dry Cleaners which is on the end of this particular strip center, is that correct? Mr. Constantino said possibly, possibly from the gas station which is your client. Mr. Guttmann said ok. Mr. Lane said he objects to this line of questioning, if Mr. Guttmann wishes to make a comment during the public portion, he is more than welcome. Mr. Cramer said he thinks we have another application

beyond this one so let's try to move on. Mr. Guttmann said I'm going to make it quick but he thinks this is very important for the Board to understand this fact finding. Mr. Lane said if he may, the subject matter of the environmental issues of the site it's a matter of a law suit that is presently in the Court System, he is not involved in it, it's been going on for the last three years at least and there are allegations on either side. The Clark Brothers ran a Service Station and there is contamination out there, there may have been contamination from the previous Dry Cleaner establishment, which has yet to be proven by a Court of Law. My whole point is any of that is not the Board's job to determine that and it's not relevant to this application because whatever this Board does is subject to us getting all our other approvals anyway which would include the DEP. So, I think that Mr. Guttmann is trying to make some allegations here that could tarnish my clients and it's not the case. This matter is being handled, he's obviously working for the trustee of the receiver and my clients have answered the law suit, they have been in the middle of this law suit, they have been trying to get testing done, he thinks some of that may have been done, there are all kinds of allegations that are going to back and forth but I don't think any of that belongs before this Board. Mr. McCarthy said he doesn't think anyone is here to tell us who caused the contamination but he thinks we are here speculating about who caused it. Mr. Cramer said we can't make a determination of any sort, that's before a Court. Mr. Guttmann said I am not going to proffer any information with regard to the subject of the law suit. I have information with regard to findings of fact that conclusions made by NJ DEP as to who was at fault for this and who the NJ DEP believes to be at fault too. These are facts that I intend to put into evidence for the Board to consider. Why are these facts important, the reason is you have an applicant who is coming here before the Board seeking relief? The applicant should come before the Board seeking relief with clean hands, they should not come before the Board saying Board help me give me something that I need when I've been not doing what I'm supposed to do. This Board has a duty to protect the public, health, safety and welfare with regard to applications. That's why there is a positive and negative criteria. The Board should consider and I think it's ample and appropriate to consider whether an applicant is coming before you and has not addressed substantial environmental contamination on its property contaminating other properties not addressing the problem and I think it's very important that if somebody comes before you seeking relief the Board should take into consideration what the applicant has done coming to the Board seeking relief, making sure that they have done something not bad to the Community. I think it's very important for the Board to know what the applicant has done, the NJ DEP has found what they have done, have declared them responsible and to date have done nothing to remediate this property since being put on aware of it since 1996. I think that's very important when the Board is considering an application to grant this applicant relief. Geoff Cramer said there is a public health safety issue at hand here that is caused by the applicant, is that correct? Mr. Guttmann said the applicant has been found to be at fault and a responsible party to clean up this site, and it's been found by way of a directive by the NJ DEP, this is not something that is alleged, this is a finding by a government agency. The point of the matter is the applicant is coming before the Board seeking relief and has not done what it's been told it needs to do, that's all that I'm trying to show. Mr. Lane said isn't that a matter for the DEP to deal with, if they are in violation of a standing order by the DEP isn't there another form of enforcement. Mr. Guttmann said there is but at the same time for an applicant who is affecting the health, safety and

welfare of the Community of which you are entrusted to protect, they are not doing what they are supposed to do, it says another thing for them to come before the same Board and say Board give me relief when I'm neglecting my responsibilities to the citizens of Manasquan, that's all I'm looking for. Mr. McCarthy said he would like a copy of that to be given to Mr. Cramer there has been a lot of talk about what it may or may not contain, if allegations are being made he thinks he would like Mr. Cramer to have an opportunity to review it and let us know what is or is not finding. Mr. Cramer asked Mr. Guttmann to make a copy available to Mr. Lane also. Mr. Guttmann said his client was served with that, he asked to put into the record the key points. Mr. Cramer said let's do this, we have another case to start after this and it's 9 o'clock, his suggestion is he will go through their submission and you'll share a copy of this with Mr. Lane, Mr. Lane will be able to respond to this in any fashion that he feels is appropriate to this particular case before this Board. Mr. Guttmann said and he will resolve to not bring anything with regard to the current litigation between my client solely focus on the findings of the NJ DEP. Mr. Burke asked Mr. Cramer if the Board can continue with this case tonight. Mr. Cramer said he thinks they have a time element here, it's 9 o'clock and we have a third case to hear this evening, in all fairness to the applicant we will start that case, I'm going to suggest we will finish up the public's questions and comments then we will continue the hearing until September. Mayor Dempsey made a motion to open the meeting to the public, seconded by Owen McCarthy, all in favor none opposed.

<u>Audience Members Coming Forward</u>:

<u>Charles Plunges – 36 North Main Street</u> – He lives diagonally across the intersection from this project. The points that he wanted to bring up, right now he believes the stores are limited until 10 o'clock at night, you said 11 I thought it was ten. But, anyway the stores close at 10, the kids are outside in the summer at least until 10:30 quarter to 11 every night. He thinks if we add a table for them to be sitting at that's just going to make it further along into the evening and it's noisy. On a nice night we can't leave our windows open. There is noise, echoes across the intersection and it's very annoying to us aside from the fact that I don't have to get up as early but my wife has to be up at 5 o'clock in the morning. She goes to bed at 9 o'clock at night, these kids are out there until 11 o'clock and it's just an annoying problem. Also, he thinks having tables inside the convenience store goes against everything that we had discussed and argued about back in 1992, 93. We didn't want somewhere you sat down and had something to eat, we wanted businesses there where you would come in, get something and go, it wasn't going to be a place where people came in and sat and spent a lot of time. Again, as I stated in '92 we had one business that was there that was opened from 7 or 8 in the morning until maybe 6 at night, when they put the store in it went from one business to three businesses, we tripled the use of the lot across from us and anybody that looks out their front door at whatever is across the Street and say would I be satisfied with that being tripled and now they want to add a fourth store. I think it's too much for that building, it's already oversized for the lot, parking is limited and that's about it.

<u>Christine Marcucci</u> – 37 North Main Street – lives directly across the Street from the project. Her biggest concern with the picnic table is what would happen if someone was sitting out there and there was an accident. People not only make an illegal left turn, the thing she sees more often is people coming in the out. One of the first things that happened when they moved in was there was a car that ended up a few feet from their house. If they

do come up onto the property what would happen if a kid was out there sitting there and they got hit, that's a major concern for her. It is a dangerous intersection, there are a lot of trucks, and there are a lot of tractor trailers, large trucks. With the resting green, people like to go down there fast especially during the off hours. Her other concern is with the parking lot and the study that was done. First of all there should be some sort of industry standard that says that an ice cream store brings in this many cars at this many times. We are in a down economy and as he mentioned the Corner Market is not doing well, she has seen the traffic decrease over the years with the economy going down, so to just take it in a vacuum like this and say this is the amount of cars that are there and it works well is wrong. It also stopped the traffic count just when the Dairy Queen starts to pick up. Ride by there any time 8, 9 o'clock at night it is packed. There is no room, and with regard to seasonal there is definitely a seasonal change as well because in the fall and in the spring the teams come by after their games and they all cover the place. There is lots of noise just at the time when our children are going to bed. We have little ones, I don't know if you guys remember seeing them the last time we were here but they are 7, 5 and 3. This is perfectly innocent noise, it is lovely to hear however it keeps us from opening our windows and it keeps our kids from being asleep. They hear the kids out there and they want to know why they can't be out there so please keep that in mind when you consider that. Another thing about the traffic count that I don't think anyone has taken into consideration is the fact that it's a very pedestrian oriented intersection. You have the bike path, you have the Municipal parking lot, you have the ice cream store which brings a lot of people who walk up to the place and that is also where a lot of our noise comes from. The other problem that I have is the bike path is so close and if you were to put in an industry, I have no ax to grind, I don't know them at all, however if they are so concerned with the safety of our children why aren't they clearing for example the snow, it was never cleared from their walkway, that is the direct route to the schools, they never cleared their snow until the Town threatened them with a summons to clear it and you remember that snow. The intersection was never cleared, it went right to the road and I watched the children falling. They don't care as much as they say they are going to and I'm not here to character assassin anyone, I'm just telling you what they do as people who are there. Another thing that is different, when the intersection was changed all the landscaping was taken down, they were compensated for that, their answer to fixing that, there were three trees which helped to eliminate some of the noise, those trees are all gone. There were bushes that sat about this high which eliminated the headlights from shining into our house every night, they are all gone. They have about five or six little things that sit about this high and that was what they did to replace the landscaping that was out there. When we contacted the Town they said they were under no obligation after five years to continue that sort of landscaping. It became a bit of an eyesore as well, because there are broken things on there, there's mold there, there's the signs shining into our thing, there are the headlights shining into our kitchen window, we cannot have our kitchen window open if we want to have any kind of privacy what so ever, people sit there they look into our house especially when their headlights are shining in and we're dark or if we leave the lights on. We cannot leave the lights on in our kitchen and not put the blinds down if we want any kind of privacy, that wasn't the case a few years ago. So, these are all some of my concerns and like I said I happen to think that there is a lot of pedestrian traffic that has to also be taken into consideration when you are talking about the impact. They have shown already

that they are not going to comply with what you set up. They have said that they weren't going to bring in high traffic places; they brought in high traffic places. Like I said I have no ax to grind but I would appreciate it if the Council would take those things into consideration. John Burke said we are not the Council we are the Planning Board, she apologized. Mr. Lane asked her questions and she answered.

Andrew Marcucci – 37 North Main Street – He said as he wife just spoke they sort of live in ground zero for all the arguments that have been discussed here tonight. I won't take up too much more of the Board's time, we're asking that this table be killed, because all the arguments that were presented here tonight. As much as we're trying to help kids who are resting there and that is a valid point, we're also keeping some other ones up at night and causing a detriment to them. This table has a dual use where you are actually potentially increasing the noise which Mr. Plungis has already spoken of and which I have heard constantly. We feel we've been great neighbors for seven years now and we want to stay good neighbors. We don't know you gentlemen; we love ice cream just as much as anyone else but the noise has been significant where we feel this table has an easy capacity to contribute even more to what's going on right now. As far as the other points that have been stated they have been stated very well but that's really what we are asking is for the Board here today to take these arguments very seriously into consideration because we are neighbors, we live right next door to Mr. Carpenter who said the noise change levels would be minute, we think that's mildly preposterous being that we live right across the Street from what's going on. Mr. Rea with the traffic counts, you can have somebody count them at a specific time of the day but we've lived there seven years, day in and day out right across the Street and we feel we have just as much of a vision as to what happens there as any particular study might. We are asking the Board to take that into very serious consideration.

Motion to close the public portion of the meeting was made by Mayor George Dempsey; motion was seconded by Patrick Callahan, all in favor none opposed.

Mr. Cramer said this matter is going to be continued to the Board's next meeting which is September 6, with no need for any further notification to property owners or publication. John Burke said in the meantime Mr. Cramer will go over the paperwork from Mr. Guttmann and also the paperwork will be given to Mr. Lane who will have an opportunity to respond. John Burke asked if a copy would also be sent to the Board's Engineer, also make sure Mary has one for the file.

John then called for a 5-minute recess George Dempsey made the motion which was seconded by Owen McCarthy, all in favor none opposed.

ROLL CALL FOLLOWING RECESS:

Board Members Present:

Mayor George Dempsey, John Muly, Patrick Callahan, Joan Harriman, Councilman McCarthy, John Burke, Leonard Sullivan, Jay Price and Peter Ragan

Absent:

Michael Sinneck

James Coakley left at 9:20PM

APPLICATION #11-2011 – Abrahamsen, Ryan and Jayme – 289 Beachfront – 288 First Avenue – Block: 181 – Lot: 4 – Zone: R-4 – Keith Henderson is the attorney representing

the applicants. The property is between First Avenue and the Boardwalk. Cramer found the file to be in good order and the Board accepted jurisdiction. Mr. Henderson had two witnesses he asked to be sworn in, Jayme Abrahamsen and the second is Chris Rice, the Architect for the project. Mr. Cramer proceeded to swear them both in along with the Board Engineer. Keith said this is a typical application you get up on the beachfront, there is an existing boardwalk house and an existing First Avenue house, this application is to demolish the two of them and replace them. When you look at any of these applications up on the beachfront you see a large variety of Variances, mostly to do with coverage and setbacks and then you have the typical architectural Variances that we run into with all these applications. Keith said he would try to keep it brief he realizes the Board has just been through something onerous and not over. While there are numerous Variances they are all something that the Board has seen on numerous occasions. He called Jayme Abrahamsen as his first witness. She is one of the property owners and they have owned the property since this past Christmas Eve. She said the house was constructed in 1902 it's not very charming although it's over 100 years old. It's dilapidated, probably one of the worst conditioned houses on the beachfront. She explained that they plan to demolish both structures and construct the house for her husband and her and a garage apartment for his parents. She retained the services of Chris Rice in connection with this application. He prepared architectural plans for them. Next, Chris Rice referred to a Site Plan that was prepared by Ray Carpenter's office to go briefly through the setbacks. The Site Plan was revised in response to Al Yodakis' letter and was entered as Exhibit A-1. Chris explained that they hope to construct a new beachfront house up on the boardwalk side and then what's become a typical traditional garage with a small apartment above it on this side. The setbacks as Keith mentioned, front setback where you require typically 15-feet up there, just quick a blanket statement all the setbacks are getting better. What's there if you've looked, the setbacks that exist is like 7.2-feet we've pushed that back to 8-feet, Mr. Furey wrote it up as 0-feet, he was going to the deck, just an open slab, grade level deck, the house itself is at 8-feet. The side setbacks again, you require 5-feet on both side, what's there is only like 2.9 on one side 3.3 on the other, so we are actually proposing 4-feet on both sides. That was a big positive for us. That was the beachfront house. On the garage apartment, the First Avenue house you require 10-feet, the existing is 1.5-feet. We are proposing 6-feet. For the side setbacks a similar situation for the beachfront where you require 5 we have 2.8 on one side and then 7.6 on the other, we are proposing 4.9 and 3.0 so it's an average of 4, so we again thought that was very fair. In terms of coverage we are going to meet total lot coverage. The building separation between buildings actually gets a lot greater too. The one other Variance would be the building coverage, which again we are improving, we are at 43%, and we are going to 39.4%. There was a slight discrepancy but Dick Furey wrote it up as 40.1%, I've done the math a hundred times and I don't know how he got to 40.1%, I'm at 39.4%. It might be safe to quote 40% in case he was including something that we are unaware of, but we've been through it multiple times. It's not a lot over what you require but it's under the 43% that's there and it's actually under a lot of the other applications you have approved that are in the 40's. We are actually happy to be able to keep it at 39.4%. Keith said there are also another technical Variance that Dick wrote up I don't know what your interpretation on this is going to be but you have 35-feet in height the chimney needs to be a little bit higher than that, as Chris is going to explain you can't get around that by Code. All these houses that are on these small lots the

chimney is going to violate the height but it's never been written up before, I think it's always been treated as an exception somewhere to a steeple in that one section of the Ordinance, although it doesn't say chimney. Chris said in general a chimney by law has to be two feet above a roof that's within ten feet of it. So, it's never an issue on a larger home. John Burke asked how high is the roof on that house next door to the south and is that within 10-feet? Chris said he doesn't know. The point is Dick wrote it up as a Variance I'm not sure why because it has to be that way, so if you ask me to lower it I don't know that I can. Keith said this is a Plan B is that correct? Chris said yes. Chris said Dick wrote it up as a Variance and I think we should leave it in there. Chris said I'm off Ray Carpenter's plans and off to the floor plans and the building elevation. We did do a 3-D rendering, the elevations of this house are the same as the elevations of a lot of beachfront houses, and there is only so much you can do here. We have a main gable roof which runs the length of the house and then of course at that half-story there is going to be dormers. Since this Ordinance has been written up Option A and B it's been met once in 22 years so again we do have some Variances from it. What we chose to do with this dormer is in lieu of just a small shed or something that is going to look like a dormer, we chose to put it under what we call a gable dormer. The point being we may only need the middle two-thirds of it for head room but we'd like to bring this dormer all the way down, it's a softer easier look, it doesn't take away any more light and air than a dog house dormer or shed dormer would, but when Dick measured it, he measured it down at the second floor level not the third floor level, so there is a little bit of a gray area there. Architecturally it's just nicer and it's different. On the other side this dormer typically it's one for the stair one for the bathroom, we're not using it for the bathroom we actually have a little sitting room off of the Master specifically for the Abrahamsen's because again a young couple, potentially growing, whether it's a baby's room a crib or whatever, it's a room that's connected to the Master. That dormer was 10-feet 8-inches, where 10 is allowed, could we make it 10, I guess. Only two dormers, sometimes you see more than that, we only have the two one for the stairs which again is typically required, then on this side which is a lot smaller there is a shed dormer and again that was just for that sitting room. We do this diagram for you often, when we do the bold dash lines we're showing you that's the envelope that that Ordinance allows. The main roof of the house is well within that and it typically is and that's a good thing. It's really only the dormers that violate that which they are allowed to but again the way Dick wrote it up the percentage, the size, it read a little worse than I think the reality is. The floor plans of the home again allow like what you see, it's only a 23-foot wide house and that's great because we got 4 and 4, this is reverse living. Especially because of the dunes and the ramps, when you walk in you'll notice the first floor plan there are bedrooms, mudrooms, laundry rooms and baths, you then walk upstairs to the main living space, the second story is the main living space. Family room, dining room, kitchen and a place to eat and then of course a little powder room. Another nice think I thought was and you see it best in 3-D if you look at the footprint of the building on the first floor it's 23 by 53ish and the second floor we took 9-feet and pushed it all the way back and that's just going to be an open porch. In terms of mass and just the look and allowing light and air to flow I think we've done a good job of just allowing for that openness, we've given them a porch. Most houses would have bedrooms up there we do much smaller balconies because it's off a bedroom but the fact that this is their living space we thought it warrant for a porch. That's important because it not only does allow light and air to flow

but it looks like it does too, so that porch is a big plus for us because it doesn't go outside the footprint. The half story conforms, it more than conforms to your Ordinance, it has the right amount of square footage, you have egress windows where we need them, and it's just a Master Suite. It's a bedroom, a bath and then that sitting room as I mentioned. Keith asked Chris to address the roof overhang. We are at 24 if it's a sticking point we could reduce them, the fact that we have 4-foot side yard setbacks he thinks if ever there has to have 2-foot overhangs this would be it with the four foot. A two foot overhang with open tails doesn't look too big because it's not solid and boxed in, it's open, I think it's perfect but if Dick wrote it up as a Variance and you see fit to reduce that I think we would be somewhat agreeable to having to do that. Keith then addressed the Land Use Act and asked Chris if is his opinion the benefits of this application outweigh the detriments and he said certainly. There were some issues getting C/O's with this house, it's pretty dilapidated. Patrick Callahan said we granted a C/O for summer on a bare bones basis because there were repairs that needed to be made but we knew it was just for one season. Chris said so not only is it at the end of its life and needs to come down but we are improving all the setbacks. Keith said when they got the Engineer's letter they had Ray Carpenter review it and most of the items have been addressed. Chris said beyond the stuff we just talked about when you go to miscellaneous some of the things that have been changed on this board and marked into evidence where you mentioned a two or three foot wide walkway from First Avenue to the Beachfront and a three foot wide down to the beach. There is existing concrete there now, that will all be demolished when we demolish the structures so we are going to replace that, we are going to continue that paver walkway up to the beachfront. This is located in the flood elevation and you have asked for us to add the garage apartment elevation which we have added which is at 15.0. We're good there. Landscaping plan I wasn't sure being that the deck actually kind of goes to the property line, I wasn't sure what's left to show for landscaping. However we do have that space between the homes and we may ultimately meet with a landscaper/landscape architect so there will be a plan there so if you'd like to see that one I'm sure they would be happy to share it with you. All the concrete is going away so only what you see in bold on Ray Carpenter's plan, so more sand less concrete which is how we are getting under the total impervious, storm water of course we would do we need Ray to do that if we are successful tonight. Mechanical equipment is going to be where it's allowed. We fortunately have this deck on the east side of the garage apartment with plenty of space and clearances for those condensers to go under that so it's where it belongs and can't be seen and we actually have an area on the west side of the beachfront house, so we are going to do all we can to put them within the footprint of what's there. John Burke asked if the chimney protrudes into the side yard setback at all and Chris said no, actually the chimney doesn't go to the ground, because you have reversed living. The chimney goes from second floor up. Jay Price asked Chris how they would vent the gas fireplace, Chris said most likely it would be a direct vent so it doesn't require a chimney. Mr. Henderson said that concludes our case. This is a modest application and a huge improvement over what's there. It poses no negative impact to the Zoning Ordinance or the Master Plan. This is consistent with what this Board has wanted and he thinks what people forget and he thought about it when the gentleman who did the original subdivision map for the American Timber Company addressed it briefly what it is it's this, this is what you've got from 1986 when American Timber was subdivided and people forget Zoning Ordinances are usually put into place

and then people build houses. They don't usually build houses and then drop a Zoning Ordinance on top of them that 90% of them don't conform to, and that 90% of the lots don't conform to, so the beachfront is what it is. This place was built over a century ago and if you look at the old maps of Manasquan you will see that these houses were up there in the late 1800's. It's hard to drop a Zoning Ordinance on top of that at this point in time. I think given what we have the applicant has done a very good job with the architect in designing something which fits right in with what is going on up there with new construction. Joan Harriman asked if at the First Avenue building her concern is in the past we have tried to get everyone to move their houses back, do we want to do that or do we want to change our Ordinance. John Burke said he doesn't think we are going to change the Ordinance but he thinks what the Board, I hope I'm not speaking out of turn on the record but he thinks what the Board realized is that it's very difficult if not impossible to do the 10-feet. Joan said in this case they have plenty of room between the two buildings. John asked if they looked at the 10-feet. Chris said you know what happens, most of them are at 2-feet so if sporadically there are some 10, it's very disconnected, he doesn't suggest everything be at two but he thinks the good news is where some choose some six a couple of times, a lot of fours and threes so he thinks for the fabric of that neighbor he thinks it's ok to have a little movement, he thinks it would be tough. If we had to we could do ten, he just doesn't think it helps anybody. Joan said it may take 100 years to get everybody in compliance. Joan said it's not the mass she is concerned with it's the parking, it's the cars protruding into the Street, First Avenue is a very narrow Street, very often you have long trucks that are parked and go over that white line, sometimes they have something sticking out of the back of the truck. Keith said I understand but this is going to take a good deal more than most of those houses do off of that white line they have drawn in the Street, this is not going to be close. Joan said her house has a too short driveway and let me tell you it's more aggravation than it's worth, so if you can. John asked Chris if they can go to 8-feet. Chris said to the detriment of their backyard. George said they have 50-feet between the two houses and Chris said house to house, of course there are steps, stoops and such. We did study this we thought six was good. The applicant would like to stay at six. John Muly moved to open the meeting to the public, seconded by Mayor Dempsey, all in favor none opposed. There was no public participation. Mayor Dempsey moved to close the public portion of the meeting, seconded by Councilman McCarthy, all in favor none opposed.

Councilman Owen McCarthy made a motion to approve the application for the reasons articulated both by Mr. Henderson and Mr. Rice that this is consistent with the neighborhood, he thinks it is a substantial improvement to the property and will be consistent with other area homes in that area on First Avenue which have been improved recently and also a substantial benefit to the Borough. The applicants will supply an as-built survey; motion was seconded by Patrick Callahan.

<u>Board Members Voting Yes</u>:

Mayor George Dempsey, John Muly, Patrick Callahan, Joan Harriman, Councilman McCarthy, John Burke, Leonard Sullivan, Jay Price and Peter Ragan.

APPLICATION APPROVED

RESOLUTION #10-2011 – Vierbuchen, John – 33 Old Squan Road – Block: 44.05 – Lot: 2.02 – Zone: R-2 – Mayor Dempsey made a motion to memorialize the Resolution, the motion was seconded by Councilman McCarthy
Board Members Voting Yes to Memorialize:
Mayor George Dempsey, Patrick Callahan, Joan Harriman, Owen McCarthy, John Burke, Leonard Sullivan and Peter Ragan.
RESOLUTION MEMORIALIZED

RESOLUTION #09-2011 – Klein, Jeff and Carolyn – 71 Wyckoff Avenue – Block: 94 – Lot: 7, 8.01 – Zone: R-2 – Mayor Dempsey made a motion to memorialize the Resolution; the motion was seconded by Councilman McCarthy
Board Members Voting Yes to Memorialize:
Mayor Dempsey, Patrick Callahan, Joan Harriman, Owen McCarthy, John Burke, Leonard Sullivan and Peter Ragan.
RESOLUTION MEMORIALIZED

Motion to approve the minutes of July 5, 2011 regular meeting was made by Joan Harriman, seconded by Councilman McCarthy, all in favor none opposed.
MINUTES APPROVED

There were no vouchers for approval.

John Burke said we have two orders of business tonight, one is on the Technical Review Committee, we unfortunately lost a member today, Jim Coakley moved out of Town and we have to appoint someone else to that Committee, George volunteered Neil Hamilton and said he would be appointed by Council at their next meeting.

Next is the Sign Committee, John asked who is currently on the Sign Committee? John Muly, Joan Harriman and Patrick Callahan. John Burke said what we should have is a Committee that meets and goes over the current Ordinance, takes a look around Town to see what percentage of signs are not within the current Ordinance right now, goes over this article that I passed out to everybody, because this is going to be a major problem on digital signs. Now they are not just the scrolling ones, they are actually like a TV screen and according to this article you really have to be very careful to regulate cycle time on them, to regulate all sorts of things, brightness and everything else. I think it's very important that the sign committee look at all of that and go through all of that. He asked if anyone else would like to join the sign committee.

John Muly nominated Lenny Sullivan for the Technical Review Committee. Mayor Dempsey made a motion to appoint Lenny Sullivan for the Technical Review Committee all in favor none opposed.
LENNY SULLIVAN IS NOW A MEMBER OF THE TECHNICAL REVIEW COMMITTEE

Mayor George Dempsey made a motion to adjourn the meeting; the motion was seconded by Councilman McCarthy, all in favor none opposed.
MEETING ADJOURNED AT 10:15PM

John reminded the members to keep the Constantino paperwork for next month.

Respectfully Submitted,

Mary C. Salerno

Mary C. Salerno
Planning Board Secretary