

CHATHAM BOROUGH PLANNING BOARD

May 2, 2007

7:30 p.m.

Chairman H.H. Montague called the Chatham Borough Planning Board meeting of May 2, 2007 to order at 7:30 p.m. in the Council Chambers, Chatham Municipal Building. Mr. Montague announced that all legal notices have been posted for this meeting.

Members Present: Chairman H.H. Montague, John Hague, David Gerridge, Alison Pignatello, Thomas Sennett, Alan Pfeil, James Mitchell, Councilman Bruce Harris, Mayor Richard Plambeck.

Charles W. Foster, Esq., attorney for the Board, was present.

Members Absent: Bill Jankowski

221 Main Street, LLC – Application for Site Plan Approval for 221 Main St.
Barry Osmun, Esq., attorney for the applicant, was present.

Also present was Vincent DeNave, Borough Engineer.

Mr. Hague certified that he has listened to the recording of the last hearing held on April 11, 2007. After listening to the hearing, Mr. Hague felt that the meeting turned into a back and forth question and answer session, instead of a direct presentation from the applicant. Mr. Hague pointed out that the applicant has “a burden to prove his variances are di minimis exceptions to the RSIS”. Mr. Hague preferred that the applicant complete his testimony uninterrupted except for technical items. A complete question time could be held after all the testimony has been given.

Mr. Montague agreed that this would be a good procedure to follow. He asked Mr. Osmun to give a brief synopsis of what he wants to present at tonight’s meeting.

Mr. Osmun stated that Stephen Parker, the applicant’s engineer will be testifying tonight. Also, Janet Siegel, the applicant’s architect, will return and give further testimony.

Stephen Parker, the applicant’s engineer, was sworn in. He submitted his educational and professional credentials.

The Board accepted his credentials.

At Mr. Foster’s suggestion, Board members took a minute to read Mr. DeNave’s letter dated April 26, 2007.

Mr. Osmun asked Mr. Parker to testify on the drainage situation.

Mr. Parker testified that the existing site currently has 100% impervious coverage. The applicant is proposing to maintain the site at 100% impervious coverage. Most of the site will become more building rather than the current paving.

Mr. Osmun asked Mr. Parker how the drainage will be handled.

Mr. Parker testified that the proposed garage for the building will be located underneath the residential units. Vehicles will enter this garage at the rear of the proposed building. The drive into the garage will slope down. The garage floor level will be lower than the parking lot that's behind the building.

Mr. Parker noted that there was a concern on how to prevent run-off from going into this garage. A trench drain will be installed along the front entrance of the garage door opening. This drain will capture any run-off. Mr. Parker stated that the parking lot behind the proposed building will have a dropped curb alongside it. This dropped curb will prevent or divert any surface run-off from the parking lot going into the proposed garage. If any run-off occurs between the parking lot and the building it will flow down towards the garage. That run-off will be intercepted by the trench drain at the garage opening.

Mr. Parker stated that the outlet for the trench drain will flow down into a sump pump located in the basement. That sump pump will then discharge out towards Main Street. Run-off from the roof will be directed through pipes and will discharge out onto Main Street.

Mr. DeNave, the Borough Engineer, noted that Mr. Parker indicated that the run-off will be discharged out towards Main Street even though the topography runs down towards the parking lot at the rear of the property.

Mr. Parker agreed with this point. He referred Mr. DeNave to Sheet #2 of the proposed engineering plans. Sheet #2 shows the topography of the site. He agreed that the topography currently drains from the front to the rear of the property. Mr. Parker said that the proposed roof drains could be directed either to the front or the back of the property. Mr. Parker felt it would be more appropriate to have the drains direct the run-off onto Main Street and be captured in the stormwater collection system.

Mr. Osmun asked Mr. Parker to testify on the sanitary sewer and utility connections.

Mr. Parker testified that there will be new utility connections for the sanitary sewer for the different units and for the water line. The gas line will be a common unit. Mr. Parker pointed out that the water **main is** on the opposite side of Main Street. He noted that since Main Street is a state highway, any proposed opening on that street requires DOT approval. This approval still needs to be secured. Mr. Parker said all the connections will be in accordance with all the applicable requirements for the different residential and commercial spaces.

Mr. Osmun asked if the sewer was also across the street.

Mr. Parker answered that the sewer line runs basically down the middle of Main Street.

Mr. Osmun asked if any lighting was being proposed in this application.

Mr. Parker answered yes.

Mr. Foster stated that he and Mr. Montague have received a revision of Mr. Parker's engineering plans up to April 19, 2007. Mr. Parker confirmed that these were the correct and most recent plans.

Mr. Osmun suggested that Mr. Parker go over the minor changes he has made to the original site plan.

Mr. Parker stated that for the most part, the site plan remains the same. Mr. Parker reviewed the following revisions that he has made:

- 1) At the rear of the proposed building, the residential stairway has been re-located. It will now be at the southeast corner of the building.
- 2) The location of the trench drain will be re-located to the entrance of the garage.

Returning to the proposed lighting for the site, Mr. Parker pointed out that most of the site will be taken up by the building. No site lighting will be proposed; however, there will be lighting installed in front of the retail area for safety reasons. There will be light installed at the entrance to the doors. There will be lighting over the garage space in the back.

Mr. Osmun confirmed with Mr. Parker that approval will have to be obtained from the Morris County Planning Board and Morris County Soil Conservation for this site plan.

Mr. DeNave asked Mr. Parker if the applicant proposes to install a new sanitary sewer service.

Mr. Parker answered that if he has to, he will have one installed. There is an existing sewer line there. Mr. Parker wasn't sure if separate sanitary sewers are required for the condo units. If there is such a requirement, he and the applicant would prefer to use the ones that already exist and not have to excavate into the road.

Mr. DeNave asked if Mr. Parker planned to check the conditions of those sewers prior to construction.

Mr. Parker answered yes.

Mr. DeNave asked Mr. Parker to show the few lighting installations he was proposing on his plans. He reminded Mr. Parker that the ordinance specifies that all walkways need to be illuminated. This site is unique because it has the apartment residents entering from

the back. Mr. Parker agreed to show the proposed lighting on his engineering plans. He will also show the details of what type lighting fixtures are being proposed as well.

Mr. DeNave brought up the proposed sump pump on the site. He reported that he had visited the site and discovered that there were storm drains in the parking lot, 100 to 150 feet away from the applicant's proposed trench drain. Mr. DeNave asked if there was any way to tie the proposed sump pump directly into that drainage system.

Mr. Parker said if it was feasible, he had no objection to making this tie-in.

Councilman Harris asked Mr. DeNave if the ordinance permitted the applicant to dump his excess water either into Main Street or into the parking lot.

Mr. DeNave answered that the surface will be 100% impervious, so the applicant with his run-off will not be increasing any aspect of the drainage. The rate that the rain water is currently running off will continue at the same rate if these plans come to be. Mr. DeNave said he just would like to have the run-off go underground. There are no local or state regulations to force the applicant to detain this water.

Councilman Harris asked Mr. DeNave if he knew where the drains go.

Mr. DeNave answered that the drains make their way through the parking lot, across Bowers Lane in a large underground pipe. This pipe will take the water to the Passaic River. That particular pipe takes in all of the water from the Bowers Lane parking lot.

Mayor Plambeck had concerns about the stormwater being dumped out onto the street. Since a larger building with a larger roof area is being proposed, he was concerned about that water being expelled might result in serious freezing on the street. Mayor Plambeck also had a problem whether the size of the existing sanitary sewer line would be adequate. Perhaps a larger water line is needed to meet current fire suppression code. Mayor Plambeck asked if there had been an evaluation done on the size of the existing pipes and whether they meet the building code for this proposed structure.

Mr. Parker answered that there are plans to put in a new water service from the other side of Main Street. The water service currently existing is not adequate. Mr. Parker noted that the Borough Engineer has requested that a video inspection be taken of the sewer line. After that is done, Mr. Parker can determine whether the existing line would be adequate to handle the projected sewer flow from the proposed building. If the sewer line needs to be replaced, the applicant will have to do so. However, the goal right now is to use the sewer line that already exists.

Mr. DeNave noted that the plans propose installing a sump pump. If the sump pump were to work on a regular basis, the water will be expelled into the parking lot. Mr. DeNave said he preferred having the line go underground and tie into the storm sewer system that runs through the Borough parking lot to carry off the groundwater from inside the building. Mr. Parker said he and the applicant agreed with this arrangement.

Regarding the existing sewer line, Mr. Foster said that Mr. DeNave should make the final decision of whether it was adequate or not. Mr. Parker agreed with this condition. He'll submit a report and a copy of the video inspection about the sewer line to Mr. DeNave.

Mr. Foster asked Mr. Parker and Mr. Osmun if they had received a letter from the Fire Safety Inspector.

Mrs. Siegel answered that she had the letter and could address the issues that were raised.

Mr. DeNave brought up how the Borough Streetscape Project and the proposed construction would correspond. He suggested a condition be added that the applicant will co-ordinate with the Borough with their efforts to improve the front of the property.

Mayor Plambeck said ideally any new lines could be put in before any streetscape work is done.

Mr. Osmun agreed.

Mr. Osmun said he had no more questions for Mr. Parker.

Mr. DeNave had no more questions for Mr. Parker.

Mr. Montague asked if this was the appropriate time to address the handicap parking.

Mr. Osmun said the architect will address that issue.

Mr. Montague asked who will address the parking issue in general.

Mr. Osmun said he will. He noted that the residential parking is controlled by the Residential Site Improvement Standards (RSIS). For apartments, four spaces are needed. Those four spaces will be provided in the basement. Regarding the spaces for the retail use, nine spaces are required **based on** the 1800 sq. ft. of retail space. The applicant has obtained nine parking permits from the Borough.

Mr. Osmun brought up the off-street loading area issue. The applicant is not proposing an off-street loading area. Mr. Foster agreed with this point.

In regard to the parking, Mr. Montague brought up what type of living unit was being proposed – a condo, a townhouse, or an apartment.

Mr. Osmun went over the definitions that he found in Webster's dictionary. He felt the definition of apartment applied to these living units being proposed. Consequently, 4.2 parking spaces are technically required. The RSIS rounds down to the lowest number. Four spaces are then required.

Mr. Osmun reviewed the Uniform Construction Code's definition of townhouse. This definition did not apply to what the applicant is proposing.

Mayor Plambeck asked if one of the spaces within the proposed garage would meet the standards of a handicap accessible space.

Mr. Osmun said the architect can address that issue.

Mrs. Pignatello asked if these units will be for purchase. Or will they be rented? Does this factor play into the definitions?

Mr. Osmun answered no. He wasn't sure if the applicant wanted to sell or rent the units.

Mr. Foster and Mr. Montague went over the definitions for apartments, garden apartments, townhouses in the LDO. Board members felt the appropriate definition in this situation would be apartment. Four parking spaces would then be required.

Mr. Pfeil brought up the Zoning Officer's letter of March 21st stating if the RSIS standards prevail .5 additional parking spaces are needed per dwelling unit for guest parking. Mr. Pfeil asked if the Board had addressed that issue yet.

Mr. Osmun said he hadn't seen that letter. From what he has learned from the RSIS, clearly four spaces are needed.

Mr. Hague believed that "out of the whole" there is a certain requirement for guest parking. There shouldn't be more than 4 parking spaces in the aggregate for the apartments. That is how the RSIS reads.

Mr. Montague confirmed with Mr. Osmun that the applicant has obtained 9 permits for the employees who will be working in the retail portion of the building.

Mr. Montague asked how many people will be in the retail section at any given time.

Mr. Osmun said he didn't know. At this point, he and the applicant don't even know who the tenant will be.

Mr. Montague asked who actually holds these nine parking permits and decides what will be done with them.

Mr. Osmun said he assumed that the retail employees will be told to use these particular nine spaces using the nine permits.

Mayor Plambeck asked where the customers will be parking when they want to shop in the retail section.

Mr. Osmun didn't believe there will be as many as nine employees working in an 1800 sq. ft. retail use.

Mayor Plambeck asked where the customer parking would be located and how will the customers be made aware of this available parking.

Mr. Osmun didn't know. He pointed out that the Chase Bank near the proposed site bought parking permits, and somehow their customers find a place to park.

Mayor Plambeck felt it was a question of customers versus employees when it came to parking.

Mr. Osmun pointed out that parking spaces cannot be designated for customers.

Mayor Plambeck said if the applicant actually owned the parking spaces, the customers could be directed to park in them.

Mr. Montague asked Mr. Osmun if testimony could be given proving that if the employees weren't using these nine parking permit spaces, they could be used to meet customers' parking needs. So far Mr. Montague felt no testimony had been given **regarding** how these proposed parking will meet the necessary condition.

Janet Siegel, the applicant's architect, came up to speak. Mrs. Siegel remained under oath from the previous hearing.

Mrs. Siegel recalled that in the testimony given at the last hearing, it was stated that the applicant cannot provide these particular spaces for customers. Parking for employees can be accommodated. The applicant is relying on the Borough of Chatham for customer parking. Currently there is a neighboring restaurant that has 36 chairs. Previous testimony had been given that these proposed plans will not, in any way, further aggravate the current use of this property.

Mr. Montague recalled that the Board had asked for statistics or some evidence to give a clearer picture of the parking and what relief these parking permits would provide.

Mrs. Siegel answered that the parking permits would give relief to the employees. There is a requirement that the permit tag must be hung up in the car window. A customer will not be able to use an actual permitted space in town. This is what the hardship is in this application and why the applicant is here tonight. He cannot provide nine spaces. Mrs. Siegel felt any other new building today, covering 100% of their lot, probably could not provide nine spaces either. Downtown customer parking is for that purpose. Mrs. Siegel pointed out that the proposed building is situated in the B-4 District, which is the most densely developed portion in the Borough.

Mr. Hague felt what will probably happen is that two employees will be using the permitted space. Nothing will occur for the remaining 7 spaces. He noted that the intent

of the ordinance is to create some relief in the overall scheme. If 7 parking spaces are designated at the Bowers Lane parking lot and signs are put up stating these spaces are for general parking, at least some relief would be created for the overall area.

Mr. Hague asked would it be possible for the Bowers Lane parking lot, as it is presently laid out, to have some of the spaces on the edge of driveway lane be reversed. Perhaps these spaces could be turned into available spaces for general parking after being purchased. Maybe an easement with a payment requirement could be established.

Councilman Harris felt an arrangement like that would have to be considered by the Borough Council.

Mayor Plambeck pointed out that it is very expensive for the municipality to create new parking. That is one of the reasons why new property owners are required to provide parking. It would help if the applicant had some way of generating more parking.

Mrs. Siegel said a parking study had been done and submitted to the Board of Adjustment and the Borough Council. This study showed that the Bowers Lane parking lot was under used. Unused spaces exist for retail parking. Mrs. Siegel said she had checked and found that on a consistent basis there are vacant spaces in the Bowers Lane lot.

Mr. Hague indicated that he had listened to her taped testimony given at the last hearing.

Mrs. Siegel said that she and the applicant “have not gone to the trouble of re-arranging town parking and don’t know where to head from there”.

Mr. Osmun noted that when he and Mrs. Siegel had appeared before the Borough Council, they had informed the Council that the applicant would be willing to re-stripe some of those parking spaces and create nine new spaces.

Mr. Hague felt to make these spaces viable, the existing curb would have to be broken off and the spaces would have to go in reverse order.

Mr. Osmun recalled a point he had made at a previous hearing. The present diner use requires 12 off-street parking spaces. That is based upon approximately 630 sq. ft. of customer use and dining area. The ordinance requires that one parking space must be provided for every 50 sq. ft. of customer service and dining area. What the applicant is proposing is essentially a “trade-off”.

Mr. Montague wanted this parking issue to be further explored. He felt the Board should make sure that these nine spaces will be made available to people.

Mr. Osmun said he wasn’t sure how that could be done.

Mrs. Pignatello suggested a long-term lease could be made.

Mr. Hague recommended an easement be established instead.

Mr. Osmun said that the applicant would then have to return to the Borough Council to seek the easement. Who knows what the Council will decide.

Councilman Harris reminded Mr. Osmun that the applicant has to satisfy the Borough's parking requirements. It's not clear that obtaining the parking permits will satisfy these requirements. Mayor Plambeck pointed out that a cumulative impact has to be looked at. He didn't want business parking permits filling the Bowers Lane lot and not allowing spaces for customers.

Mr. Montague reiterated that the Board wanted the customers for this proposed retail section to benefit from these nine parking spaces. Perhaps the Borough Council can help with this idea.

Mrs. Siegel recalled that the applicant's request before the Borough Council was to move three parking spaces and realign three spaces in the public parking. Three additional parking spaces would be generated. A zero loss would then result. The Borough Council turned down this proposal. Mrs. Siegel felt that a hardship exists for the parking; therefore, the applicant is seeking a variance from the parking requirements.

Mayor Plambeck brought up the 3 parking spaces closest to the applicant's property. If there is a way to lease those 3 spaces, perhaps it would provide something more substantial than just permit parking. Parking spaces have been leased in the past. Mayor Plambeck reminded Mrs. Siegel and Mr. Osmun that the Borough is running out of parking. No one is offering to tear down their building to provide more parking in town.

Mr. Osmun suggested that if the Board determined that the site plan is acceptable, and approved the Preliminary & Final Site Plan for the building, a condition could be stipulated that the applicant must go before the Borough Council to obtain something acceptable for the parking.

Mr. Montague brought up the existing use of the diner, the Columbian Cafe. Mr. Osmun noted that the diner's lease expires in December of 2007.

Councilman Harris felt that there should be a guaranteed access to the rear of the applicant's building. He felt that right now the applicant is expecting the Borough to forever maintain the configuration of the parking as it is, so people can get into the rear drive. The proposed site is not relying on access from a public street. Councilman Harris believed the applicant needed an easement from the Borough for his parking.

Mr. Hague believed that the whole plan is premised on permanent access through this parking area. The municipality has the right to realign. He asked if anyone had looked at the title deed itself to see if this was private property owned by the town or if it was dedicated as a roadway.

Mr. Osmun noted that it's a good idea to have access to the rear of the building; however, how far would it extend? Would the easement go all the way out to South Passaic Avenue? Why would the applicant be the only one to have an easement and all the other businesses aren't required to have one.

Mr. Hague pointed out that the access for the site is exclusively to the rear in terms of the vehicular access for the occupants of the apartments. If vehicular access is taken away from the other businesses, he wasn't sure if they would be as affected as the applicant's building would be. The applicant is relying on those four spaces for his apartment dwellers to drive off the site. Mr. Hague recommended that the Borough retain the right to realign the spaces if it deems it necessary in the future.

Mayor Plambeck said he will contact the Borough Attorney tomorrow to start the process of looking at the access and parking issue. Mr. Osmun pointed out that Attorney David Lloyd was a close neighbor to the proposed site. He may have to recuse himself. Another lawyer may have to look into this situation. Mr. Hague offered to look at these issues.

Mr. Montague brought up the issues of the loading dock and the turning radius.

Mr. Osmun said that Mrs. Siegel had prepared a drawing showing the turning radius. She could also explain why the loading space is not needed.

Mrs. Siegel submitted Exhibit A-9, a new turning radius exhibit. She testified that she had measured the parking spaces and the angles. She pointed out the 3 parking spaces directly behind the building. These spaces are 9 ½ feet wide. In the proposed garage there will be room on the side for standard residential size garbage cans. A private carrier will pick up the trash. A slight adjustment was made to the entrance to the retail section. The stairs were moved into the hallway. There will be a 3-sided screen for a small garbage container for the retail business.

Mrs. Siegel pointed out the new painted areas where the handicap spaces will be designated.

Mayor Plambeck asked Mrs. Siegel to explain how a handicapped person could exit his van, reach the elevator, and arrive at his apartment.

Mrs. Siegel brought up the Uniform Construction Code. She explained how the proposed building's apartment units will be exempt from any handicap required access.

Mayor Plambeck asked about the handicap requirements for accessibility to the proposed retail section.

Mrs. Siegel answered that the accessibility will be from the front. The front will be fully accessible. Currently there is a handicap parking space in front of Danielle's Restaurant.

Mr. Montague asked Mr. DeNave if he had any questions on these proposals.

Mr. DeNave agreed that the residential component is exempt from handicap required access. There is no exception for the retail section; however, the handicap access should really be put on Main Street. The parking spaces at the rear could be used, but it would be a good distance for a handicap person to navigate to the front of the building.

Mr. DeNave reported that he had mimicked the turning radius with his own car. He said it could be accomplished. The turning template being presented to the Board is accurate; however, the Board should put some control in place. Mr. DeNave believed a driver needed some skill to accomplish this movement. He recommended some kind of curbed island in the municipal lot be installed to guide a car in and out. This installation would protect vehicles parked in the municipal lot.

Mr. Osmun indicated that the applicant accepted that recommendation.

Mr. DeNave suggested some kind of a bollard (a metal pole filled with concrete) be placed at the property line at the other end of the property line to protect the staircase.

Mr. Foster asked if the applicant accepted Mr. DeNave's recommendations.

On behalf of the applicant, Mr. Osmun agreed to accept these recommendations.

Mrs. Siegel testified on revisions she had made to rear of the building. One of the changes would be the screened garbage container. Also, a small cover will go over the garage door. These revisions brought down the scale of the whole rear elevation and will give a cover to the garage door. Mrs. Siegel submitted Exhibit A-10, conceptual perspective public parking view of the rear.

Mrs. Siegel stated that Exhibit A-10 shows the adjustments to be made to the rear entrance to the retail section. The platform is now lowered and the door was pushed further in. The garage doors have been lowered. She described the roof cover and grate which will go over the garage door. All of these revisions fall within the property line.

Mr. Osmun asked Mr. Montague if the Board wished to hear about the survey Mrs. Siegel had done regarding the Bowers Lane parking lot. This survey had been presented to the Borough Council with regard to the 3 parking spaces in this application.

Mr. Montague indicated Mrs. Siegel could present this report. He felt not everyone had seen it.

Mrs. Siegel submitted Exhibit A-11, an area map, dated Feb. 12, 2007, delineating the different forms of parking that the Borough has in the rear lot. This map shows the public, permit, and handicap spaces. Mrs. Siegel stated that her architectural firm took a survey for 10 days counting available parking spaces in the Post Office Plaza/Bowers Lane lot. She noted that the parking spaces closest to the Cottage Deli have not been

realigned yet. She felt that if those spaces were realigned, those 3 needed spaces could be gained.

Mrs. Siegel testified that her employees had done walk-throughs of the parking area between 8:30 a.m. and 9:30 a.m., between 10:30 a.m. and 11:00 a.m., between 1:30 p.m. and 2:00 p.m., and between 5:30 p.m. and 6:00 p.m. They separated the weekends and looked at what would be the most valuable spaces. Mrs. Siegel testified that at lunchtime there were very few spaces available. The most heavily used times were on Saturday mornings. The Bowers Lane lot had the most available spaces and had spaces available at all times. These spaces were very under-utilized.

Mrs. Siegel said that upon entering the Bowers Lane lot there is a sign that states that only permit parking is allowed. After entering this lot, there are 6 available shopper spaces. Mrs. Siegel testified that there are 3 handicap spaces in this parking area and there will be one handicap space adjacent to the applicant's building in the front. Mrs. Siegel said illegal parking was taken into consideration in her report. She pointed out the different instances of illegal parking. Mrs. Siegel submitted Exhibit A-12, average available parking spaces.

Mr. Foster referred back to Exhibit A-9. He noted that Mrs. Siegel had indicated that the 3 parking spaces on public land, near the rear of the proposed building, are 9 ½ feet wide each. Mr. Foster asked if those spaces could be re-striped to 9 feet wide. Mrs. Siegel answered yes, they could. Eighteen inches could be gained from this re-striping and would be helpful to the turning-radius.

Mr. Foster asked Mr. DeNave if the curbing would still be necessary if these extra 18 inches were obtained.

Mr. DeNave recommended that the curbing still be installed. It will serve as a level of safety.

Mr. DeNave told the Board that the Borough Council had felt that the over-sized parking that currently exists was preferable. He believed the Council did not want to shrink down the existing parking if there was a choice.

Mayor Plambeck pointed out that there are a great deal of SUVs these days; however, this lot is also used by box-like vans, trucks, contractor vehicles. The Borough Council had concerns about visibility.

Mrs. Siegel submitted Exhibit A-13, a memo from the Borough Fire Chief Peter Glogolich commenting on the site plan. Mrs. Siegel testified that the windows on the side of the proposed building will be fire-rated. No wood truss construction will be done. The fire sprinkler system will meet the code requirements. The elevator will meet all the building code requirements. Mr. Montague noted that all emergency services have been provided with copies of the revised plans.

Councilman Harris brought up the loading zone issue.

Mrs. Siegel said that the applicant is seeking a variance for the loading requirement. The retail section of the proposed building will be serviced the same as the other retail businesses on Main Street. Goods will be delivered through the front door of the retail section in the early morning hours.

Mr. Osmun noted that the Borough's requirement for a loading space is difficult to classify as a C-1 hardship variance or a C-2 flexible variance. The applicant feels he doesn't need this loading space. It doesn't fall into the C-1 and C-2 type variances. Mr. Osmun pointed out that Mr. DeNave had noted in his letter that this requirement was a design waiver; however, Mr. Osmun and Mr. Foster concluded that a variance is still needed.

Mr. Montague asked what the landlord could do to make sure there are not deliveries made to the retail section beyond 8:00 a.m.

Mr. Osmun said the applicant will accept a condition that only early morning deliveries will be allowed. No deliveries will be allowed after 8:00 a.m.

Mr. Hague stated that he drives through that back section once a week and he noticed that a True Value semi-tractor trailer trucks makes a delivery at the back of Village Hardware. The truck is backed up to the dock and remains there for a while. He felt something should be done to address that situation.

Mrs. Siegel asked if that truck blocked everyone's access to all the rear buildings.

Mr. Hague felt the truck would be blocking the three spaces.

Mr. Osmun believed the respective owners of the properties in question could work out when that truck should be making deliveries. He didn't believe the Borough Council should resolve this situation.

Mr. Montague asked if the public had any questions for Mr. Parker or Mrs. Siegel.

There were no questions from the public.

Mr. Osmun indicated his presentation was now complete.

Mr. Montague reviewed two issues which still needed to be resolved.

- 1) The process of the applicant leasing the 9 parking permits
- 2) Access for the apartment dwellers to get in and out of the proposed garage

Mr. Montague believed these two issues were matters for the Borough Council to decide on.

Regarding the water line and sewer line, Mr. Osmun stated that the plans for these lines will be acceptable to the Borough Engineer.

Mr. Montague confirmed with Mr. Osmun that curbing will be installed for the turning radius. Mayor Plambeck recommended the DPW be consulted about the curbing because of the snow-plowing they do on that road. Mr. Osmun also confirmed that the applicant will install a bollard as recommended by Mr. DeNave. The proposed curbing for the turning radius will be reviewed by the DPW for any possible snow removal issues.

Mr. Montague confirmed with Mrs. Siegel that the dumpster for the building will always be closed. Also, all the drainage for the building will go towards the rear and connect up to underground pipes. Mr. Hague noted that since the curbing extends into municipal property, it could be subject matter for an easement.

For purposes of RSIS, Mr. Montague noted that the dwelling units in the proposed building would be designated as apartments. The front retail entrance will be installed as a handicap access. There will be lighting installed under the canopy at the rear entrance.

Mr. Montague confirmed with Mrs. Siegel that at this point in time no approvals have been given for the building's signage. The retail business will have to go through the usual process with the Borough Sign Committee.

The Board voted unanimous approval to a motion to have Mr. Foster prepare a working draft resolution in anticipation of an approval vote at next week's Board meeting. No official action will be taken tonight.

The Board noted that the application was deemed complete at their April 11, 2007 meeting.

At 9:50 p.m. a break was taken in the meeting.

At 10:10 p.m. the meeting resumed.

Taylor Design Group Planner

Mr. Montague reported that he had spoken with Cheryl Bergailo, a planner with The Taylor Design Group. He recalled the Board had hoped to hire Ms. Bergailo to help them with the density issue. Ms. Bergailo will give the Board information on accessory apartments. Mr. Montague noted that Ms. Bergailo has been hired by the Board on previous assignments and is very familiar with the Borough.

Councilman Harris read aloud his description of this assignment for Taylor Design Group.

Mr. Montague said he would like input from neighboring towns on this density issue. Ms. Bergailo has agreed that she could obtain this information.

Mr. Montague pointed out that it has come to light recently that a number of properties in town have enough room to build an additional dwelling on them. Currently the Borough ordinance does not address this situation. An ordinance should be created and adopted that is reasonable and within case law. Mayor Plambeck noted that illegal stacking is occurring in neighboring towns and evidence reveals it may occur in the Borough very soon.

Mr. Montague said Ms. Bergailo has given a proposal to the Board. He suggested Councilman Harris's description be included.

Other Business

Applicant Checklist

Mr. Montague distributed and explained Checklist A and Attachment B. He asked Board members to look over these documents to see if the layout and format is acceptable. Mr. Foster will send Board members the text of the ordinance amendment by e-mail. Mr. Montague asked Board members to send them any comments and suggestions.

Side yard ordinance

Mr. Montague reported that the First Reading of the Side Yard Ordinance has been done by the Borough Council. No comments were made at this reading.

Law suit notification

Mr. Montague reported that the Borough has received notice that the Hedges Ave. Advocacy Group has started a law suit against the Borough, the Planning Board, and Shailja LLC. Mr. Foster said that the papers were filed last week. The papers were officially served to the Borough and the Planning Board yesterday.

At this point in the meeting, Mr. Hague recused himself.

Shailja, LLC

Mr. Montague brought up two letters which have recently arrived on this application.

Mr. Foster read aloud a letter from Gordon Meth, the Planning Board's traffic expert. Mr. Meth had written that he had reached out to the official of the DEP who had insisted that Hedges Avenue should be kept open at all times. Mr. Meth had wanted to know why this official had written this letter. Mr. Meth recalled that at the pre-application meeting the DOT representatives were concerned that the Dunkin' Donuts business would generate too much traffic for one driveway. The representatives agreed that the plans would be okay to approve if an access to Hedges Ave. is provided. Their position was that the site already had access to Hedges Ave. When Mr. Meth said he explained the issues to Mr. DeSai, he gave the impression the DOT thought the intersection of Hedges Ave. and Main St. were signalized. Mr. Meth informed Mr. DeSai of the Board's desire to restrict access to the residential portion of Hedges. Mr. DeSai said he would talk with the DOT traffic people again and re-review the issues. A compromise consistent with the

DOT consistent with the Board's approval seems possible. Mr. Meth promised to report back to the Board at the end of his week. The issue may be resolved by then.

Mr. Foster offered to write a letter to Brian Burns, attorney for Shailja, informing him that the material that the Board has received so far on the traffic situation has not satisfied the resolution's condition. Mr. Burns should also be informed that the Board has asked Mr. Meth to pursue this issue with the DOT. The Board agreed that Mr. Foster should take this action.

Mayor Plambeck pointed out that Shailja had filed their permit far enough ahead in time that the requirements in the resolution for the Hedges Ave. driveway were not even part of the original application. It appears that Shailja had taken action well before the Board had resolved whether to approve this application. Mayor Plambeck agreed that Mr. Meth should be very much involved as the Board's representative in this matter.

Mr. Montague brought up two letters received from (Environmental Waste Management Associates) EWMA. Mr. Foster stated that these letters have to be read keeping in mind the Board's conditions. One of the conditions had stated that the soil clean-up on the site must be completed in such a manner that the applicant may proceed with development of the site.

Mr. Foster summarized the letter from EWMA dated March 9th. This letter reported that all of the underground storage tanks have been removed from the property. There are no known environmental conditions that would prevent the re-development of the property into the proposed use as a Dunkin' Donuts location. After Brian Burns' office received that notification, his office contacted EWMA. A clarifying letter then came from EWMA stating that their March 9th correspondence addresses Condition 6 of the Final Resolution adopted March 7, 2007. Mr. Foster said EWMA's action has more or less covered what the Board had required; however, this matter is still open for discussion. Perhaps Mr. DeNave would like to comment.

Mr. DeNave said he would like to take that letter and speak with the case worker at DEP again to make sure nothing has changed on site.

Mrs. Pignatello said she had received the impression that all of the tanks had been removed even before Shailja testified before the Board. There had been a condition in their lease that the remaining contaminated soil would be removed. The gas tanks had been removed.

Mr. DeNave said he received the same impression. Also, Shailja had indicated that there was still a little more contaminated soil that needed to be removed. Mr. DeNave also recalled that Shailja still had to determine whether they should or could relocate the monitoring wells. Mr. DeNave felt that the EWMA letter was not adequate. Mayor Plambeck felt the letter did not fully address the Board's concerns and the agreed upon condition. Perhaps the lease should be reviewed.

Mr. DeNave reiterated that he will contact the DEP on this matter; however, it would be a good idea if Mr. Foster contacted Brian Burns and informed him that the Board is not satisfied with the letter. Mr. DeNave said Mr. Burns could contact him and he could tell him what details the Board is looking for.

Approval of Minutes

The minutes of January 10, 2007 were approved as amended.

Old/New Business

Mr. Foster noted that Councilman Harris has circulated the Rules & Regulations followed by the Zoning Board of Adjustment. He has made some edits to this document for the Planning Board to consider. Mr. Foster said the copy he himself received was from Joel Boroff, Chairman of the Board of Adjustment. Mr. Boroff said this document had been approved by the Board of Adjustment at their March 27, 2007 meeting.

Councilman Harris suggested a sub-committee take a look at Mr. Boroff's copy. Some items are not applicable to the Planning Board. Mr. Foster said he will incorporate Councilman Harris's suggestions into Mr. Boroff's document, thereby creating a working draft. Mr. Foster will send this draft to the officers of the Planning Board.

Mayor Plambeck reported on the Borough Council meeting held on 4/23/07. A permit has been received from the DEP for the Jackson Ave. lift station. A proposal has been made to hold a Farmer's Market at the train station parking lot. The contract for the streetscape lighting on Main Street has been approved.

Mr. Montague reported on the Board of Adjustment meeting held on April 25, 2007.

The meeting adjourned at 10:55 p.m.

Respectfully submitted:

Elizabeth Holler
Planning Board Recording Secretary

