

**City of Northfield Planning Board**  
**1600 Shore Road**  
**Northfield, New Jersey 08225**  
**Telephone (609) 641-2832, ext. 127**  
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**Minutes: September 3, 2015**

Notice of this meeting had been given in accordance with Chapter 231 Public Law 1975, otherwise known as the Open Public Meetings Act. Notice of this meeting had been given to The Press, posted on the bulletin board in City Hall, filed with the City Clerk, and posted on the City website, stating the date, time and place of the meeting and the agenda to the extent known.

This REGULAR meeting of the Northfield Planning Board, held on Thursday, September 3, 2015 in Council Chambers, City Hall, Northfield, was opened by Chairman Richard Levitt at 7:01 p.m. and the following members were present or absent as noted:

Timothy Anderson  
Mark Bruno-absent  
Mayor Erland Chau  
Jim Leeds  
Dr. Richard Levitt  
Lou Milone  
Chief Paul Newman-absent  
Henry Notaro  
Councilman Frank Perri  
Ron Roegiers  
Derek Rowe-absent  
Clem Scharff  
Jim Shippen

Matthew Doran, Professional Engineer  
Norman Zlotnick, Solicitor

Dr. Levitt opened the meeting at 7:01 p.m. and he welcomed the Chairman of the Weymouth Township Planning Board who was in attendance to observe the meeting as his Township is considering combining their Planning and Zoning Boards.

There was on application on the agenda this evening for Spudsy Properties LLC, Block 49, Lots 11-18 and Block 50, Lots 11 & 12 located at 509 & 518 Chestnut Avenue and 509, 603-609 New Road. They are applying for Preliminary & Final Site Plan approval, use variance relief to permit commercial parking and loading in a residential zone, and variances for landscaping buffer between Block 49/Lots 11-15 and Block 49/Lots 16-18 and an accessory side yard variance for the relocation of the shed. The lot proposed for parking is currently a vacant lot and the proposed use is commercial parking. The commercial business is BF Mazzeo Fruit & Produce Market and it is located in two zones; O-PB Zone and R-3 Zone.

Dr. Levitt prefaced the hearing by speaking a moment on possible conflicts as some of the board members were originally appointed by Mr. Mazzeo. He said they may hear the application as long as they can remain objective.

The attorney for the applicant was Nicholas F. Talvacchia of Cooper Levenson in Atlantic City. He introduced his client, Vince Mazzeo and the Engineer and Planner, Jon Barnhart. Mr. Talvacchia began with a review of the Resolution history from 1987 and noted that the approvals have been favorably granted over a 20 year period. The applicant is proposing necessary improvements to operate his business. The use variance is of the D2 variance type which is an expansion of a non-conforming use. The standards are lower than that of a D1 variance and they are not seeking a new use. Mr. Talvacchia quoted the *Burbridge v. Mine Hill Tp.* Case 117, NJS page 393 to substantiate this.

Mr. Talvacchia said he was approached by Mr. Mazzeo and they met at the site. He described problems with truck circulation and his desire to alleviate these issues and create a truck traffic solution. The attorney noted that they are not expanding the use or the building, but they want to increase the parking by five spaces and add landscaping to increase the buffer.

Mr. Talvacchia introduced Jon Barnhart and he was sworn in by Dr. Levitt who noted that the Board has heard his qualifications many times. Mr. Talvacchia added that Mr. Barnhart is a licensed New Jersey Planner and Engineer.

Mr. Barnhart displayed Exhibit A-1 which is a property survey submitted with the package. He said that we all are familiar with BF Mazzeo's on U.S. Route 9 at the corner of New Road and Chestnut Avenue. It is a 7,000 sf retail produce store. The opposite side of the street on Chestnut Avenue is an additional parking lot and storage facility. There are not proposed changes to this side of the street except signage which will no longer be used there. Mr. Barnhart discussed the store side of the street and said the rear of the store side is used for loading and is currently a very tight operation. The trucks need more space for maneuverability. The Mazzeo's were fortunate to buy a 60 ft. wide and 150 ft. deep lot next door and they want to expand the parking area. Mr. Barnhart pointed out that this portion of land has always existed as a split-zoned site with the back portion being in the R-3 zone with the O-P zone wrapping around. The Board has previously approved expansions with "D" Variances to improve the site as it is today.

Mr. Barnhart displayed Exhibit A-2 which is a Google image. He noted that from the property next door all the way to Maple Avenue is commercial property. The applicant wants to expand the parking area further into the residential zone area which causes the use variance. They are not expanding any building areas.

Exhibit A-3 is a color version of the site development plan submitted with the application. It showed the current rear curbing and they want to use the existing driveway and develop and utilize the rear lot to park truck vehicles and to allow loading operations of vehicles. The plan adds a 20 ft. landscape buffer with a solid 6 ft. fence. The Ordinance requires a double evergreen hedge of alternating plantings. Dr. Levitt suggested that the current prevalent method is to use Leyland Cypress and this planting grows quickly and spreads well and would be healthier if grown as a single

row. Mr. Barnhart said they have a total of 21 spaces across the street for a total of 37 spaces. With the addition of the new five spaces, the grand total will be 42 spaces with the entire back area being utilized for commercial vehicles.

Mr. Barnhart displayed Exhibit A-4 which showed the turning radius. It was discussed whether this space would work for the Mazzeo trucks. The trucks can park in the back spaces and back up to the loading sites. This works for large trucks, but not tractor trailers. There is not appropriate room for tractor trailers and there is no designated spot right now. With the new expansion, the trucks can come off Chestnut Avenue and it will be easier for them to maneuver. This is true for trucks entering New Road as well. This exhibit shows why the use variance is necessary. They will be adding customer parking, adding a loading operation that works, traffic flow will be improved, and it promotes general welfare as the site is already well suited for the use. Mr. Mazzeo purchased the lot which once contained a house and has since been demolished. Previously, the store backed right up to the house and now there is a vacant lot in between. The rear area is already residential and if this application is denied, existing conditions will remain. If approved, the site will be improved which will advance the purposes of zoning. Mr. Talvacchia there is no detriment to the zone plan or to the public and no negative criteria to negate the D(2)variance. Mr. Barnhart added that the site has been expanded on two previous occasions and the Board has recognized support of the use at this site. As to the public good, there are problems with congestion on Chestnut Avenue and this application will improve the current conditions, but they cannot make every problem go away.

Mr. Barnhart discussed the existing shed at the rear of the property and the variances proposed. They are proposing to move the shed. The required setback is 10 ft. and they are proposing 5 ft. There is also a parking setback to the right-of-way issue where 20 ft. is required and they are proposing 15 ft. The moving of the shed will be a very minor impact, but the flow improvement in the loading area will be a benefit as the area will gain 10 ft. Mr. Roegiers clarified that they are not proposing a new shed; they are simply moving it 5 ft.

Mr. Barnhart discussed the proposed LED message board sign. There is an existing hand-changing message board in front of the store and also a second sign across the street in the additional parking lot. They want to eliminate both and have one LED sign in front of the store. This will eliminate two existing signs. The proposed sign will change once per day at most. They now use the signs to advertise specials and will continue this practice. They want the operation to be easier and cleaner and it is the way signage is going. The sign will be illuminated by LED, but will not be a changing sign. They will need a variance since the sign is in the OP-B zone. There are a number of these types of signs on Tilton Road and also down the street at One Stop Car Audio. It will be a nicer, cleaner look than the two existing signs. The sign will require a sign variance as 24.8 sf is permitted and 49 sf is proposed. Also a sign setback will be required as 15 ft. is proposed and 13.68 sf is proposed. Mr. Roegiers asked if there are any travel issues. Mr. Barnhart said the sign will be high and motorists will be able to see under it. He added that there will be no negative impact due to the sign changes and it is consistent with the pattern of development. Dr. Levitt did not agree. He said that this is an Office Professional zone and electronic message board signs were never permitted in the O-PB zone and must conform by all other aspects. The market is adjacent to Doctor's offices and nice professional offices. This type of sign might work

on Tilton Road and he noted that there has been difficulty regulating the brightness of these signs in the past. This may deter businesses from coming in and would not be appropriate for Law, Doctor, or Accounting types of offices. Mr. Barnhart said the sign was reviewed in detail in Mr. Doran's report and they can accommodate all items relating to the sign in the report.

Mr. Barnhart discussed the lighting. They are proposing LED lighting for the back area and will lower the height of the poles which are currently 30 ft. and will drop them to 20 ft. They can't go any lower than that because of the trucks.

Dr. Levitt said that in previous applications, the diesel trucks have met with opposition. He asked if the new proposals will allow them to run the diesel trucks less to improve the air quality.

Vince Mazzeo was sworn in. He spoke about the trucks noting they have seven diesel trucks operating which are in and out of the site two to three times a day. They are shut off at night. There is one tractor trailer that comes in from Philadelphia at about 2:00 a.m. and runs until about 4:00 a.m. It is shut off when parked, but it needs to be refrigerated while unloading. It is refrigerated by a Thermo King engine which is separate from the truck engine. Dr. Levitt asked if the refrigeration could be plugged into AC instead of using the trucks and Mr. Mazzeo didn't believe so. Mr. Roegiers clarified that it is free standing and controlled by a thermostat.

Mayor Chau had a question for Mr. Barnhart concerning the expansion for the parking lot. He asked if they would be constructing a permanent surface. Mr. Barnhart said there was some recycled asphalt used previously. This will not exist if approved. They will add a paved asphalt surface. Mr. Talvacchia added that the truck motors will be able to face New Road instead of the residential area during night hours and there will also be the fence and buffer area to block any noise. Mr. Mazzeo said it has been brought to his attention here tonight that the refrigeration motors can be plugged in to AC units.

Mr. Leeds asked about Lots 19 & 20. Mr. Barnhart said they are essentially the same lot containing a house, a backyard, and a fence. Mr. Barnhart presented an aerial view of this lot. Dr. Levitt asked about buffering between the landscaping and trash receptacle. Mr. Barnhart said there are some large trees and they will not be encroaching into those areas. Mr. Shippen said that with the 30 ft. trucks maneuvering behind the building, what will prevent customers from entering into this area. Mr. Barnhart said they will stripe the areas in the rear for loading only. He said people tend to avoid these areas. The improvements will be independent and will not interfere with the drive aisle. Mr. Shippen said they will need to be differentially marked. Mr. Barnhart said this issue was noted in Mr. Doran's report as needing to be improved upon.

Mayor Chau asked about additional lighting for the parking area. Mr. Barnhart said they will be adding some lighting. Dr. Levitt commented that the lighting must be shielded. Mr. Barnhart assured the Board that they will be and said that is the nice thing about LED lighting and they are much more controllable than the old flood lights.

Dr. Levitt said that at this time he would open the public session.

Mr. Perry Pindale of 522 Chestnut Avenue spoke first. His home is the second house from the vacant lot. He said he has reviewed the plan and said it is his opinion that the lot is zoned residential and it is being re-zoned commercial. He asked about sidewalks and said there are none presently and none proposed. He questioned the additional five parking spaces and Mr. Barnhart clarified where they would be located. Mr. Pindale was concerned about overflow parking and the commercial aspect moving deeper into the neighborhood. Dr. Levitt said it will be completely screened and closer to the medical building next door. Mr. Barnhart said the existing trash area will be turned and placed on the edge and parking will wrap around that. The current trash area will be for parking and alongside the shed which will help to block it. The area will be reorganized in a better operational manner. Mr. Pindale said the trash area will be moved onto the new lot. Mr. Barnhart said it would be a few feet.

Mr. Pindale said there is no buffer on Chestnut Avenue. He brought up the two residential properties across the street on Chestnut and said they are affected by the sounds that come down the street. He also inquired about the existing mature trees. Mr. Barnhart said they are being removed at the property line. Dr. Levitt asked if the buffer could move around the corner. Mr. Barnhart said this would create a sight triangle issue. Mr. Pindale thought a sidewalk would help solve the site issue and asked why there can't be more of a buffer. Mr. Barnhart stated again that this would create a sight problem. Dr. Levitt added that vehicles need to see cars coming down Chestnut Avenue. Mr. Barnhart referred to the plan and gave the dimensions of the sight triangle and said there is no room to increase the buffer. Mr. Pindale said he thinks there is room and an increased buffer would help keep sound from coming into the neighborhood. Mr. Barnhart said a solid fence would help with the sound. Mr. Pindale asked about a watering system for the buffer area. Mr. Mazzeo said they would install an irrigation system.

Mr. Pindale continued by explaining why he did not feel this application is necessary. When the Mazzeo's were before the Board in 2007, they promised the Board, most importantly, that they had secured a third location for their wholesale business and that the large trucks would be directed to this new site. There would be no more tractor trailers on site and no more forklifts crossing the street. They would only have their own box trucks on site. Mr. Pindale had concerns with the refrigeration trucks running. There have been over twenty complaints to the Police Department about trucks left running at the back of the store. He feels it is intentional at this point. The neighbors cannot even open their windows and it is an untenable situation. He said they have six box trucks and the loading problems are due to their own cars being parked behind the store. He asked about enforcement. Dr. Levitt said the Board's job is to hear and vote on the application and for the Board's Solicitor to complete the Resolution. The Code Official then enforces the matter according to the resolutions and Mr. Pindale said the Official has failed to do that. Dr. Levitt said Mr. Mazzeo has agreed to move the trucks to the front near Route 9 and has agreed to plug the refrigeration trucks into the AC. He added that the Board does not have enforcement authority. Mr. Pindale read items which he researched regarding promises that were made. He said that forklifts are crossing the street and he was almost impaled in his car by one of the forklifts. He said the tractor trailers are creating site problems and a dangerous issue exists. Dr. Levitt asked Mr. Pindale if he didn't agree that better traffic flow on site would help with this. Mr. Pindale said he is concerned with the commercial business moving closer into the residential neighborhood. He said he has a signed

petition from the neighbors and he is also concerned with broken promises. Mr. Zlotnick said the Board cannot allow a petition to be entered into the record. Signatures cannot be questioned, so the petition cannot be accepted. Residents need to be present and heard during the open public session. Mr. Pindale said he is here representing the neighborhood.

Mr. Talvacchia stated that they have made their case and are trying to make the current situation better. He said it was previously stated that small 18 ft. to 25 ft. trucks would be used to transport goods across the street. They have been using forklifts since they are less of an impact. Forklifts are allowed in the public street and can be licensed, or in some cases, not licensed. They need some type of mechanical way to move product. The trucks in the street will now be on site and the visual impact will be less and will create a safer situation.

Mr. Shippen said he was not on the Board in 2007 and asked if it was true about the separate site and that the trucks would not be coming out of the site anymore. Mr. Talvacchia said it was a condition of approval.

Brian Livesey of 529 Chestnut Avenue and Bonnie Horwath of 533 Chestnut Avenue were both sworn in. Mr. Livesey passed out a letter composed by him regarding Mazzeo's Produce Expansion, City Code Violations, and previous approvals. Mayor Chau asked Ms. Horwath where her home is in relation to Mazzeo's. She said her home is furthest away on Chestnut Avenue on the left near the stop sign. She believes she has \$50,000 in damage to her property and has experienced her phone and utility lines being knocked out, damage to gutters, and tractor trailers taking out the stop sign in the middle of the night. She sprained her ankle walking in tracks created by truck tires. She lives at the end of the street and has not opened her windows since the year 2000. The truck noise in the middle of the night wakes her up. She has two service dogs and they bark when they hear the beeping from the trucks. She showed the Board a photograph of one of the tractor trailers. If the trucks were moved toward the front of the store there is only a difference of 20 ft. She is at the end of the street and she clearly hears the trucks. She has gone to City Council meetings and TV 40 news and has not gotten any relief. She thinks more eighteen wheelers will be coming down her street and continue to ignore the sign. She is on the corner of Maple and Chestnut Avenues and she hears the trucks and cannot imagine what her neighbors living close have to hear. She said the trucks are directed to take Jackson Avenue from Tilton Road, turn onto Maple Avenue and then make a left through the neighborhood onto Chestnut Avenue. Mr. Mazzeo said he tries to direct all of the vendors not to use that route, but some of the new drivers are unaware. Dr. Levitt asked if the current application will improve that. Mr. Mazzeo said the flow of traffic will improve. Dr. Levitt suggested having the trucks enter Chestnut Avenue from New Road and then back out. Mr. Mazzeo said that is what they try and do now. Mr. Barnhart described the possibilities for the trucks to enter from each side of New Road. With this application, he doesn't see that backing up on Chestnut Avenue would be necessary. Ms. Horwath said she appreciates that and understands that, but she has called the Police at least 100 times and Chestnut Avenue is not zoned to have tractor trailer trucks in the neighborhood or on this street. It is illegal for them to be on the street since Chestnut Avenue is actually 10 ft. short of a regular residential street. Mr. Talvacchia said neither himself or Mr. Barnhart have heard that the trucks are not allowed on the street. Ms. Horwath said the street is not wide enough. Ms. Horwath showed Dr. Levitt

the photo of the tractor trailer on the street and said this is an everyday occurrence. Dr. Levitt side signage may improve this. Mrs. Horwath said they have signage and it is ignored. Mayor Chau said the police may have said that the road is not suited for tractor trailers, but it is not a law unless the City mandates it to be by certain restrictions. Dr. Levitt agreed that the City would have to mandate this and it is not enforceable until that time. Mr. Mazzeo can't guarantee that a truck driver won't make a mistake. He cannot enforce that either. Ms. Horwath said she cannot keep repairing damage to her property. Mayor Chau said the only way to prevent this is for City Council to pass an ordinance. Mr. Talvacchia commented that this would be a great idea. It would give police the authority ticket the truck drivers. After receiving a fine or two, they will get the message. Mr. Mazzeo can warn them of this and signage about fines will help too.

Mr. Livesey asked about trucks that are there for only a few minutes. Mr. Shippen said it will not solve the problem to deny the project and Dr. Levitt agreed with this. Sooner or later it will improve. Simply prohibiting an improvement, whether agreed to or not, will not solve the problem. Mr. Livesey had concerns that the commercial business is moving further into the neighborhood. This is a large grocery store located near a residential neighborhood and the problems are worsening and there is no support from the Zoning Officer. Ms. Horwath asked why promises from 2007 were not put into effect. She feels for Mr. Pindale who is right next door to the market. She said that dumpsters attract raccoons, rats, and possums and they will invade his property. She stated that she was previously a real estate agent and property values are dropping in her neighborhood. She added that she shops in the store and they have a great business. She asked the applicants if they would buy a house on Chestnut Avenue. She asked that they put themselves in the neighborhood's shoes and asked that they come live in their houses for one month. It is still a residential neighborhood. The noise in the middle of the night is horrible. The stop sign has been replaced four times. She thinks they should go with a Tilton Road, off-site location and keep the promises made in 2007. Mr. Shippen questioned if these promises were in the resolution. Mr. Talvacchia said they were mentioned in the minutes as discussion, information, and testimony. They were not a condition. Ms. Horwath stated that they should be made conditions. Dr. Levitt said the Board cannot mandate that Mr. Mazzeo must buy a location off site. The Board can only hope to improve the current situation. Dr. Levitt said he likes the offer from the Mayor to bring the truck parking issue to Council and agrees with the idea of plugging the trucks into an electrical source so as not to leave the diesel engines running. He also thinks there will be an improvement to flow. Mr. Mazzeo is a victim of his own success and everyone like the market. Ms. Horwath said that we are bending to what will help him, but it will not be a solution for the neighbors or their property values. Dr. Levitt said all conditions will be included in the resolutions and he feels the buffer, additional landscaping, and the changing of operations in regards to the vehicles will be an improvement.

Mr. Livesey commented on the buffer behind the building and said it is not maintained and the proposed buffer will be too far from the noise to be of any relief. Mr. Horwath said there is no peace and she thinks there will be more trucks coming to the site. Mr. Livesey said approval will give them a pass for all the things they broke. The Mayor addressed the trash issues and asked the residents if they oppose the location or amounts of trash. Mr. Livesey said he does not want trash or dumpsters closer to the neighborhood. The Mayor asked Mr. Mazzeo if he could move the dumpster to the

other side where the cold storage is located. Mr. Mazzeo said he has established a recycle program with a pig farmer and is trying to cut down on waste. Ms. Horwath reiterated that the concern is that it is closer to the neighborhood. Ms. Horwath said each of the neighbors are experiencing different issues. Mr. Livesey said he can understand they want to expand, but he feels they should follow the City plan. He also understands that Mr. Mazzeo bought the lot, but he doesn't want him to expand into the neighborhood.

Dr. Levitt commented that there was a similar situation with Wawa at the south side of the City. The site had poor vehicle circulation problems and they had to expand into the wooded area at the rear of the store closer to the residential neighborhood and there were similar objections. Wawa has improved the site and safety issues. He has concerns and has experienced pulling into the Mazzeo parking area to find no available parking spaces and no way out the back of the site causing cars to back up onto Route 9. This is a safety issue. Dr. Levitt said Mr. Zlotnick will put all of these concerns into the resolution which is the document that is followed after approval. The secretary's minutes could contain a promise or idea discussed at the hearing, but only the resolution is official after the vote and memorialization.

Ms. Horwath spoke about the loading dock area and said that trucks can't execute the turn off Chestnut Avenue to the loading dock. The "No Trucks" sign is located at the end of the second lot. If cars were not parked along Chestnut Avenue, it would be easier for trucks to make the turn. This situation could be improved if the parking was eliminated.

The Mayor asked the residents what they expect Mr. Mazzeo to do with this property. Mr. Livesey said we are losing another lot to a parking lot. He suggested a house be constructed on the lot and to possibly use the lot for an affordable housing unit. He felt the business has overgrown the site. The Mayor said he has a problem telling an applicant what to do with his property. Ms. Horwath asked the Board to understand what they are dealing with. She said they have brought new ideas and alternative solutions such as eliminating the parking on Chestnut Avenue. Mr. Perri and Mr. Zlotnick noted that the Board cannot address road parking issues. That is under the Municipal power through City Council. Mr. Shippen said the Board can pass on recommendations to Council. Mr. Zlotnick said that he will make note of the parking issue in his resolution, but it will not be as a condition of approval. It will be noted as a significant topic of conversation, but it is not binding.

Mr. Livesey said it has become the neighborhood's problem. Mr. Mazzeo bought the lot with hopes of converting it and getting a variance. He asked what will stop continued expansion. Mr. Zlotnick said he is putting the issue only in the negative. There are rules, statutes, and cases with processes and appeals to Superior Court. Due process protection must be proven and this Board is the first step. Mr. Livesey said it is his job to express his opposition. Mr. Zlotnick said the Board has a job to do as well and it is to hear the application and vote on it. Dr. Levitt asked if the resolution can state the Board's suggestions and recommendations. Mr. Zlotnick said yes, but they are not enforceable. Also, DOT protocol must be followed. Ms. Horwath thought the recommendations would be important and would like to see the resident's ideas about the parking considered and for the area not be re-zoned. Dr. Levitt said that having the tractor trailers not running will help with the situation. Everything is give and take and

balance and the Board does appreciate the resident's concerns. The Board is trying very hard to meet the concerns of the residents. Mr. Livesey added that customers park along the street because of convenience and they don't want to park across the street in the lot. He felt the south side of the street should be no parking. Mr. Zlotnick said there will be a recommendation in the resolution, but it is ultimately up to City Council. Mr. Shippen urged them to attend a Council meeting and said they did a good job bringing up their points in the public session. Dr. Levitt asked the Mayor if he would be willing to discuss the parking issues with Council and he said he certainly would.

Mr. Fedor asked about the comments at the beginning of the hearing about objectivity due to affiliation and asked who had been appointed to the Board by Mr. Mazzeo when he served as Mayor. Mr. Shippen said that he personally came to the conclusion that he could be objective. Serving on the Planning Board is a public service and he will be objective. Dr. Levitt said the Doctrine of Necessity could also be invoked if necessary. Mr. Scharff and Dr. Levitt both offered that they were appointed or re-appointed by Mr. Mazzeo when he served as Mayor. Dr. Levitt commented that this is an independent Board with a lot of self-thinkers. Dr. Levitt closed the public session seeing that no one else wished to speak.

Mr. Talvacchia clarified some issues. He said that moving the parking from Chestnut Avenue will not help with the parking problems of commercial trucks; the expansion will. Congestion has been addressed, but that is not the issue of this application. This is not a hardship application. This project will make the site work better and improve zoning purposes and will make business operations more efficient. This business has been there since 1962 and pre-dates zoning. They have been successful and this has created issues. If the application is not approved, the problems will not go away. Mazzeo's is protected by law. We need to make the site more compatible and improve parking and loading capacity. This will solve more problems than it creates.

Mr. Scharff made the motion for the D(2) variance for the expansion of a pre-existing non-conforming use. Mr. Milone seconded.

The roll call vote was as follows:

Mr. Anderson-no, Mr. Bruno-absent, Mayor Chau-no vote as elected official, Mr. Leeds-yes, Mr. Milone-yes, Chief Newman-absent, Mr. Notaro-yes, Councilman Perri-no vote as elected official, Mr. Roegiers-yes, Mr. Rowe-absent, Mr. Scharff-yes, Mr. Shippen-yes and he noted that he felt the positives outweigh the negatives, Chairman Levitt-yes. The motion to approve the D (2) variance carries.

Dr. Levitt addressed Mr. Doran's Engineer's letter before the next vote. Mr. Doran noted that he suggested curbs and sidewalks on Chestnut Avenue which are required by Ordinance and the applicant agreed. Mr. Doran has received the Fire Department letter. For areas un-landscaped, they have agreed to plant grass and will include a sprinkler system. Two shade trees and two street trees are required. They will also install a low fence and shrubs out of the sight triangle to block the sound. Mr. Zlotnick noted that they have agreed to all in Mr. Doran's report. The plantings will be Leyland Cypress. Mayor Chau added that they also agreed to install an asphalt or similar surface on the vacant lot according to code and will not use a stone surface. Dr. Levitt agreed that is

by Ordinance. Mr. Leeds stated that they agreed to lower the lights to a height of 20 ft. Mr. Doran added that the lights need to be shielded in the back and that this worked well at the Wawa location. Mr. Barnhart said he would submit the lighting plan specifics to Mr. Doran for review. Mr. Doran was satisfied that all was addressed in his review.

Dr. Levitt spoke about the bulk variances and said the Board will handle the sign variance vote separately.

Mr. Scharff made the motion for the bulk variances for a side yard setback for the relocation of the accessory structure (shed) where 10 ft. is required and 5 ft. is proposed and the right-of-way parking setback where 20 ft. is required and 15 ft. is proposed. Mr. Milone seconded the motion.

The roll call vote was as follows:

Mr. Anderson-no vote-9 voting members present, Mr. Bruno-absent, Mayor Chau-yes, Mr. Leeds-yes, Mr. Milone-yes, Chief Newman-absent, Mr. Notaro-yes, Councilman Perri-yes, Mr. Roegiers-yes, Mr. Rowe-absent, Mr. Scharff-yes, Mr. Shippen-yes, Chairman Levitt-yes. The motion to approve the bulk variances carries.

The third vote was for the sign variance. Mr. Barnhart said the sign dimensions are drawn on the site plan presented. The sign size of 24.8 sf is permitted. They are proposing 49 sf. The sign setback of 13.68 ft. is proposed where 15 ft. is required. Also, electronic message boards are not permitted, but are proposed. Mr. Doran noted in his report that the address should be prominently displayed on the sign. Dr. Levitt warned that an LED sign on Route 9 would be precedent setting and that they are prohibited in the OP-B zone. He said the Board has never permitted such a sign that is non-conforming in both size and height. He referred to the Capaldi sign on Tilton Road and that sign brightness has been hard to maintain and difficult for the Zoning Officer to regulate. Mr. Scharff noted that the Tilton Market and Jersey Shore LED message boards work well. Dr. Levitt said they are permitted in their zones and this sign does not conform.

Mr. Scharff made the motion and Mr. Perri seconded.

The roll call vote was as follows:

Mr. Anderson-no vote-9 voting members present, Mr. Bruno-absent, Mayor Chau-no, Mr. Leeds-yes, Mr. Milone-yes, Chief Newman-absent, Mr. Notaro-yes, Councilman Perri-yes, Mr. Roegiers-no, Mr. Rowe-absent, Mr. Scharff-yes, Mr. Shippen-no, Chairman Levitt-no. The motion to approve the sign variances carries by a vote of 5 affirmative votes and 4 negative votes.

At this time, Mr. Talvacchia requested that forklifts be allowed to go back and forth between the store and the cold storage to move product. In the 2007 resolution there was a statement, not a condition, that prohibited this and they are asking that this be part of the site plan motion. There were no objections.

Dr. Levitt said that the LED sign has been approved, but conditions were not discussed. At this very time, the LED Ordinance is being worked on and is not complete. He asked that they adhere to the following: the sign will have no moving parts, will be limited to three colors, there will be no animation, nighttime illumination will be no greater than 5% of the daytime illumination or 50 nits, there will be no logos, and the message will only change once per day. Mr. Talvacchia said in reality, the message will change about once a week. Dr. Levitt said he has a problem with changing messages on a busy highway as they are a hazard to drivers. Dr. Levitt said because of the zone, it is important to make the conditions more restrictive than the current Ordinance which allows messages to change every three minutes. He said the parking recommendations will be brought to Council concerning the customer parking on Chestnut Avenue and the restrictions on the large trucks on this street as well. Mr. Fedor asked about the dimming of the LED lights on the sign. Dr. Levitt said that will occur at sundown.

Mr. Scharff made the motion for the preliminary and final site plan to include approval with conditions of LED signage and dimming, forklift travel to the accessory building, recommendations to Council concerning eliminating parking on the south side of Chestnut Avenue and restriction of truck traffic. Dr. Levitt added that there will be no loading or unloading of trucks on city streets and this is a condition of approval and is enforceable. Mr. Talvacchia said this is one of the points of the project to get the trucks onto the site. Mr. Perri seconded the motion.

Mr. Scharff made the motion and Mr. Perri seconded.

The roll call vote was as follows:

Mr. Anderson-no vote-9 voting members present, Mr. Bruno-absent, Mayor Chau-yes, Mr. Leeds-yes, Mr. Milone-yes, Chief Newman-absent, Mr. Notaro-yes, Councilman Perri-yes, Mr. Roegiers-yes, Mr. Rowe-absent, Mr. Scharff-yes, Mr. Shippen-yes, Chairman Levitt-yes. The motion to approve the site plan carries.

Mr. Zlotnick discussed communication with Kris Facenda, the City Solicitor, regarding a conflict in the Ordinance relating to the parking of large commercial vehicles. There is a contradiction in the Zoning Ordinance. Mr. Zlotnick summarized the Ordinance and read the sections as they currently exist. He noted that one section says you can park commercial vehicles in residential driveways and one says you can't park them at all.

Dr. Levitt said that when the Ordinance was being revised, the idea was to get the commercial vehicles off the street, and if room provided, to allow them to be parked in driveways. Mr. Perri asked when it was changed from 4 tons to 1.5 tons. He said that 98% of commercial trucks are in excess of 5,000 lbs. Dr. Levitt said that does not refer to the gross weight of the vehicle; it refers to the capacity. Mr. Perri thought this was being misinterpreted by the Zoning Official and did not think it could be regulated out 100%.

Mr. Zlotnick said there is definitely a conflict and if 105-15 Subsection 5 was repealed, you would remove the conflict. Remove the section stating “No commercial vehicles shall be parked overnight in a residential zone”. Dr. Levitt thought it should read “residential street”. Citizens were complaining about jitneys, school buses, and tractor trailers parked on the street. Mr. Perri said that in Section B, the time period is regulated. He noted that the Ordinance has to be enforceable. The tonnage section is confusing. Dr. Levitt said we don’t want people parking vacation trailers, horse trailers, and boat trailers on the street permanently. That was why the time limitations were added.

Mr. Perri referred to the violation. Mr. Scharff said we need to rescind 215-105-5. We want people to have these trailers, but not on the street overnight.

The Board members review the Land Use Ordinance sections.

Mr. Doran said when the revisions were being done; it was said specifically to measure by the manufacture’s rating which is 3,000 lbs. Dr. Levitt said that not more than one should be permitted and they should be off the street between 11:00 p.m. and 6:00 a.m. Any size should be permitted on the property, but not more than one.

Mr. Anderson said that some vehicles could be a combination truck and trailer, such as a 5-ton dump truck with a trailer attached. A landscaper might have a vehicle like this. That would put them in a bind. Mr. Notaro questioned the camper section which said they cannot be in excess of 28 ft. Dr. Levitt said that is in another section. Mr. Perri said the violation refers to someone parking a commercial vehicle in their driveway. This was the original complaint. Dr. Levitt said that language should have been eliminated when 9-2012 language was instituted.

The Board further reviewed the Land Use Ordinance. Mr. Shippen summarized that if 215-105-5 is eliminated, the problem will go away. Dr. Levitt said we don’t not want residential lots turned into truck parking lots. Mr. Perri said one truck is reasonable. Mr. Doran said this will allow one truck in a residential driveway, according to manufacturer’s rating of 3,000 lbs., to be parked overnight. Dr. Levitt said the restricted hours for all other types of commercial vehicles will remain. Mr. Zlotnick said this will remove the conflict.

Mr. Scharff made the motion to recommend to City Council to revise the Land Use Ordinance to remove 215-105-5. Mr. Shippen seconded the motion.

The voice vote was all in favor.

Mr. Zlotnick said he would inform the City Solicitor, Kris Facenda.

There was one resolution to memorialize for Craig & Jennifer Blum, Block 40, Lot 18.23, 7 Jack Sloan Court for “C” variances to enclose an existing deck and to provide

for a three-season room. Abstentions were: Tim Anderson, Mayor Chau, Clem Scharff, and Dr. Levitt.

The voice vote was all in favor.

The last order of business was a discussion about the sign ordinance and the work being done on the LED portion. Mayor Chau stated that City Council wants to be more supportive of local businesses and to move forward to modernizing the sign ordinance. The purpose of signage is to draw attention to the businesses, but some are expanding the use of signs with increasing signage and adding lawn signs even beyond the property lines. He expressed concerns that they are going beyond getting out of hand. Mr. Shippen agreed that regulation would prescribe that and allow for enforcement. Mayor Chau discussed A-frame style signs at the entrances to businesses and questioned the legality. Mr. Perri said Council is looking to loosen and expand the Ordinance on signage as well as outside dining and he said he is hesitant to do this and felt the Ordinance is adequate. Applicants should have to come before the Planning Board for relief. We need to have a uniform plan in place. Dr. Levitt said inconsistency like tonight's sign variance issue can cause problems. The LED sign does not conform. Mr. Perri said there will actually be less signage when considering square footage and the elimination of the second sign. LED needs to be addressed due to technology. The Mayor felt that enforcement is not happening and interpretation is an issue as are wall signs and banner signs. Mr. Scharff thought the A-frame style signs are not a big issue if there are primarily for foot traffic. They are an issue if they affect the sight triangle and can be seen from the road. Mr. Shippen, the Mayor, and Dr. Levitt all commented that the resolutions need to be carefully worded and read and discussed before being voted on. The Board agreed.

Mr. Perri made the motion to close the meeting and Mr. Roegiers seconded. Dr. Levitt closed the meeting at 9:37 p.m.

Respectfully submitted,

*Robin Atlas*

Robin Atlas, Secretary to the Board