

**BOROUGH OF SPRING LAKE HEIGHTS
PLANNING BOARD MINUTES – February 21, 2018**

The meeting was called to order by Chairman Eileen Eilenberger at 7:00 p.m. and opened with a Silent Reflection and Pledge of Allegiance.

Chair Eilenberger announced:

This meeting is called pursuant to the provisions of the Open Public Meeting Law. Notice of this meeting was included in a list of meetings sent to the Coast Star and Asbury Park Press, posted on the bulletin board in the Municipal Building and on the Borough website.

Roll Call:

Eileen Eilenberger – Present
Stephen Clark – Present
Councilman Diver- Present
Roy Francolino - Absent
James Hackett - Present
Nancy Hayduk - Present
Frederic Manger - Present
Nathaniel Novak - Absent
Mayor O'Brien - Present

Also Present: Marc Leckstein, Board Attorney
Brent Papi, Board Engineer
Mary Ellen Karamus, Board Secretary

Alt. #1 Carlos Santos - Present
Alt. #2 Erik Gardner - Absent

Approval of Minutes: January 31, 2018 Re-Organization - Mr. Hackett made a motion to approve the minutes; seconded by Mr. Manger, approved by the following vote:

All in favor; none opposed

January 31, 2018 Regular - Mayor O'Brien made a motion to approve the minutes; seconded by Mr. Hackett, approved by the following vote:

All in favor; none opposed

Correspondence and Discussion: Copy of February 15, 2018 Memo to Borough Administrator Re. RFP request for planner

Chair Eilenberger told the Board that picture from the last meeting was in the paper. She also requested the appointment of the Master Plan Re-examination subcommittee be made up of Nancy Hayduk, Fred Manger, Stephen Clark and herself.

Mayor O'Brien made a motion to approve the appointment of the Master Plan Re-examination subcommittee members as stated by Chair Eilenberger; seconded by Mr. Hackett, approved by the following vote:

All in favor; none opposed

Chair Eilenberger told the board that at the last month's meeting, in *The Planner* November-December edition, there was an article explaining what a quasi-judicial board was; she thought it would be a good idea to read it as it contained good information.

Old Business: None

New Business: Triangle Shopping Center Application No. 2017-05
Block 62 Lot 7
2407 Highway 71
Site Plan Waiver

Chair Eilenberger asked Mr. Leckstein to explain a little bit about the site plan waiver, as this is the first one before the board. Mr. Leckstein informed the board that they are determining whether it is a minor site plan waiver or not; if it is we proceed, if it is not, applicant would have to come back with a full application. He stated that the board has the engineer's review letter as well as the applicant with his attorney present. The board can ask questions.

Mr. Sabaitis, attorney for the applicant, Triangle stated under the new Ordinance; they are asking if in the Planning Board's opinion, this plan would be deemed minor site plan waiver. In his opinion he feels this is a very minor site plan change and worthy of the waiver.

Mr. Sabaitis stated that three very minor items are being addressed; one is to correct the sidewalk indentation, to make it a single straight area; to make sure the fire lanes are open and make the area ADA compliant. He added there are no impervious coverage changes; parking is well in excess of what is required. Two other things proposed by Mr. Roccesano is to put in two islands in the parking lot and make it more aesthetically pleasing with some greenery and replace existing lights in the parking lot on the sidewalk area in order to be consistent with the town. Those would be similar lights previously approved by Spring Lake Heights, such as at the Golf Club, Scottyville. Applicant feels these are all minor. Mr. Roccesano added that the parking lot and sidewalk will be repaired as well, for which no permit or approval is required.

Mr. Richard Roccesano was sworn in by Mr. Leckstein

Mr. Leckstein confirmed that Mr. Roccesano is a principal of the applicant. Mr. Leckstein stated that this is similar to an informal.

Mr. Santos asked if there will be a back hoe, mason hoe digging up the area to replace it. Mr. Roccesano said yes. Mr. Santos added that this is a heavily-trafficked area; elderly, kids, is there a phasing plan and signage so people know where to walk. Mr. Roccesano replied that it would be the same as it was in the original construction in 2000, the exact concerns were raised then as

now and it was built without incidence, there would be proper signage to get around, typical construction.

Mr. Leckstein said that even if granted, the applicant will still be required to obey all building codes and construction codes.

Mr. Roccesano stated that the ADA Act has changed significantly over the years and this is the perfect opportunity to come up to code.

Mayor O'Brien asked if the sidewalks by the Post Office were going to be touched. Mr. Roccesano said yes, from the Post Office to Nature's Corner can be changed without coming before the Board.

Mr. Manger asked if the sidewalk will be partially covered like it is now. Mr. Roccesano stated the whole footprint of everything stays the same; the only difference is just taking the sidewalk to the existing sidewalk from the Post Office down in one straight line. The fire lane will be straight through. Mr. Roccesano added that people use the fire zone to park because it is oversized. If approved it would be 24 feet, which is the standard. Mr. Manger asked if they had spoken to the Fire Department. Mr. Roccesano replied that it has been discussed over the years with the Fire Department; it always seems like a good idea; now the issue is it is up to the Board to decide if this is minor to make the change. Mr. Sabaitis asked if that were to be done, would that prevent people from using the fire lane for parking; will this plan make the fire lane clear and accessible to be used in an emergency. Mr. Roccesano replied yes.

Ms. Hayduk asked what percentage of the parking lot would be repaved. Mr. Roccesano said he would like to repave everything except around where the new building is so from the sidewalks out to Highway 71. There was discussion what percentage of the parking lot would be paved. Mr. Sabaitis asked if this is to comply with ADA. Mr. Roccesano answered that the biggest issue is to become ADA compliant.

Mr. Hackett asked will the landscape islands take up existing parking spots. Mr. Roccesano replied 2 spaces but they still remain in excess of what is required. Chair Eilenberger inquired how many parking spaces they need and what they will have. Mr. Roccesano replied that they end up with a parking count of 229. Mr. Sabaitis mentioned a 1998 variance granted for the facility states 213 spaces; they well exceed that.

Councilman Diver asked if on the side where the bagel and pizza stores are is part of what will be repaved. Mr. Roccesano replied yes. Councilman Diver mentioned a possible grading issue during times of heavy rains; that the lot floods. Mr. Sabaitis replied the issue is with Wall, Spring Lake Heights and the County with a drainage pipe; when the pipe floods, it floods the property; that is not Mr. Roccesano's issue. They are trying to address that with the County and others involved so hopefully that will be cleared. Previously when it has been cleared, it has corrected the overflow. Ms. Hayduk asked what about drainage off of the parking lot itself. Mr. Sabaitis stated it will not change. Ms. Hayduk asked what is happening now as far as water going into Polly Pond. Mr. Roccesano stated it's the reverse issue; Polly Pond Brook comes into the shopping center because of downstream problems. Ms. Hayduk asked what about the rubber, gas, oil, garbage from the parking lot; shouldn't that be filtered properly into Polly Pond. She

asked if applicant is willing to do a stormwater management plan to do any type of filtration of what comes off of the parking lot. Mr. Roccesano replied no. Mr. Sabaitis added that that is not part of this application. Mr. Leckstein asked the applicant would they be able to do the parking lot without having to be before the board. Mr. Roccesano answered yes.

Mayor O'Brien added that widening the sidewalks makes the applicant ADA compliant in a way they are not now. Mr. Roccesano agreed. Ms. Hayduk asked why they are not willing to do any stormwater management when they repave which is the opportunity to do it.

Mr. Santos remarked that silt bags should be required during construction in inlets in the parking lot to prevent silt from construction going into the pond. Mr. Sabaitis stated they will comply with all construction requirements during the construction; however, with respect to drainage, until Wall, Spring Lake Heights, County, railroad fixes the pipe and do what needs to be done there is no reason to touch what is there, whatever applicant would do would be superfluous. Mr. Roccesano stated that when the water comes up, it comes up into the parking lot through the pipe. Ms. Hayduk asked if that is the pipe running under the bridge at 71. Mr. Roccesano stated it is under the railroad. Ms. Hayduk stated that she needs to understand the problem to understand the wanting of a waiver; if voting yes on a waiver for a site plan application, she is trying to understand the whole picture. She asked is there a sign plan, lighting plan. Mr. Roccesano replied it is decorative lighting, the town standard. Ms. Hayduk stated that if her job is to decide if this is a minor application then she needs to understand the plan. Mr. Sabaitis stated that applicant is asking the board to deem what was submitted to be under the ordinance of a waiver of site plan review and process. Mr. Roccesano added that his letter to the board spelt out site changes looking to be done; he followed the instructions and submitted the plan accordingly. He added that they were requested to submit original drawings, a full set, which engineer dropped off.

Mr. Manger asked if they were extending the sidewalk from the front of the Post Office down. Mr. Roccesano answered that they are replacing sidewalk. Mr. Manger asked if they were adding demarcations in the parking lot for handicap use, expanding a little bit, and the lighting. Roccesano commented that the lighting on the sidewalk complies with the ordinance and the new decorative poles will comply with the ordinance. Mr. Manger asked if there would be bumps on the walk. Mr. Roccesano said yes, as required by code, truncated domes will be done in compliance with ADA. Mr. Manger asked if they were working with the State and other entities to attempt to rectify the issue with water coming up into the parking lot. Mr. Roccesano commented that it has fallen on deaf ears. Mayor O'Brien added that the issue was remediated and fixed for a little while. Mr. Roccesano agreed and offered that it comes down to a 24 inch pipe that gets filled with garbage after rain.

Mr. Leckstein asked in response to Mr. Papi's letter if there is anything applicant would not agree to or not do if the board grants the waiver. Mr. Roccesano stated that there are things in the letter which are part of a formal application for a site plan for approval. He stated that they can repave the parking lot without being here so borings, light samples are not required here. Mr. Sabaitis added that it is a waiver and it is not necessary to present an entire site plan; that is why they are here.

Ms. Hayduk offered that Mr. Papi has points to take into consideration; that without answers, she feels she cannot grant the waiver. Mayor O'Brien stated the Board is not granting a waiver; they

are ruling that changes are minor enough that they fall under the ordinance; it is a nuance, but important. Mayor O'Brien added that the changes being asked for don't seem to be an extensive amount of work, they are making the site ADA compliant, nothings seems to have to be done more.

Mr. Leckstein added that the applicant still has to follow the building code; Mr. Papi still has to review things as the engineer.

Ms. Hayduk stated that Mr. Papi, as engineer, stipulated certain things need to be addressed.

Mr. Papi stated that he reviewed larger scale drawings. He stated that his primary concern was ADA compliance, which is a Federal requirement. That was what the majority of his comments were referring to; he has no real concerns about that. He noted that the number of existing spaces has been answered. He stated maybe applicant would consider doing paving cores, know what's below and having revised plans at hand so when they go out they have something current to look at. He added he would just like to have some comments addressed so there are no oversights or mistakes during construction.

Mr. Sabaitis noted that also requested were lighting plans and that photometrics were also asked for. That is not required.

Mr. Leckstein stated that if the Board deems it a minor application, photometrics would not be required. He added that the general provisions of the engineer review have to be complied with regardless.

Councilman Diver added that this is an existing site being brought up to code, adding street scape lighting, there are more than enough spaces, he's never seen every space filled; the sidewalk will be a huge improvement especially at the Post Office; that the sidewalk is old; this needs to be done. He stated that this is really housekeeping; not major, it is a well-maintained property.

Mr. Santos said it is a plus for town, upgrades will look great; he just wants to make sure everyone is safe getting to stores, be protected. Any upgrade is good for town.

Chair Eilenberger asked for a motion determining that the changes are minor.

A motion to approve the Site Plan Waiver application was made by Mr. Hackett, seconded by Mayor O'Brien, roll call taken as follows:

AYES: Mr. Hackett, Councilman Diver, Mr. Manger, Mayor O'Brien, Mr. Clark, Mr. Santos, Chair Eilenberger

NAYS: Ms. Hayduk

ABSTAIN: None

Mr. Manger added that this is minor in scope, bringing to ADA compliance, overseen by engineer and is enhancing the visual appeal and all work is to not include the building.

JDE Spring Lake, LLC Application No. 2017-04

Block 1 Lot 1

101 Old Mill Road

Parking Lot Revision, Portico at front door

Chair Eilenberger recused herself from this application as she is a property owner within 200 feet of the applicant.

Introduced as exhibits:

A-1 Application Package

A-2 "Boundary and Topographic Survey" dated January 6, 2017, last revised November 20, 2017, prepared by Suzanne E. Warren, P.L.S. of MidAtlantic Engineering Partners, LLC

A-3 "Preliminary/Final Major Site Plan Package" dated August 22, 2017, last revised November 13, 2017 as prepared by Kevin E. Shelly, P.E. of MidAtlantic Engineering Partners, LLC (consisting of 12 sheets)

A-4 "Drainage Area Maps" dated August 4, 2017, prepared by MidAtlantic Engineering Partners, LLC (consisting of 3 sheets)

A-5 Architectural Plans, dated October 17, 2017, prepared by Jeff Schneider Architect (consisting of 3 sheets)

A-6 "Stormwater Management Report", dated August 22, 2016, prepared by Kevin E. Shelly, P.E. of MidAtlantic Engineering Partners

A-7 Resolution of Planning Board adopted on November 13, 1985

A-8 Resolution of Planning Board adopted on April 22, 2003

A-9 Site Plan rendering "The Mill" prepared by MidAtlantic Engineering Partners dated July 19, 2017.

B-1 "Engineering Review Letter" dated February 21, 2018 as prepared by Brent N. Papi, Jr., P.E., C.M.E. of East Point Engineering, LLC

B-2 Email thread from Mr. Papi dated October 4, 2017 to Kevin Shelly

Roger McLaughlin, McLaughlin, Stauffer, Shaklee, Attorney for JDE Spring Lake LLC introduced himself. He stated they will have two witnesses at tonight's meeting; Mr. George Truesdale, principal of JDE Spring Lake LLC, and Mr. Kevin Shelly, applicant's engineer.

Mr. George Truesdale was sworn in by Mr. Leckstein. Mr. Leckstein asked Mr. Truesdale's relationship to the applicant. Mr. Truesdale indicated he is the owner/president.

Mr. McLaughlin stated the applicant is here before the Board for an amended site plan application pertaining to the Mill. He will let Mr. Truesdale explain what he is doing with the premises. He added that under the new ownership it will be a banquet facility; the public bar and public restaurant usage will be eliminated. They are here for a 1,400 square foot expansion on the building and proposed redesign of the parking lot for better ingress, egress, traffic flow. It will be a more efficient, safer operation of the parking lot itself.

Mr. McLaughlin called Mr. Truesdale to speak before the board.

Mr. Truesdale stated he has a history of 30 years' as owner of Clark's Landing as well as involvement with other banquet facilities. He stated he lives in the area and has driven past the Mill for a long time. He stated it's an ideal location for what they do. He added that he has been at the Mill for a year; is very happy; they have done weddings; they have honored the prior owner's contracts and it has gone very well. Mr. Truesdale noted there have been substantial interior renovations. He stated they put in a new roof, installed new air conditioners on the roof; the glass room has been redone, and a beautiful observation room with a bar. He added that they cut off some trees which were blocking the view of the pond which opens the view up. Presently

they are doing interior renovations. Mr. Truesdale stated that in the past there have been 400 or 500 people at times due to events and restaurant dining. Previously it was open every night which meant people were coming and going up and down the streets. He stated that his operation is simpler; they are not open late; 11 or 12:00 for most weddings. Mr. Truesdale said he feels this is a good thing for the neighbors and the town, and for them.

Mr. McLaughlin asked Mr. Truesdale to explain to the board how the banquet business is operated; how many events they have; how they utilize the building; hours of operation; number of people. Mr. Truesdale answered that they mostly do weddings or any higher end events; pretty much Friday, Saturday, Sundays, January, February and March are slow; one wedding at a time. The most people in the building would be a maximum of 240 or 250 people.

Mr. Santos asked if they were looking to add another 100 people with the expansion. Mr. Truesdale answered no it is not an expansion of capacity. They are trying to make the property look nicer by taking away some of the black top and putting in trees, lights, curbs, islands. Mr. McLaughlin referred to A-8, the Resolution, with respect to occupancy, and offered that prior approval of the board limited occupancy to 440; this is about 200 more than what they are going to have. Previously it was possible that there were 3 separate uses going on.

Mr. McLaughlin asked Mr. Truesdale to refer to A-5 and explain the reason for the 1452 foot addition. Mr. Truesdale said you now walk into the front door and the stairwell is to the side. Mr. Truesdale explained that when you enter from the parking lot area, the lobby area is small. This is what he would like to expand to make it a grand lobby area; it would have an 18 foot ceiling along with a chandelier. Mr. Truesdale said that the whole bottom floor is for cocktail hour. He stated from there, people will go upstairs for a reception. Mr. Truesdale added that in addition to that, there is very little office space so he would like to establish some office space. Mr. McLaughlin offered that, as referenced by Mr. Santos, the addition does not increase the capacity of the building. Mr. Truesdale stated no. This would basically be a large lobby as you see in higher-end hotels. Mr. Truesdale added that the portico is a place to wait for a valet to get your car or to be dropped off and wait.

Mr. McLaughlin asked Mr. Truesdale to explain to the board the plan and reason for the redesign of the parking lot. Mr. Truesdale stated that the plan is to change the front entrance. There are three different ways to get in and out. He stated it is dangerous now. He said they would realign the entrance with New Bedford Road; have a tree-lined grand entrance down to the building. Mr. McLaughlin referenced A-9 on the board. Mr. Manger asked after getting out at the portico, can you drive and park your own car or valet only. Mr. Truesdale answered parking or valet areas. Mr. Manger commented that there would be a lot of grading going on in that spot. Mr. Truesdale said the engineer will cover that. Mr. Santos noted 3 new catch basins being put in. Mr. McLaughlin said the engineer will discuss that.

Mr. Leckstein referred to the 2003 Resolution, Exhibit A-8 and asked if any conditions, other than dealing with the site plan at that time, is applicant looking for relief or to change anything or do conditions still apply. Mr. McLaughlin answered that all conditions still apply. Mr. Manger asked about the number of parking spaces after construction. Mr. McLaughlin said Mr. Shelly will answer that.

Ms. Hayduk asked if the old approval from this board had stipulated that capacity was no more than 440 for the amount of parking spaces there now, would applicant be willing to stipulate that the maximum capacity is 250 taking a deduction in parking. Mr. McLaughlin stated Mr. Shelly will cover that. Ms. Hayduk stated that she is concerned that if it was sold in a year there is no mechanism controlling parking. Mr. McLaughlin stated that Mr. Shelly will testify but that the parking is based on a 260 occupancy so if the board wanted to modify that 440 condition to 260 based on parking that would make sense. Mr. Leckstein stated that applicant is conceding that they would agree to a condition of 260 capacity to revise that old condition. Mr. Leckstein also stated that it cannot go back to a restaurant bar without coming before the board.

Mr. McLaughlin called Mr. Shelly.

Mr. Brent Papi was sworn in by Mr. Leckstein. Mr. Leckstein asked Mr. Papi if he authored B-1. Mr. Papi said yes.

Mr. Kevin Shelly sworn in by Mr. Leckstein. Mr. Leckstein confirmed Mr. Shelly is a licensed engineer, State of New Jersey. Mr. Leckstein stated if the board had no questions, he had no questions as far as declaring Mr. Shelly an expert. Mr. Manger asked if he was experienced in this area. Mr. Shelly replied yes.

Mr. McLaughlin asked Mr. Shelly to give an overview of the location and the proposed layout that applicant is putting forth in the site plan application.

Mr. Shelly referred to A-9 in his explanation. He said they are seeking to create a more high-end grand experience at the Mill; adding a small 1452 foot addition in the front of the building to create a covered portico drop off area and a more grand lobby space. He stated that one of the major efforts in terms of site design is to fix the existing parking lot. He stated there will be single ingress/egress aligning with New Bedford Road. There are two multi-level parking lots, access doesn't line up with anything in terms of existing ingress, egress. He added that the line of sight is not good; it is a rough intersection getting in and out of the parking lot. He added that the effort is to create a grand entrance to the site which gives a great view leading down to the valet section and portico. Mr. Shelly added that changing the ingress and egress would be safer. This will pull the entrance to the upper parking lot further away from the intersection of Ocean and Old Mill Road. Mr. McLaughlin asked what the redesign does for the safety and efficiency of traffic movements in and out of the property. Mr. Shelly responded that the traffic concern of not having multiple people waiting at every exit at the same time waiting to go really is an optimal design for the site. Mr. Shelly added the modifications they are making clears up the area; when people come to the venue, they can come to the portico and the valet can take their cars to the parking lot. Mr. Shelly stated that previously people had to leave through the exit on Old Mill Road to get back into the parking lot which is not efficient. He added that the only entrance will be in through Ocean Road. Mr. Santos stated that he loves the plan; maybe have signage showing 71, 35 and the direction to go. Mr. McLaughlin asked if the valet parking will keep vehicles on site. Mr. Shelly replied yes. Mr. Shelly said the modifications are to create a boulevard look. Mr. Shelly added the improvements include removing and replacing some pavement. He stated that the creating of the grand entryway will enhance the aesthetics of the property Mr. Manger asked is this a two-way boulevard. Mr. Shelly stated yes. Mr. Manger asked how wide? Mr. Shelly answered 24 feet wide.

Mr. McLaughlin asked Mr. Shelly to address the drainage and stormwater management. One of the goals of the redesign is to create more green space, more space to landscape, and more space to break up the pavement. Mr. Shelly explained existing drainage, part of which in his opinion creates an unsafe condition due to freezing. The redesign has various inlets spaced throughout the site which will collect stormwater runoff, tented, and will follow a discharge point under the existing deck out into the pond. Mr. Shelly stated that they are adding additional green space so they are reducing overall impervious coverage of the site by about 9,000 square feet. Mr. Shelly states that also with the change in use, they are reducing parking spaces; the maximum occupancy of 260 guests requires parking of 87 spaces. He added that there are over 150 now. Mr. Shelly stated that by redesigning the entrance and realigning the parking they are reducing impervious coverage by 9,000 square feet.

Mr. Shelly stated that as part of the overall site application, there is less than 1 acre of overall site disturbance. He added that is important because when you disturb more than that, various stormwater requirements that are not applicable to this site apply. Mr. Shelly stated that in the plans that were submitted the calculations were .93 acres of site disturbance so as not to disturb more on site than needs to be disturbed. Mr. Shelly added that the existing pavement is in various stages so there will be milling, repaving, striping. Councilman Diver stated that he appreciates the greenery but does have concerns in terms of drainage and water run-off. He asked what sort of filtration is being put in. Councilman Diver commented that the lot does slope and that in winter part of the parking lot is a sheet of ice. Councilman Diver stated that adding islands will help alleviate that, but what about what goes into the ground. Mr. Shelly said that water being collected into pipes will be discharging through the same point as it is currently. Mr. Shelly added that the proposed improvements do not trigger any water quality, water quantity, any type of stormwater practices that would be applicable with what they call a major disturbance. Mr. McLaughlin asked if that is all covered by State regulations. Mr. Shelly stated yes, he added that they are at less than an acre of disturbance. Mr. Santos asked if the first inlet downstream from your site as well as the new inlets that are dropped in will be protected by silt bags or silt socks until final pavement. Mr. Shelly stated yes. Ms. Hayduk, commented that based on her notes from the informal, Kevin Shelly said they will have stormwater management plan with this application. Mr. Shelly stated we do. Ms. Hayduk stated that they are not managing stormwater; just putting it back into the pond with tar, gasoline, rubber, garbage; they are not filtering it. Mr. Shelly stated that they are meeting Borough and State requirements. Ms. Hayduk asked is the Mill willing to have any kind of filtration system, why not have a filter here that can be maintained on a regular basis. Mr. Shelly stated that would mean manufactured treatment devices of a substantial size and significant cost. This application does not meet those requirements so they are not proposing that. Ms. Hayduk asked if water from the parking lot, dirty, whatever goes straight into that pond unfiltered. Mr. Shelly stated that they are reducing the amount. Mr. McLaughlin commented that it's always been this way but because of the 9,000 plus square feet less impervious surfacing they are landscaping, it will be less and will reduce runoff into the pond. Ms. Hayduk asked if a variance is being sought for maximum building coverage. Mr. McLaughlin stated that total impervious coverage, which is what is relevant when talking about stormwater management and drainage issues is actually being reduced. Ms. Hayduk offered that she is here as an Environmental Commission member; the pond is a huge resource; not just for the Mill, but the community upstream, downstream to the Atlantic Ocean. Mr. McLaughlin offered that he understands and appreciates that. He added that the reality is, if you have a project of a certain size, certain amount of disturbance, certain amount of coverage it

puts you into a set of regulations which become complex, time consuming and expensive to meet. With an existing site like this, one thing to try to do is try not to get to the point of triggering regulations. Mr. McLaughlin added that they have looked to lessen the amount of run-off, have more green space, more landscape, they have done that. They have looked to decrease the amount of impervious coverage, put plantings there so they can reduce amount of run-off into the pond; they have done that. Mr. McLaughlin stated that to go further is not required legally; it does not fit with what they are doing to the property.

Mr. Papi stated that he had conversations with Mr. Shelly about the stormwater management rules, what triggers the stormwater management rules. Mr. Papi stated a concern is the acre of disturbance area. Milling and repaving does not constitute disturbance; however replacement of pavement does. Mr. Papi added that Old Mill Pond is a regulated waterline so they were asked to make application to the DEP to confirm jurisdiction and if DEP has a problem with discharges. He commented he is not sure if it was made but did ask for that. Mr. Papi added that typically when regrading a parking lot there is usually grading beyond contours so there may be some disturbance beyond that as well adding you don't know thickness or pavement condition below grade without pavement cores. Mr. Papi commented that with being at .93 there is a good chance an extra .07 could end up being the case once pavement is being torn out and looking at what the conditions are. Those are points of concern upon reviewing the application. Mr. McLaughlin offered that Mr. Shelly can address this from an engineering perspective but applicant's perspective is that 1 acre is the standard; if they exceed or they trigger the rules they will have to make application and comply with regulations; that is not their intention and they don't believe they will have to. If they do, they understand it's a DEP requirement they have to satisfy. Mr. Shelly offered they are confident that they can achieve the proposed design without exceeding the 1 acre. He understands disturbance concerns, but they will figure out a way to do that. Ms. Hayduk asked if the applicant is okay with reaching out to DEP for comment on the discharge only if they exceed the 1 acre or will they reach out regardless. Mr. Shelly stated that any outside agency approvals applicable to this application will be obtained. Mr. Papi stated he was under the understanding that some application was already submitted to DEP; he does not know if one has been made but was told it was submitted. Mr. McLaughlin offered that they have not submitted to DEP; once calculated at less than 1 acre their opinion is it was not necessary to make application. Councilman Diver asked if they would stipulate that if they went above 1 acre they would make application. Mr. Shelly stated that if any DEP permit is required, yes. Mr. McLaughlin responded absolutely. Mr. Papi added that they can still file application with DEP for determination and provide the Borough with something that some application was made. Ms. Hayduk asked if they would submit an LOI reaching out to DEP. Mr. Shelly responded if applicable, yes. Mr. Leckstein asked regardless if it was no acres, the question is will they submit a letter to DEP and ask for their opinion; yes or no. Mr. Truesdale stated that once application is made to DEP, it sits and goes nowhere. Mr. Truesdale stated if they go over 1 acre, they will comply. Mr. Truesdale added that he does not understand why they are being asked to do something not required; they are under 1 acre. Mr. Manger asked do we have an exact description of what is being disturbed and asked if you can visually see if more than the 1 acre has been disturbed when going through approvals. Mr. Papi stated that to ascertain disturbances is not easy; it requires constant monitoring. Mr. McLaughlin asked Mr. Papi wouldn't he be asking their engineer to certify what has been done. Mr. Papi noted that the previous resolution in 2003 indicates catch basins, inlet filters were required to be installed and basins cleared every 6 months. The same concerns about water quality and discharge velocity still come into play.

Mr. Papi added that the original plan submitted for this application had a series of inlets, piping and contours and then the revised plan came back tailored to just under the acre. Mr. Papi added that there are significantly steep slopes; that the plans show steep pitches to parking lot incline greater than 10% some places. Mr. McLaughlin said that he appreciates Nancy and Mr. Papi's concerns; the reality is they are not over an acre. They meet the requirement. Mr. McLaughlin stated that there is nothing wrong from a legal, engineer or applicant perspective to try to not go over the acre. If in the field they cannot keep to under 1 acre, if something changes, then they need to go to DEP. They are representing they are not going over an acre.

Mr. Leckstein asked Mr. Papi, if they were under an acre under what rationale would DEP say this is our jurisdiction. Mr. Papi stated for the same concerns as his; actual disturbance area, how they came up with their calculation, pavement restoration areas. He added that it is typical to get a no jurisdiction document to clear the air. DEP will tell you, sometimes even through email if there is no jurisdiction. Mr. Leckstein asked if his concern is that the .93 was so close that the DEP may have the same concern. Mr. Papi said yes. Mr. Shelly stated that .9 acre versus 1 acre sounds close but the extra 10% is 4,000 square feet. He said he is confident that they will continue to work with Mr. Papi's office to address concerns about site grading. He added that the plans are fluid and they will make modifications on plans based on his letter. Mr. Shelly stated that they will agree to address engineer concerns.

Mr. Leckstein asked Mr. Papi if there is any way, without applicant going to the DEP they can prove to his satisfaction they are under an acre. Mr. Papi said he spoke with the DEP about the application and they are interested in seeing something to make a determination on their own; Mr. Papi stated that this is something they should do to clear the air; get something in writing from DEP with regard to any permits that may be required.

Mr. Diver and Mr. Manger expressed concerns over the disturbance calculation and whether it would be under or over an acre; Mr. Diver said he is concerned that there are some calculations not received yet. If they come to a calculation which meets DEP requirements, then they need to comply. Mr. Manger added that he is more interested in the 2003 application and the screens that had to be cleaned out every 6 months and whether or not stipulations from that approval are being followed. Mr. Papi stated that under the Resolution (Item 9), traps and proposed catch basins shall be cleaned every 6 months. Mr. Leckstein asked if the trap is still there. Mr. Shelly answered that is interesting; there is one inlet on site, he doesn't have a copy of the approved site plans from 2003 so not sure if improvements were fully built. Mr. Leckstein asked if there is a trap. Mr. Shelly said he never opened it so not sure. Mr. Leckstein asked if they would agree to open it and see. Mr. Shelly stated yes. Mr. Manger asked if on the 2003 plan it shows where the trap is supposed to be. Mr. Leckstein asked if we have the 2003 site plan on file. Secretary responded she will check. Councilman Diver stated that they have to apply to Wall Township as well. Mr. McLaughlin offered yes, they are on for Monday. Mr. Leckstein stated that a condition of the resolution if the board approves is that it is subject to approvals from Wall Township as well. Councilman Diver stated that he thinks the addition to the building is great; it will add to the beauty of the building, the atmosphere and the neighborhood but he has significant concerns about stormwater runoff and he needs to get questions answered. Councilman Diver stated that if they are under 1 acre, they are under 1 acre but at .93 that's leaving only 10% room. Mr. McLaughlin stated that he understands. Mr. McLaughlin stated that they will comply with all questions and comments in the engineering report. He stated that Number 34 was the only issue and that they will provide additional information. He stated they understand the engineer wants

to see additional information. Chairman Diver said he wants to see more information before making a decision. Mr. Shelly commented that when they made the initial application there were questions about what the actual disturbance was. Mr. Papi asked for additional plans; it was not until today they found out his concerns aren't addressed about that. Mr. Papi stated that he thought there was an application to the DEP; had they had one, it would not be an issue today. Mr. Shelly stated they are testifying that they will work together to address his concerns and that if modifications need to be made to plans to ensure concerns that they are not disturbing an acre, they will make the modifications. Mr. Manger said it may be that in the 2003 site plan there were things, tank, filter, things to check every 6 months that were not done so possibly they may have to upgrade at least to 2003 to make sure stormwater run-off is up to par someplace. Mr. Santos added that traps are different from town to city, grading, traps may be hard to figure out. Mr. Papi mentioned types of traps, filters, non-structural, structural methods set in place. Mr. Shelly stated which is why they hesitate to install measures they feel are not necessary. Mr. Leckstein offered that the 2003 site plan needs to be looked at; what the resolution refers to and what was done and not done.

Mr. Leckstein inquired if the applicant gets on the same page as to acreage with the engineer is that enough or does the board want them to apply to DEP regardless?

Mr. Diver wants them to get on the same page with Mr. Papi. Mr. Hackett agreed. Mayor O'Brien stated if the two engineers are in agreement, yes. Mr. Manger stated if Mr. Papi is satisfied, he is.

Mr. Papi commented that mapping on an email to applicant's engineer shows in blue the regulated areas of wetlands and flood hazards.

Mr. Leckstein asked Mr. Shelly if he had the email Mr. Shelly responded yes. He added that they are not disturbing any of the area so he is not sure what the impact of it is.

Mr. Leckstein marked email thread dated October 4, 2017 as B-2.

Mayor O'Brien asked if the email is relevant because of proximity to protected wetlands and the concern is the DEP may feel they have jurisdiction because of that. Mr. Papi commented yes, flood hazard areas as well. Mr. Clark inquired if Freehold Soil had seen this project yet. Mr. Shelly said that they will not see it until after. Mr. McLaughlin commented that the lighting, landscaping, parking plans were ready for presentation tonight as well; applicant is ready to keep going. Mr. Manger stated they should reschedule.

Voice of the Public – Open

Mr. Leckstein stated to keep comments limited to what was heard tonight; there would be additional testimony and questions will be taken at any future meeting.

Mr. Donald Eilenberger sworn in by Mr. Leckstein.

Donald Eilenberger, 1213 Pond Road stated that he has been before the Board for this location twice before, both times objecting to the application. He added that when Mr. Abile was the owner there was a fire and it tripled in size. The second time Mark Tolchin added space increasing capacity. In this case he is not objecting. Mr. Truesdale has been a wonderful

neighbor. Since taking the property over, there have been continual improvements. Bo gave him a cell phone when he first met him; if there's an issue he calls and it's done. He believes they will do a good job based on what he has seen. He looks forward to seeing what they do. Only concern is capacity. He urges the board to put in any resolution no more than whatever is determined and to be subject to deed for some protection. Also, make sure parking spaces are right for the capacity. This is the 4th owner in the 40 years they have lived there. If a nightclub were put in, he wouldn't want to see 2,000 people. Mr. Eilenberger added that of course they would have to come before the Board. Ms. Tolchin said she would only buy so many tables; she did not buy them. She rented them. Not a good experience. He asked the board to give consideration to people doing the job. He feels it will be an asset to the neighborhood. Historically, New Bedford Road continued to Old Mill Road. Also, the trap is under the deck. Mr. Abile built the deck in the middle of the night, permits came later.

Mr. James Cheek sworn in by Mr. Leckstein

James Cheek, 1307 Winding Brook Lane, Wall Township stated that he lives in Wall; that when there are events at Old Mil, large companies, food bank, sales awards they get the overflow for parking. The residential area surrounding the Mill is mostly cul-de-sacs and dead ends, so that is no problem. The draining problem causes problems with mosquitos. There is an offensive odor but that may be from Birdsall. Other than that he is very happy with them.

Voice of the Public – Closed

Motion was made by Mr. Diver to carry the application to March; seconded by Mr. Manger, approved by the following vote:

All in favor; none opposed

Mr. Leckstein stated for the public that there will be no further notice of the application being carried to March 21, 2018.

Adjourn: On a motion by Mr. Diver and seconded by Mr. Manger, the meeting was adjourned without objection at 8:43 p.m.

Respectfully submitted and approved:

May Ellen Karamu Date: April 18, 2018