

Borough of Pine Hill
Meeting
Planning and Zoning Board of Adjustments
October 13, 2016

- Call to order:** **Call to Order by Mr. Felix James 7:32pm**
- Pledge of the Flag:** **Led by Mr. James**
- Sunshine Law:** This is a regularly scheduled meeting of the Pine Hill Planning and Zoning Board. This meeting has been duly advertised and is in full compliance with the Sunshine Law.
- Roll Call:** **Present:** Mr. James, Mr. Castor, Mr. Ford, Mr. Shultz, Mr. Hagy, Mayor Green, Mrs. Ciotto, Mr. Green
Absent: Mr. Waddington, Councilman Robb, Mr. Greer
Professionals: Solicitor: Mr. Sitzler, Engineer: Mr. Dougherty
- Correspondence:** None
- Approval of Minutes:** **Mr. James:** If everyone has had a chance to review the minutes from the September 8th meeting can I have a motion for approval
Mr. Hagy: motion t to approve the minutes
Mr. Shultz: Second
Roll call: "aye" Mr. James, Mr. Ford, Mr. Shultz, Mr. Hagy, Mayor Green, Mrs. Ciotto, Mr. Green: **Abstain:** Mr. Castor: Motion Carried
- Approval of Resolution:** **Mr. James:** Next we have Resolution 2016-13; The Lakes at Pine Hill Lake Geneva Road at Berlin-Cross Keys Road Block 131.01, Lots 37.04, 37.06-37.51 Block 131.02 Lots 1-6 Amended Preliminary and Final Major Subdivision.

Mayor Green: Motion to adopt

Mr. James: Is there a second?

Mr. Ford: Second

Mr. James: Any questions? Seeing none can I have a roll call please?

Roll call: "aye" Mr. Ford, Mr. Shultz, Mr. Hagy, Mayor Green, Mrs. Ciotto, Mr. Green: **Abstain:** Mr. James, Mr. Castor: Motion Carried

Approval of Resolution:

Mr. James: Resolution 2016-14; WA Outdoor Advertising, LLC Block 115.19 Lots 14&15 Amended Conditional use Variance/ Waiver/Alternative Use Variance/Site Plan. Can I have a motion on that please?

Mayor Green: Motion to adopt

Mr. James: Is there a second

Mr. Shultz: Second

Roll call: "aye" Mr. James, Mr. Ford, Mr. Shultz, Mr. Hagy, Mayor Green, Mrs. Ciotto, Mr. Green: **Abstain:** Mr. Castor: Motion Carried

Application 2016-7

Mr. James: Next before us is application 2016-7 James and Jeanne Johnson the Deli at 621 Erial Road Block 64 Lots 101-104 Preliminary and Final Minor Site Plan. Are they here?

Mr. McCrink: Yes they're here; my name is Matthew McCrink from McCrink, Kehler & McCrink on behalf of the applicant whom we have here and we also have our engineer. We are prepared to respond to the engineer's review letter on point by point bases I believe pretty much on all the matters we are willing to accommodate; if you are ready I will have them sworn and we will proceed

Mr. Sitzler: How many witnesses do you have?

Mr. McCrink: Just two; I have by principal and engineer

Mr. Ingram: Wayne Ingram

Mr. Sitzler: Can you have them both come up to the microphone? Before we proceed do we have a board member that lives within the 200 feet of the application?

Mayor Green: Yes Mr. Shultz but he has already left

Mr. Sitzler: Oh! Did he leave? Mr. McCrink we had a board member who is on your 200 foot list, he apparently lives right next door. He is not going to participate and he has left the room just so the record is clear. Gentlemen will you raise your right hand please; do you swear the testimony you are going to give before the board this evening will be the whole truth and nothing but the truth

Mr. Ingram: I do

Mr. Johnson: I do

Mr. Sitzler: Thank you

Mr. McCrink: This is an application for the 621 Erial Road block 64 lots 101-104; it is about a little over a 1/3 of an acre currently vacant ground. We intend to build a 1500 square foot building on it basically for a restaurant /pizzeria situation the engineer has here the site plan to hang up

Mr. Sitzler: Do you want to have that marked as A-1 Mr. McCrink?

Mr. McCrink: Than would be good

Mr. McCrink: As you can see the front of Erial Road the property has two fronts and no side and you have two back yards. The building area we shifted somewhat to the right here as you can see parking is here in your submission in the plans I sent to you this shows the parking lay out. Basically the site is not being utilized for anything at this time and obviously it will become a ratable. There are a couple of things that will need variances we are only 15 feet from the rear wall we need a variance for here we also have parking over here we only have 2 continuous spaces your ordinance requires 3 so we are ready for a waiver or variance for that. I do believe your engineer asked for a point to point on the signage and where it is now we have determined it is not in the sight triangle and we do provide detail so if I could look at your engineers letter from September 1st; 2016. Do you all have a copy of that?

Mr. Sitzler: Yes

Mr. McCrink: The application of course is for is for a preliminary and final/ minor site plan, the first aspect is the recycling report there was a request for information on that. This is my client; you have checked with a recycling entity

Mr. Johnson: Yes I checked with Gold Medal Environmental and their plan was to give me 1 2 yard recycle can and 1 2 yard waste can with pick-ups once per week till we figure out what is going on. If it is more than that we will bill more than that; that was the proposal they gave me

Mayor Green: Where exactly on the plans is it

Mr. Ingram: The trash enclosure is proposed basically to be on the eastern end of the site. It is essentially the best location because it does not impede any parking stalls and allows the best access for the trash truck

Mr. McCrink: On that note also we will need a variance because it sits too close side/rear line, so I think we need a variance for that as well and will put that in my notes

Mr. Hagy: Can I see that

Mr. Ingram: It is down here near the bottom on this side

Mr. McCrink: Any other questions on the trash aspect; if not there was an issue on the lighting

Mr. Ingram: on sheet 9 of the plan comments 2 & 3 provides the light pole detail the pole will be at 10 feet and in addition we provided detail of the sign putting it about 12.5 feet in area it is going to be about 7 feet off of Erial Road and we will provide the detail for that.

Mr. McCrink: Does the Engineer have any questions

Mr. Dougherty: Yes I do some questions, the latest plans I have are August 9th, 2016 is there a later version

Mr. Ingram: We just added a single sheet, sorry if it did not make it in we had a 9/9 revision the only change we did was try to address completeness and provide light pole detail and sign

Mr. Dougherty: That was not received my me I don't know if anyone else

Mr. Gallagher: The only other thing I received was a cut sheet on the lights them selves

Mr. McCrink: We have a copy we can give you and we can make copies later

Mr. Dougherty: All I'm trying to do is address some completeness issues

Mr. McCrink: Let me show this to you this was the submission to address some of the detail issues that were requested we clarify

Mr. Dougherty: Right now we are addressing completeness issues on September 1st I declared the application incomplete pending some of the detail was provided and it would be appropriate for you tonight to provide testimony or provide that so we could declare the application complete

Mr. Gallagher: There is one in the packet

Mr. Dougherty: Oh there is one in the packet

Mr. McCrink: Okay so we did get it to you

Mr. Dougherty: So that is in the board's packet with detail of the sign as well as detail of the lights

Mr. McCrink: So at this point Mr. Dougherty do you have any issue with the sign?

Mr. Dougherty: From this stand point yes but I will review as we proceed with testimony

Mr. McCrink: Okay the next area is 1 (C) 4 drainage calculations due to the fact we are not changing anything on the site as far as draining goes we are requesting a waiver and from my understanding you have no objection to the waiver being granted is that correct.

Mr. Dougherty: Right that is fine, the impervious coverage is actually being reduced on the property so in theory the volume would be less than the existing condition so there for they are requesting a waiver of the drainage calculations and since there would be less impervious and less run off I would have no objection to a waiver of an actual drainage report. In addition to that our ordinance is such that if we are less than an acre of disturbance where we are not a major development and under that criteria because it is an existing site as well as less than an acre then our storm water criteria doesn't kick in so there is no requirement for detention on the site. For instance if it had been a site had been a completely open field and had less than an acre of disturbance our ordinance still does not kick in according to residential development.

Mr. McCrink: Then the next is 1 (C) 5 has to do with a soil removal plan; again we propose and we understand you have no objection to a waiver of that requirement.

Mr. Dougherty: That is correct

Mr. McCrink: With that we are prepared to submit our application for complete and we necessarily are prepared to follow-up with testimony to night any item that seems to have a deficiency. As you can see on the next page of the engineers report we have no side yard but on the front and rear we are in need of a variance and I believe when I look at it we are in need of a variance here because of the proximity I believe 15 feet and also back here the trash enclosure is close to that lien.

Mr. Ingram: Part of that variance is having a fence in the front yard

Mr. McCrink: It may be a combination; rather than have any oversight my thought process was if we need a variance and he is right we have a six foot fence involved and I think your ordinance prohibits that we need a variance to have a six foot fence. If you don't want a six foot fence you want something different we are flexible in that respect, obviously you want something to enclose it to keep any critters from getting in there and also to kind of camouflage it. Again my clients are totally flexible we will give you whatever you want there but we like to have it where it stands and keep it neat clean and orderly.

Mr. Dougherty: Just so the Board understands it is a six foot fence in the front yard because this property has two front yards and I think really the ordinance was meant for if you had a fence extending past the front of your building

Mr. Ingram: Not as much as a trash enclosure

Mr. Dougherty: Right not a trash enclosure, but it is a fence in the front yard so that would be an additional waiver; it is actually a variance

Mr. Ingram: With regard to the setback of the building there is a little bit of a hardship the prior building was located a little bit closer to the intersection and also would not have conformed to the ordinance, but we think this is a better design because by keeping the building back we are keeping the parking and activity farther from the neighbors. So essentially we are only proposing a one story building where we could have a building up to 40 feet in height, we are also only having a building 1/3 the size that would be allowed on the lot so we have successfully mitigated that set back by installing landscaping and the fact we are only proposing that one story building of a much smaller dimension we believe it is a much better design for the site.

Mr. McCrink: In the long and short we pushing the driveway out closer to the street and away from the adjoining house we think it is probably a better approach. Next item on page 3 section IV land use landscaping you indicated has been provided you recommend that evergreen buffer be extended north easterly corner of the property and I have discussed with my client if that is your desire he would be happy to do that. Is that correct sir?

Mr. Johnson: Yes

Mr. McCrink: And just so the record will reflect that is my client that is my client saying yes. Now the next one is a little more challenging there are trees there that are of the borough indicated caliper 5 inches or greater which are going to be removed; in order to accommodate the way we have it laid out here we have no problem with your requirement and we will replace with approved shrub cover or comparable replacements as best as possible. Obviously you can't replace a 30 foot tree they don't live among other things with the extent possible the ones that will be removed will be replaced with appropriate vegetation. I think you did show the plantings here and along here and here and all along the back here as a buffer to the residential housing there.

Mr. Ingram: And we have no objection identifying the diameter of the trees on the plans so we can prove we comply with the ordinance as well if we can save any of those trees and modify our proposed evergreens in order to save them that will be reflected also.

Mr. Dougherty: For the boards sake what this provision of the ordinance says that we note those trees 5 inches or greater that measure 36 inches from the ground. Then it is up to the board; if those have to come down to determine the size and variety and quantity that would be needed to replace those. So there is no real formula other than what the board would decide. So that is something you could defer to our office once you would get a count of what trees are there we would look to see if the landscaping provided is adequate to compensate for those trees. If the board wanted to see what it was and actually have an opinion on that maybe we could have them do that but of course they would have to come back

Mr. McCrink: We are hoping to start construction before the bad weather sets in. We are hoping to get final approval tonight so we would be willing to defer to your decision on the planning so we can get approvals and if we have to change or upgrade to meet your specification. Is that correct sir?

Mr. Johnson: Yes it is

Mr. Dougherty: That would be up to the board

Mr. McCrink: Yes it is up to you I would agree. We are willing to defer to your discretion is what it comes down too.

Mr. Ingram: And we have provided approximately 25 evergreen trees as well as shade trees on the property. Trying to provide a double row to the south as well as a single row to the site location plus allowing many existing trees to remain so we are only talking about removing just a few existing trees. We have one existing tree up here we are going to remove but we are going to be supplementing that with over 25 additional trees on the property

Mr. Dougherty: I know that plan rendering there is a landscaping plan in addition for the board's purpose that is on sheet 5 of 9, page 5 of 9 is an actual landscaping lighting plan. It doesn't quite look like what you have up there

Mr. Ingram: Just for your own records I have another copy of the plan here

Mr. Dougherty: If you could just put it up on the board there so everyone can see. Just to show more clearly, and to that earlier point there is a spot

Mr. McCrink: We will mark this A2

Mr. Sitzler: That is going to be called

Mr. McCrink: It is really just a site plan; it would be sheet 5 landscaping and lighting plan. So you can see all the plantings along here and also the indicating of the lighting. Did you want to address that?

Mr. Ingram: Yes; there are 8 large trees are located along the property line and our current entrance we would like to remain if we can it would really be a logistical issue of how big the root balls are and the grading we are going to do in the area we don't want to leave a tree that is not going to survive after we are done. In addition to that our plan is to fill in all the gaps and try to create an evergreen row this was reflected on the rendering when we came here informally that was one of the comments we heard from the board along with a few others that we provided for. So the process is to continue that row up a little farther towards the street which we will do. We have existing tree shown in the law area which will remain and you can see there are 6 shade type trees that will be located along the property

Mr. McCrink: Can every member of the board see this

Mr. Ford: Yes

Mr. McCrink: Any other questions on the landscaping?

Mr. Dougherty: No that is all I have

Mr. McCrink: The next one on page 4 (B) parking; there is an ordinance that you cannot have parking unless you have 3 contiguous and our plan has 2 in the upper left hand corner there is a suggestion we mark them employee parking only and my client is agreeable to that. Is that Correct sir?

Mr. Johnson: Yes it is

Mr. McCrink: So with that caveat we are going to restrict those 2 spaces to employee parking and would request for a waiver or variance for that requirement. On 2 and 3 I think with what we are submitting complies; Mr. Engineer is there anything you need from us on any of those

Mr. Dougherty: I was just thinking on number 2 the parking spaces do comply under the ordinance the parking spaces do comply except you do need a waiver for the 3 in a row verses 2 in a row. It does have the safety island and the depth of the stall is supposed to be 20 feet and you have 1 additional foot so in theory you would have 21 feet but based on everything. It is 20 feet wide with a bumper stop which is what we would recommend and in addition it is sort of in the driveway so we thought that employees would be there for a longer term period so it wouldn't be that in and out traffic so there for the 2 employee parking spaces seemed to make sense there.

Mr. McCrink: Okay number 4 commercial sign is not permitted in the safety island. You can see it is up here not in the sight triangle but in the safety island. The bottom line is we really don't have any other signage on the site; this is an important location so you have visibility in both directions one thing you have to do is advertise and to advertise you need a sign. We live in an advertising culture you have to let people know who we are and what we are doing and this is the most logical place for it. That is our placement the signage is here it would not necessarily interfere with it is not in the sight triangle but it does require a variance due to its location

Mr. Ingram: We did take a look; I do believe the plans show a sight triangle at the entrance driveway but we didn't provide at the intersection. But essentially if you take that same sight triangle 10 feet back from the curb line and transpose it over to here where the street is the sight triangle basically hits the property line where sign is the sign is about 7 feet back from where the sight triangle is so it is a little outside the area if for any reason it was in there we would have no problem relocating the sign from the sight triangle we would certainly understand that

Mayor Green: You don't have any information on what the sign is going to look like

Mr. Ingram: It is relatively small maybe 5 by 2 & ½ so 12.5 square feet

Mayor Green: Okay

Mr. Dougherty: So it is on page 9 of 9 it is an appendage sheet to the set that we have it is up in the top left hand corner

Mr. McCrink: I think the sign conforms to your ordinance

Mr. Dougherty: If you could just provide an indication of where the sight triangle would be, as estimated it would not be in the sight triangle

Mr. Ingram: Yes

Mr. McCrink: B (5) entrance and exits shall be curbed; I think we are meeting those requirements

Mr. Ingram: there is a little bit of extra curbing required and we have no objection to that

Mr. McCrink: Number 6 I think we have 9 parking spaces which should more than meet our requirements. Do you want and testimony from us on what we anticipate utilization on the premises by my understanding from talking to my client we are anticipating a counter and maybe a few tables in there so do you want me to have him testify to that that the 9 parking spaces should be more than adequate for us

Mr. Dougherty: Yes what I was looking for there was testimony on just the general operation so in other words takeout and guestimate how much you think is going to be takeout, eat-in; hours of operation that kind of thing

Mr. Johnson: I would say 50% takeout and I would say the balance of that delivery; I'm only going to have about 12 seats in there so I don't think the actual seat traffic inside is going to be much, the hours of operation are going to be open at 6 and close at 12 midnight

Mr. Dougherty: 6AM to 12 midnight

Mr. Johnson: We are hoping to pick up a breakfast trade and of course pizzas going out at a late night trade

Mr. Hagy: Is that 7 days

Mr. Johnson: Yes

Mr. McCrink: And just from a side note on that I think the lighting I think we would want for a period before and after that for safety purposes

Mr. Ingram: In regard to the lighting we did quote 10 foot poles and building mounted light at 9 so we tried to keep them absolutely as low as possible, as light poles go that is about as short as it gets and still get any kind of real coverage. We have one pole near the parking and one close to the intersection and one on the front of the building. As it shows on the drawing we have 0 foot candles of light across the property line, actually it is significantly farther in but on top of that with the evergreen plantings we are proposing and the fact that they are only about 10 feet high we shouldn't have any light impacts on the adjacent properties

Mr. McCrink: Again with the location of the building over here the activity and noise should be out here closer to the road

Mr. Ingram: We also proposed shrub rows along the parking isles where the building is not so is anybody has shining lights when parked we block the conditions by the shrubs

Mr. McCrink: Anything else you want to add? The next one is page 4 (c) signs I think we have already talked about those issues. They will be within not the sight triangle but the setback area and the sign that will be erected will be in conformance with your regulations as far as size and material wording exedra. (D) General says there is no off street loading required do you want to take testimony as to what his anticipation is for number and size of delivery trucks if so I will have him talk on that now

Mr. Dougherty: Yes

Mr. Johnson: I would expect a box truck not a tractor trailer, coming from US Food maybe a 26 foot box truck coming once maybe every two of three days and the soda delivers maybe a small tractor trailer type thing with their local runs

Mr. Dougherty: so would that be every day, every two days

Mr. Johnson: Every two or three days

Mr. Dougherty: So I would guess about 3 a week right

Mr. McCrink: Then again obviously volume is subject to what kind of volume of business you are doing if you are doing gang busters and again during the summer it could be more active or slower depending on what kind of volume and product you are doing

Mr. Dougherty: At this point do you have any idea on when the deliveries would occur?

Mr. Johnson: I would prefer them to be there maybe 9 am, you know outside the early morning rush on Erial road. After the rush traffic after 9 o'clock it slows down a little bit I would say between 9 and 11

Mr. McCrink: One of our markets is the breakfast market so we really don't want them delivering while we are trying to do our breakfast business so we want them to come a little latter and before the lunch trade and of course before dinner trade. The only other item from there I think we already addressed such as the lighting and hours of operation. Do you have any more questions on the lighting? In the details we did give you on the lighting on page 5 (3) actually I guess D (3). Handicap ramp detail is this the ramp that the county built out there? It's already existing isn't it?

Mr. Dougherty: Yes; you are modifying that sidewalk and one of the requirements is that you verify. Well there are two things there is a handicap detailed in the plan that should be revised and if that ramp is not compliant a lot of times even though it was previously constructed you are putting sidewalks along 7th street there so therefore we hope to see that ramp is compliant

Mr. Ingram: We only requested that in the hopes we could use that as part of a CO for construction and agreed to make it a compliant ramp rather than check it now simply because we have no other surveys

to go out there for and we prefer to save a trip at the expense of just having to send a survey crew to verify the ramp if we can just agree that if it is not compliant during our stake out and other construction activities we would amend it to be corrected

Mr. Dougherty: And that would be I would hope we can get into a compliant plan phase so you would have a note on the plan indicating field measurements of the ramp would be performed during construction

Mr. Ingram: That would be great

Mr. McCrink: Just make that a condition of approval

Mr. Dougherty: And add a note on the bottom

Mr. Ingram: Yes

Mr. McCrink: Now again 4, 5 and 6 all request for additional detail regarding the handicap ramp, sanitary sewer, water service detail; I don't know what if anything you need from us other than what we provided but I'm sure our Engineer will provide. Obviously you guys know more about this than we do, so if you guys communicate whatever you need tell him and we will get it to you.

Mr. Ingram: I will provide revised details

Mr. McCrink: I think we did revise the "CBD" Zoning on number 7. Number 8 obviously any existing utility connections will not be used they will be abandoned and obviously we will be subject to any connection fees. We have submitted to the County as well, I think we have given you a copy of that. I have talked to the County Engineer already he called me he got the application and his main concern they won't have a meeting for another month yet but he didn't indicate any problems with it. AS far as your other requirements here your MUA and Fire Marshall I wasn't aware of any separate application you wanted us to file with them. I have not done so they were not in the original application we got.

Mr. Dougherty: Will with the MUA there would be an application process you would submit the plans for them. The Fire Marshall I think that just gets circulated in here and we have not heard any comments back from the Fire District

Mr. Gallagher: I have not heard anything but normally they do not come through us that is after.

Mr. McCrink: Well I'm assuming with the construction phase we will have to make application either way, so I understood that. I was just wondering if there was any kind of separate approval we need

Mr. Dougherty: At his point the MUA would require a bond for the utilities, so you would basically, there is an application form so you would get the application and place the bond for inspections

Mr. McCrink: That concludes your review letter. Ladies and Gentlemen do you have any questions of my experts or my applicant I will be happy to have them address them right now.

Mr. Hagy: I have a question based on the triangle and where the sign is going to be placed is that going to obstruct the view of the traffic for people trying to exit 7th Avenue onto Erial Road?

Mr. Ingram: That is what your Engineer requested we provide evidence of we did check it before the meeting to make sure it was fine both the revised plans will show the sight triangle and we did verify it is substantially behind that area so it won't provide any impedance

Mr. McCrink: Any other questions

Mayor Green: Yes I have several. Right off the bat exiting from the property onto Erial Road I see an issue with allowing people to make left hand turns, and the reason I say that people making right hand turns aren't going to see people making left hand turns and the people making left hand turn aren't going to see people making right hand turns and there isn't a lot of distance between there quite frankly so I would like serious consideration to putting no left hand turns coming out of the property onto Erial Road.

Mr. McCrink: Like putting a sign there Right Turn Only

Mayor Green: To make a left you would come out onto 7th Ave and go to the stop sign and make a left there

Mr. McCrink: So when there are coming out here make a Right Turn Only Sign I don't disagree with that

Mr. Ingram: It is not a problem

Mayor Green: Now with regards to the building, what is the actual layout I understand there is a building code but where is the customer seating going to be, where is the kitchen going to be

Mr. Johnson: I can address that. The front door is going to be right here on center, I'm going to have a couple tables' right back here and halfway back a counter which will divide the building our kitchen area, bathrooms will be down in this area and in the back side will be storage. There is probably going to be a lot of wasted room up here with the tables because I don't have enough parking to put enough tables in here so I may end up to end up making more storage in the back and giving up

Mayor Green: So where exactly if the grill going to be

Mr. Johnson: The Grill is going to be on this side

Mayor Green: Up at the front

Mr. Johnson: Yes; we want a look that you can sit at the counter and watch us cook. It is going to be an open concept; I have to make sure I'm not saying anything out of place because she is going to shoot me down if I'm wrong but I think the grill here and back behind the wall the wash station you know our sinks and stuff like that so you won't see that. Will have Stainless Steel it will be pretty visible from the counter

Mayor Green: So where exactly are the exhaust fans going to be is my concern obviously because of the residents next door

Mr. Johnson: The exhaust fans are probably going to be real close to the peek on the back side, so if this is the center here

Mayor Green: So it is an A frame

Mr. Johnson: Yes

Mr. Ingram: So it is a 30 foot wide building so it would place it approximately 25 feet from the adjacent property

Mr. McCrink: Yes this is 15

Mr. Ingram: Yes 15 from the back and 15 to center so just short of that say 25 to 30

Mayor Green: And then the secondary exit, or is there going to be another entrance besides the front two doors

Mr. Johnson: We are going to have an exit back here

Mayor Green: Okay and is there a sidewalk or something to that

Mr. Ingram: If anything it will just be a 4x4 path not really a sidewalk because it is not really a primary access. I think one of the preliminary comments we received was to move our A/C units from the rear over to the side to keep them away from the neighbors so those are located up over here on the side of the building

Mayor Green: Then last; I guess this side over here in the back is there fencing along there?

Mr. Ingram: No we had fencing but the comment we received was that based on the location it was going to be kind of a hazard for weeds and debris to accumulate so the fence was removed and in its place we have a tree row providing essentially the same type of screening

Mr. McCrink: Folks any other questions

Mr. Dougherty: A floor plan, when you go for building permits a floor plan will be submitted and architectural renderings

Mr. Ingram: Yes

Mr. Johnson: I have something but it is just ruff notes, just thoughts right now but we will have a complete set

Mr. Dougherty: The condition of the variance, to mitigate the fact that a variance has been requested the board can weigh in on the look of the building. On one of the provisions in the ordinance suggest that to make sure that it is consistent with the structures in the area so that could be one thing such as

the type of material you are using. DO you have any idea what kind of material you are going to be using on that

Mr. Johnson: Probably just going to use vinyl siding, it is going to be a stick frame

Mr. Ingram: It is similar to a ranch style home with an A frame roof, we wanted to keep the height down because of the other size homes in the area

Mr. Dougherty: so that is an indication of what the board can ask and what that building would look like

Mr. McCrink: That is all we have for our presentation, I would assume you will be opening to the public

Mr. James: Can I have a motion to open the floor to the public?

Mr. Castor: I make a recommendation we open the floor to the public

Mr. Ford: Second

Mr. James: All those in favor; all "aye" motion carried

Mr. James: the floor is open to the public

Mr. Sitzler: can you raise your right had please and identify yourself who you are

Mrs. Shultz: Melisa Shultz

Mr. Sitzler: do you swear your testimony before the board will be the whole truth and nothing but the truth

Mrs. Shultz: Yes

Mr. Sitzler: Go right ahead

Mrs. Shultz: Thank You: I am your neighbor, and I just wanted to bring up some concerns that we have. We are happy to bring business into the town but it is a partially residential area and we do have some issues with other businesses in the area specifically Papa Johns and we have had to call the cops for noise issues and I think that is our biggest problem. Not a problem but biggest concern is that noise going to be a problem since we have two small children you're going to be open till midnight, deliveries early you know I worry about that kind of stuff. I also worry about litter where the trash cans are going to be I didn't get to see

Mr. McCrink: They are right here

Mrs. Shultz: Okay that's good

Mr. McCrink: is that good

Mrs. Shultz: Yes, well it seems you guys are going to be very close to my house and that kind of stuff worries me a little bit but

Mr. Sitzler: What is your address for the record?

Mrs. Shultz: It is 613 Erial Road. I have also heard and I don't know if this is confirmed or not that there is underground oil tanks I don't know if this is something you are aware of and if that is going to be an issue

Mr. McCrink: Not to our knowledge but if they are there they will probably have to be removed When we proceed with the construction. Do you know where they are?

Mrs. Shultz: No I don't

Mr. McCrink: Did someone tell you this?

Mrs. Shultz: This building was here for years so you hear these stories

Mr. McCrink: Well I hope you're wrong it is an expense to pull them out but if they are there they will have to come out

Mrs. Shultz: And hopefully there won't be any parking up front where there is already paving up by Erial Road

Mr. Ingram: We are going to have a tree row coming along here and a tree row and shrub row and a tree row and shrub row. And as I said again our intention was to put the building here so we didn't have to reverse it and have the parking over there because we thought it would be more noise and more light problems and that would be a bigger issue

Mrs. Shultz: We welcome new business coming but we had to talk to the Chief of Police the other night about Papa Johns it was pretty bad

Mr. Johnson: Can I ask what the complaints there are

Mrs. Shultz: We had an 18 wheeler delivery truck that came at 1:45 in the morning, we had delivery drivers that leave their stereos blasting and you can hear the base

Mr. McCrink: It is common curtesy things that aren't happening

Mrs. Shultz: Right we have people playing bongos at 2:00 in the morning, I try not to be a nuisance to the police but if I have to I will

Mr. McCrink: By the way this is a family operation you are looking at one of the primary employees here and I hope he doesn't play bongos or anything like that. Part of the problem sounds like Papa Johns they run like 24-7 don't they

Mrs. Shultz: Well they are open till like midnight or 1:00 in the morning

Mr. McCrink: Then why are they taking deliveries at 1:45 in the morning who is there

Mrs. Shultz: I don't know

Mr. McCrink: Well we won't be doing that so that should solve that and I think, and as he said earlier he is trying to coordinate the deliveries more around his time he doesn't want it really early in the morning he doesn't want it real; real late at night because that is when he is going to be doing business

Mrs. Shultz: And just so you know you're not going to be allowed to have the delivery trucks on Erial Road

Mr. Johnson: They are going to come in off of 7th and down where that little red bar is that is kind of where I would like them to unload my stuff right there

Mrs. Shultz: That is all I just wanted to be on record with my concerns

Mr. McCrink: My suggestion to you is to make sure he gives you his number so if you have a problem you can contact him

Mrs. Shultz: Okay, thank you

Mr. Sitzler: Thank You Mrs. Shultz

Mr. James: Anyone else from the public like to speak? I entertain a motion to close the floor

Mr. Castor: Motion to close the floor

Mr. Hagy: Second

Mr. James: All in favor: all "aye" motion carried

Mr. Sitzler: Are here any questions or comments from the board?

Mayor Green: Yes number one I think the board should limit the delivery hours something along the lines of 9am to 5pm, we have done the same thing with Dunkin Donuts we limited those hours and we limited the delivery hours for that set of strip stores next to Dunkin Donuts that have been the only thing that has come before the board in the last 5 years on Erial Road so I think that should be part of the requirement quite frankly

Mr. McCrink: Could you repeat that

Mayor Green: I think the delivery hours; for deliveries to the business should be some ware along the lines from 9 to 5

Mr. McCrink: Is that something you can tell them Jim

Mr. Johnson: Absolutely fine

Mayor Green: As part of the approval not just for you but in the future and then I still think the property should have a fence around it just so the trash and litter doesn't blow to the adjoining properties with kids around and running between properties it is just a personal opinion I don't know who said there shouldn't be a fence I think there should be a fence from right past the dumpster all the way to the way to the corner and from there I guess to the front of the next door neighbor's house at 6 foot deep

Mr. Ingram: It is not on our property but the survey does show the neighbor's fence that goes along this side of the property and all the way basically behind the building. I mean you can try to connect that to the building to keep people from going behind. One of the reasons we didn't want to try to put a whole other fence is because of the location of all those trees along the property line the fence couldn't be continuous unless we tore it all down. There is fencing already along this rear line.

Mr. McCrink: We are trying to be more natural with more greenery as opposed to fence that could potentially rust and oxidize and can be faded and catch trash

Mr. Castor: Is there any way you can block off the back of the building to keep kids from getting back there?

Mr. Ingram: Back in here

Mr. Castor: Yes; I have a Heritage alongside of me and it is a problem

Mr. Ingram: I mean we did originally propose a fence back there but in the preliminary meeting we were told to remove it because it was going to be a trash issue. We are going to basically fill in the whole area there is going to be the existing trees and another row of evergreen beside it

Mr. Castor: I'm talking at the building

Mr. Ingram: well you have 15 feet between the building and the rear property line and two rows of trees so as those trees grow up I would say it is more or less going to fill in that whole area pretty quick

Mr. McCrink: we could connect to the existing fence

Mr. Castor: Somewhere along the back blocking the kids do you see what I talking about there

Mayor Green: I don't disagree

Mr. Castor: Kids hiding back there

Mr. Ingram: I was saying if we ran a short connector fence here that would effectively give you a blocked area across here is you want something like that

Mr. Castor: I think it would be a good Idea

Mr. Hagy: I have a question with regard to trash what is the frequency of the trash pick up

Mr. Johnson: Right now when I talked to Gold Metal they told me figure on once a week and see what happens it could go to twice a week whatever it is

Mr. McCrink: It is a question of volume right the more business you do the more trash you have

Mr. Hagy: How big of a dumpster are you going to have?

Mr. Johnson: 2 yards recycling and 2 yards trash

Mr. Hagy: Because this is a food business how is the food disposed of with in the trash receptacles? What I'm getting at is the smell especially in the summer time

Mr. Johnson: I can increase the pickups but we technically use real heavy duty black trash bags and you have to tear them open to get the smell out

Mr. McCrink: And rumor has it there is a really nice lady next door and if there is an odor she is going to give us a call

Mr. Hagy: One other question if I may with regard to the exhaust fan how high is that and is there a chance it would affect the neighbors locally

Mr. Johnson: My research; they sell a thing and I started to look into it, it is called a grease arrestor they are designed for restaurants in residential areas it contains that grease and any kind of splatter, as far as height goes I think it has to be similar to like a chimney probably 2 or 3 feet above the peek that would be a safe guess

Mr. McCrink: and as he said earlier it was going to be close to the peek so about 25 to 30 feet back from the property line

Mr. Ingram: We estimate the roof line would be 16 to 18 feet tall and it will be 2 feet above that so about 18 to 20 feet up in the air

Mr. James: Anyone else

Mr. Sitzler: Alright Mr. McCrink lets go over the variances

Mr. McCrink: Sure

Mr. Sitzler: You are requesting a variance for that two (2) parking space area

Mr. McCrink: Yes

Mr. Sitzler: and that as a condition would be Employee parking only

Mr. McCrink: Correct

Mr. Sitzler: But the variance is to allow two continuous parking spaces rather than three

Mr. McCrink: Correct

Mr. Sitzler: They will be 20 feet wide with a bumper stop

Mr. Dougherty: 20 feet Deep

Mr. Sitzler: I'm sorry 20 feet deep

Mr. McCrink: yes 20 feet deep

Mr. Sitzler: There is a variance to request to place the 5X2 ½; 12.5 square foot sign in the safety island

Mr. McCrink: Yes

Mr. Sitzler: And as a condition of that manner you would insure that thru your professionals that it doesn't interfere with the sight triangle for the vehicular traffic

Mr. McCrink: Yes with the sight triangle it doesn't appear to be that are but again if there is a problem with that, there is a lot of things you could do for instance if there is a problem seeing you can always raise the sign up so you can see under it so we are flexible in that respect

Mr. Dougherty: The safety island is one thing but the other one is it shall be located 10 feet from the property line and it is a little bit closer than 10 feet

Mr. Sitzler: Right so you estimated 7

Mr. Ingram: I can give you the exact numbers we have the dimensions we have 7.4 feet from Erial Road and a little over 4 feet to 7th Avenue; the main reason is again we want to leave over hang for the cars so we don't want it right behind the parking stalls

Mr. Sitzler: Right so that is two variances with respect to the sign

Mr. Ingram: Right here

Mr. Sitzler: Now is that a side yard there is three yards to the building

Mr. McCrink: Because this is the street and a street we have two fronts so we have decided we have a back and a back; so we need a variance for the back set back here because we are only 15 feet

Mr. Dougherty: Our ordinance doesn't really distinguish on a corner lot so in essence it is two rear yards no side yard

Mr. Sitzler: Got ya, so there is a rear yard variance 15 feet where 25 is required

Mr. McCrink: And as the trash enclosure we are putting a 6 foot fence we need a variance for that

Mr. Sitzler: Alright a 6 foot fence

Mr. Dougherty: In a front yard

Mr. Sitzler: In a front yard. Is that be two the fence and the front yard?

Mr. Dougherty: No, in other words the ordinance precludes the fence in the front yard

Mr. Sitzler: The 6 foot is allowed

Mr. Dougherty: Yes 6 foot is allowed

Mr. Sitzler: Okay the variance is because the 6 foot fence is provided in the front yard

Mr. McCrink: And if we are too close there we may need a setback variance there

Mr. Sitzler: You may need a setback variance so there are two for the trash enclosure. Is that all

Mr. Dougherty: Yes that appears to be all

Mr. Sitzler: That appears to be all the variances, there are some waivers requirements

Mr. McCrink: I was going to say there were some waivers, a waiver the soil removal plan, a waiver for the drainage calculations. I think that is the only two

Mr. Sitzler: Shouldn't there be a tree replacement waiver request

Mr. Dougherty: They are going to meet that

Mr. McCrink: We are going to meet with your Engineer and satisfy the criteria on what we need to plant there

Mr. Sitzler: So you will coordinate the landscaping plan with our Engineer

Mr. McCrink: Subject to his review yes

Mr. Sitzler: And our engineer has already indicated he had no objection to the drainage waiver and the soil removal plans

Mr. McCrink: Correct

Mr. Sitzler: Is that all the waivers? I don't see any more in my notes. Okay for the board that would be the variance and waiver requests if the board was wanting to move forward and approve we are here for both preliminary and final. There are also many conditions that would be part of that

Mr. Castor: the Variances and the waivers do we do them separately, together

Mr. Sitzler: You can do them. Well does anybody have any questions on any of these variances that they have a question about or a concern? Or any of the waivers if no one have a question I prefer we move them all at once but if someone has a question I will separate them

Mr. McCrink: One other thing not a variance or a waiver we are going to have to coordinate the compliance of the handicap ramp out front. So we are going to have someone out there at the time of construction to coordinate the handicap

Mr. Sitzler: Field measurements will be done at time of construction and a note to that effect on the plan

Mr. Dougherty: And that is the best way to catch it out in the field, because the engineer doing that inspection is going to pick that up. They will make sure it is measured up and replaced if necessary

Mr. Sitzler: There has also been a lot of agreements of conditions to approval which the board has heard from the applicant. There has been testimony that there is not going to be any light impact on the adjacent properties based on the lighting plan. On the lighting plan you would have no problem submitting that to our engineer

Mr. Dougherty: It has already been submitted

Mr. McCrink: and the right turn sign requirement we agreed too

Mr. Sitzler: And the right turn sign a condition onto Erial Road right turn only. Those are among those there are several others does the board want me to go thru each one of them? It will be part of any resolution of approval the board if the board is so inclined to approve the application

Mayor Green: Right that would include limiting the delivery hours

Mr. Sitzler: Right 9am to 5; they will of course inspect for any underground oil tank to see if such things exist. I think that is going to be mandatory anyway, and will remove them if they exist. Hours of operation will be from 6am to 12 midnight

Mayor Green: and the lighting before and after how much time

Mr. Johnson: Usually it's a half hour

Mr. McCrink: So a half hour before and half hour after operation hours, so from 5:30 to 12:30

Mr. Castor: of course the amount of business will set the hours eventually

Mr. Sitzler: Well that is the outside you can always shorten the hours

Mr. McCrink: you can always do less

Mr. Sitzler: Any questions by the board? Any motions by the board?

Mr. Castor: Make a motion to approve the waivers and the variances all at one lump sum. Can we do that?

Mr. Sitzler: You can as long as no one, unless someone has an objection to a specific waiver or variance then we will take them separately

Mr. James: Is there a second?

Mrs. Ciotto: Second

Mr. James: Okay roll call please

Roll Call: All “aye” motion carried

Mr. Sitzler: Just so the record is clear this was the preliminary and final site plan together with variances and waivers

Mr. McCrink: What is the time frame on the publication on this

Mr. Sitzler: Well I will have to defer to my board secretary on this but generally Mr. McCrink the resolution will be up on the next meeting. At the point of the resolution once it is adopted at the November Meeting generally when would we have that approval published?

Mr. Gallagher: Let’s see the next meeting is the 10th the day before Veterans Day so if it is approved I can have it in the paper by the next Thursday

Mr. Sitzler: Probably by around the 17th Mr. McCrink, I can’t give you an exact date but that is the day we are looking for

Mr. McCrink: Okay we are still looking to get started before the bad weather sets in

7:40 Mr. Shultz came back to the meeting

Mr. Castor: Is there anything we can do about Papa John’s getting deliveries in the middle of the night

Mayor Green: Really nothing

Mr. Castor: No, because they are already there?

Mayor Green: Yes, number one the Borough does not have an ordinance limiting deliveries and if we did we would have to limit deliveries trough out the entire town which may be detrimental to the commercial areas on Cross Keys Road for example, and unfortunately before it was Papa John’s it was a business before we probably had Zoning Rules and Regulations. 40 years ago it use to be a liquor store. If they had come before the board then we could put a restriction on them but since it was an existing business we can’t

Mr. Castor: I understand

Mr. Sitzler: There may be other ordinances they may be violating that the police can look into when a complaint is made

Old Business:

Mr. James: We don’t have any old business

New Business:

Mr. James: new business the next meeting is November 10th at 7:30

Mr. Sitzler: I do have one thing. I want to bring up the bus property the property with the busses. Les sent me a memo email. Because there is a new Attorney for the applicant it is no longer Mr. Wade. The new Attorney the last I spoke to him on the phone he was still trying to catch up on the properties and what he has done is make an actual backdrop of the properties and he has made an OPRA request to us. By the way Les was the OPRA request and copies going to our Township Attorney?

Mr. Gallagher: He is the one reviewing before it goes out and the request from the New Attorney did go to the Borough

Mr. Sitzler: Okay and you did have copies

Mr. Gallagher: I don't know if he has gotten those documents yet, and some of what he has requested don't exist

Mr. Sitzler: It is easy to say something don't exist but whatever it is you give him I would like a copy whatever it is that you do give so I can have some bases of knowledge of when and if they come here. The second issue is we as a board needs to have an extension to try to get some sort of an application.

Mr. Castor: How long do they need an extension 90 days?

Mr. Sitzler: Two months, because there is a new lawyer and he appears to be diligently looking into this I would only make a recommendation to give them till at least November to come up with an application and not take action to shut them down they did act as the board remembers and they were in touch with the Municipal Officials all the way along the line and perhaps at one point of time they may have been given some miss-information by one or so Municipal Officials and acted in providing some of that so I don't know if it would be appropriate to cite them with a violation. I would recommend to the board that we give them a chance to apply with an application by the November meeting; I will reach out to this Attorney he has called me and let him know he has to come up with something by the November meeting

Mr. Castor: I agree

Mr. Sitzler: Unless he got so far into it and decided he didn't want to deal with the situation and the applicant had to go out and hire a different lawyer

Mr. James: So should we have a motion on that?

Mr. Sitzler: We should yes; since we did give them till today

Mr. Castor: I make the motion to extend them another month

Mr. Sitzler: Yes; and the extension is really is a motion that we are not going to take any legal action against them and give them an opportunity to apply to either (A) justify that they have some right and they have some belief weather it is based upon fact or not they have a belief that this was a non-conforming use over a period of time; or they have to come before us with a whole other application for a use variance one way or the other so they are doing there due diligence when they are asking for our records

Mr. Castor: I make the motion

Mr. Hagy: Second

Mr. James: Roll call please

Roll Call: All "aye" motion carried

Mr. Sitzler: I will reach out to their Attorney and let them know we have extended them till November the 10th

Open meeting to the Public: **Mr. James:** I will entertain a motion to open the meeting to the public.

Mr. Castor: So moved

Mr. Shultz: Second

Mr. James: all in favor;

Motion: all "aye"

Mr. James: there is no public that I can see

Close Meeting to the Public: **Mr. Castor:** Motion to close

Mr. Hagy: Second

Mr. James: all those in favor

Motion: all "aye"

Motion to Adjourn: **Mr. Castor:** make a motion to adjourn

Mr. Shultz: Second

Mr. James: all others "aye" motion carried.