

MINUTES

FEBRUARY 21, 2012

BOARD OF ADJUSTMENT

LONG HILL TOWNSHIP

CALL TO ORDER AND STATEMENT OF COMPLIANCE

The Chairman, Dr. Behr, called the meeting to order at 8:02 p.m.

He then read the following statement:

Adequate notice of this meeting has been provided by posting a copy of the public meeting dates on the municipal bulletin board, by sending a copy to the Courier News and Echoes Sentinel and by filing a copy with the Municipal Clerk, all in January, 2012.

PLEDGE OF ALLEGIANCE

ROLL CALL

On a call of the roll the following were present:

- E. Thomas Behr, Chairman
- Sandi Raimer, Vice Chairman
- Christopher Collins, Member
- John Fagnoli, Member
- Edwin F. Gerecht, Jr., Member
- Maureen Malloy, Member
- Felix Ruiz, Member

- Michael Pesce, 1st Alternate
- Richard Keegan, 2nd Alternate

- Barry Hoffman, Bd. Attorney
- Thomas Lemanowicz, Bd. Engineer
- Kevin O'Brien, Twp. Planner
- Dawn Wolfe, Planning & Zoning Administrator

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EXECUTIVE SESSION

It was determined that there was no need to hold an executive session.

APPROVAL OF MINUTES

The minutes of the December 6, 2011 executive session were approved, as written, on motion by Mr. Gerecht and seconded by Mr. Pesce. Mrs. Raimer and Mr. Fagnoli abstained as they were not present at that meeting.

The minutes of the December 6, 2011 regular session were approved, as written, on motion by Mr. Pesce and seconded by Mr. Gerecht. Mrs. Raimer and Mr. Fagnoli abstained as they were not present at that meeting.

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DISCUSSION

APP. NO. 11-07Z – ROBERT & ALLISON LA HOFF – BL 11102, L 46.01

APPROVAL RESOLUTION CONDITION NO 2(k)

Dr. Behr said that there has been a lot of discussion regarding the completion of the LaHoff application, some of which centered on Condition No. 2(k) of the Resolution of Approval which dealt with a report of the Environmental Commission and Mr. Lemanowicz's access to that report as part of completing any kind of work he needed to do on that application to certify the

condition as satisfied. He said that the Environmental Commission has since indicated that no such report will be forthcoming, therefore he felt that we can legitimately say that that condition has been met.

Mr. Hoffman said, “Or at least is no longer necessary”.

Mrs. Raimer felt it should be withdrawn.

Dr. Behr said that the exact language was that Mr. Lemanowicz should consider that report, but it was not mandatory that he *must* have that report in order to complete any work he did.

Mr. Hoffman said that the motion should be to amend the Resolution as duly adopted so as to delete that particular condition since the Board no longer deems it to be necessary.

Mrs. Raimer made such motion which was seconded by Mr. Gerecht. All Board members present were in favor.

Dr. Behr requested Mr. Lemanowicz and Mr. O’Brien to do everything necessary to bring this matter to conclusion.

Mr. Lemanowicz and Mr. O’Brien agreed to do so.

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PARTHENON REALTY, LLC

Valley Road
Block 11301, Lot 4

**#11-08Z
Prelim./Final Major Site Plan
Use Variance (D-1)
Conditional Use (D-3)
Bulk Variance for Wood Sign
Relief from Sec. 155.8a
Design Waivers**

Present: Gordon Gemma, attorney for the applicant
John Harter, traffic expert
Albert Taus, licensed professional architect

R. J. O’Connell, certified shorthand reporter

This is a continued hearing.

Before beginning, Dr. Behr said that he felt that there were some important issues to raise. He said that it has long been the standing practice of this Board to require that any additional information for a continued hearing be received 14 days before the scheduled hearing for some very important reasons. First, he said that the Board consultants need an opportunity to examine all additional material that has been provided by the applicant and they need time to prepare a report and get it to the Board so that both the Board and the applicant can look at any comments they might have about the additional submitted material in order that the Board might make a very timely and efficient decision on that matter. He said that we will be hearing testimony tonight basically for the first time and it was not at all clear to him that all of the issues that were requested by the Board at our least meeting are going to be presented tonight. He asked Mr. Gemma if that is the case.

Mr. Gemma replied affirmatively.

Dr. Behr said that, in fairness to the applicant, when for whatever the reason a request of the Board simply was not complied with, we will hear this testimony, but he could not foresee a situation in which the Board would be able to make any decision on this because they simply haven’t had time as a Board to review it and, more to the point, the Board’s consultants haven’t

had a chance to review it so that, unfortunately, whatever witnesses are called for tonight dealing with these issues are going to have to appear on March 6th.

Mr. Gemma replied that they understood. He said that at the last meeting he was asked to re-notice and before beginning and getting into any substantive discussion, he asked the Board to recognize that he *did* re-notice as requested by the Board to acknowledge sufficiency of notice such that it can assume jurisdiction.

Mr. Hoffman said that Mr. Gemma can indicate that he furnished him with an advance copy of the draft and he basically modified it, had it retyped, and that is the form that they used.

Mr. Gemma agreed and said that copies of the certification of mailing along with the list of those parties that were noticed were provided to the Board Secretary such that they can confirm that notice was sent out properly pursuant to the Statute.

Mr. Hoffman said that he had not seen the Affidavit of Service but he assumed that as long as it was done to the property owners within 200' and was published in the newspaper at least 10 days, in each case before tonight's date, it would be sufficient.

Mr. Gemma thanked Dr. Behr. He said that he was also correct in that at the last meeting, Mr. McMorrow testified and addressed issues as to the revised plans, banked parking, and comments from the Shade Tree Commission. Due to a scheduling conflict, he said that he knew that Mr. McMorrow could not be here tonight. However, he said that he was asked to provide certain things and will be present on March 6th with some of those things he did *not* provide. He said that one of the questions was about sewer flow, sewer capacity, and the prior approval. He said that he had a letter dated today, February 21, 2012, from Mr. McMorrow and would like to have it marked which goes to the sewer flow. He said that he will testify to it on March 6th, but at least it is getting to the Board in time for the 6th. It is a 2 page letter and he requested that it be marked for identification purposes only such that it is submitted to the Board with Mr. McMorrow being able to testify as to what it says on the 6th and with the Board's experts having sufficient time to review the letter. He said that it was a request as to sufficiency of sewer flow and comparison of what is proposed to what was previously approved.

Mr. Hoffman asked if the letter recites what is purported to be factual information that he obtained from some other source or some other party?

Mr. Gemma replied that it purports to provide information as obtained from the Tax Collector. In fact, he said that there is a copy of the Tax Collector's letter attached to his letter. But rather than to try to explain Mr. McMorrow's letter and the basis for it, he just wanted to have it marked and on the record with the knowledge that Mr. McMorrow will testify to it on the 6th when he comes back. Mr. McMorrow's letter regarding water and sewerage usage dated 2/21/12, with a copy of a letter from Joan Donat, Tax Collector, dated 1/23/12 attached, was marked for identification as **EXHIBIT A-9**.

He said that the next thing that Mr. McMorrow was asked to provide was a comparison of lighting and it was basically a comparison of this site as it compares to other sites in and around the area so that one could get a feel as to whether this will be as bright as another property, or not as bright. He said that he had a letter to that effect dated 1/21/12 which was signed by Jeffrey P. Allen, L.L.A., R.L.A. and Brian McMorrow, P.E., which was marked for identification as **EXHIBIT A-10**. He said that Mr. McMorrow will testify to **EXHIBIT A-10** when he returns on March 6th. At the very least, he said that it will give the Board and its experts some time to look at the letter to see if the property is a fair comparison.

He said that the last thing that Mr. McMorrow was to provide is the comparison of the parking and site circulation for this property vis a vis the Berkeley Heights property, however he did *not* have that tonight to hand out. He said that it is not ready yet and they understand the process of the Board and he told them to get it ready and have it here to the Board ASAP, and they hope to

have it as soon as possible. He acknowledged that, if it is not in time and if the Board's experts don't have the opportunity to review it, then Mr. McMorrow will have to come back again.

Dr. Behr replied that "ASAP" is one of those phrases that can mean whatever you like it to mean. He asked if there was a particular calendar date in mind that we might expect this.

Mr. Gemma replied that the expectation is tomorrow and, if not tomorrow, then on Thursday. However, since he is not putting it together, he could only say what he was told and could not guarantee anything.

Dr. Behr asked Mr. O'Brien and Mr. Lemanowicz for the latest date that they could have access to the comparison in order to allow them to do the things that they feel they need to do to serve the Board, noting that today should be the day.

Mr. Lemanowicz replied that, once he gets the information, he would like to be able to compare it and visit the site himself, with a weekend probably being a busier day. He said that he would like to have a weekend between when he receives it and when the report is due.

Dr. Behr said that that would, therefore, be this coming weekend.

Mr. Gemma replied, "We hear you Mr. Lemanowicz and will endeavor to beat our engineer so that it gets to you on time". However, he said that he did not want to promise the Board something he could not deliver.

Dr. Behr replied that he understood, but with the understanding that if it is not received in time, then the matter will have to be continued.

Mr. O'Brien said that perhaps Mr. Gemma could transmit it directly to him and Mr. Lemanowicz, as well as to the Board, which would eliminate some time.

Mr. Gemma said that he would cut out another middle man and ask Mr. McMorrow to transmit directly. He said that the applicant is here tonight and hears loud and clear the direction he is to have with any submissions and that he will forcefully relay that message. He said that this afternoon he received Mr. Hoffman's letter and he thanked him for his review. He said that he made a comment in the letter about the need for the engineer to fully describe and speak to Mr. Lemanowicz as to the issue of stormwater drainage. He said that they did not mean to imply or infer that it was resolved, although they hoped it *would* be resolved.

Mr. Hoffman said that his recollection of the record is that that was still a potentially significant open item and he wanted to make it clear that it was not already resolved.

Mr. Gemma acknowledged that it has not been resolved and has to be, as it is an integral part of the application and that was something that hopefully the professionals will work out. He said that at the last meeting, in addition to Mr. McMorrow, Mr. James O'Malley, District Manager for Walgreen's, testified as to operational issues at the proposed store and he believed that he addressed all of the concerns of the Board and was not asked to return or provide any additional information. He said that the one person that was asked to return and provide additional information was Mr. Harter, traffic expert. At that time, he said that he agreed to provide photos of what he called a "k-turn" parking space on the lots and he understood that those photos were not provided 10 days prior. He concurred with Dr. Behr that, while they are just photos, and Mr. Harter is here to discuss them tonight, if the Board would like the opportunity, so as not to be prejudice, to go out and see the site that he is discussing and come back with other questions, he will be available at the next meeting.

Dr. Behr replied that that would be a fair assumption for Mr. Gemma to make.

Mr. Gemma said that they understand that there are 3 conditions for Mr. Harter as well as for their architect since they did not submit things on time, so they are proceeding at their own risk and they understand that. Second, he said that the Board is under no obligation to accept the

testimony of any of their experts as if it is full and complete because they may have questions. Third, he said that they will all be back at the next meeting in case the Board has those questions. With that understanding and those conditions, he said that they would like to proceed with Mr. Harter as their traffic expert. He noted that there are other issues which he had not addressed and for which he hadn't been asked to provide additional information and he would like to finish those up. Finally, he said that the applicant's architect, Mr. Taus, is present this evening. He was asked to provide some revised plans and he did, in fact, do so. He said that he understood that the Board's experts did not have time to review them and, again noted, that he will have to come back if there are issues. However, he said that there are other items as well, such as signage, that he was asked to address which he will address tonight.

Mr. Gemma said that he had two witnesses to present this evening. One is Mr. Harter, traffic expert, to finish up his testimony as to the issues that he had not addressed the last time, and then Mr. Taus, the applicant's architect.

Mr. Hoffman replied that when Mr. Gemma said "finish up his testimony", consistent with the more complete description procedurally of what we are dealing with, and what he thought he had previously just said, he will finish his *direct* testimony tonight but will, if so desired by the Board, be available at a future meeting for further questioning.

Mr. Gemma replied, "Yes".

He reminded Mr. Harter that he remained under oath. Speaking to Mr. Harter, he said that at the last meeting he addressed issues such as ingress and egress, internal circulation, and parking and the Board had certain issues as to what the space for an internal k-turn would look like, and he provided 3 aerial photos of certain sites. In response to his request, the 3 aerial photos were marked for identification as **EXHIBIT A-11 (a-c)**.

Mr. Harter reviewed each of the aerial photos which were taken from Google Earth. He did not know the date in which they were taken. **EXHIBIT A-11(a)** is a photo of a Quick Check located at East 53rd St., Bayonne, NJ. **EXHIBIT A-11(b)** is of a shopping center located at 143 U.S. Route 1 South, Metuchen, NJ. **EXHIBIT A-11(c)** is of an apartment complex on Roanoke St., Woodbridge, NJ. He acknowledged that the photos were downloaded and marked up under his direction and control. On **EXHIBIT A-11(a)**, he said that he highlighted in yellow the simple turnaround (or k-turn) space which is a parking stall that, instead of allowing it to be used for parking, it is cross striped with pavement markings so that people do not park there but then it can be used at the end of a dead-end aisle to turn around.

In response to Mr. Gemma, Mr. Harter said that it is fairly similar to what is proposed. He noted that Mr. Lemanowicz had made a comment that if motorists were to come down the east side of the building and did not find any parking, they would then be forced to essentially leave the site (go out in front of the building, make a right, and head west away from the site on Valley Rd.). He said that when he heard that, his thought was that potentially they could put a stall at the very southeast corner of the property that they would stripe out in this manner so that, as a car came down and didn't find parking, the motorist could turn into this striped out space and use it to turn around and perform a k-maneuver. He acknowledged that it is very difficult to turn around in a 24' aisle way. It can be done, but it would be a multi-point turn.

Also in response to Mr. Gemma, Mr. Harter acknowledged that you would lose a parking stall if the Board chooses to do this, or they could add an additional one. He did not think that it will be a real problem on this site because, as you enter in the signalized entrance, you will have good visibility of parking to your left and would have a sense if the area is full with parking. From the research that his firm has done, and from the I.T.E. research for which he testified at the first hearing, he did not expect that the area will be fully parked. He said that he had explained that there are roughly 32 spaces along the east side of the building and 5 stalls just to the northeast of the building. He said that the 32 parking stall supply is more than he would expect they would need. He said that it is an option that can be offered to the Board, but if they do not feel it is necessary, in his opinion, it is safe and adequate as is. He agreed that that was the only reason he

provided the 3 photos. He also confirmed that he was not aware of any additional information he was to provide about anything else.

Mr. Gemma said that, at the last meeting, there was also questioning regarding the adequacy of loading areas.

Mr. Harter replied that Bohler Engineering has designed a loading area at the north building façade. It is shown in a different shade because it is a heavier duty concrete that is used for heavier trucks that would park there temporarily. He said that Mr. O'Malley testified that the tractor trailer deliveries (which are the largest vehicles that would come to the site) would occur one or two times per week. He said that they would anticipate that such deliveries would occur prior to the store opening at around 8:00 A.M., so that trucks would have sufficient room. He said that on the site plan there is a dimension of 55' and that is measured from the dumpster enclosures running from there to the east to the edge of the concrete area. He said that there is actually some more room because, beyond that there is no parking and there is another 18' or so to the east of that, so there is about 70+' that they have to work with for a large truck which is plenty of room for a tractor trailer to unload. He said that Mr. O'Malley also indicated that approximately once a week the trash trucks will be coming to the site and also use the two dumpsters at the rear of the site. He said that they could easily pull in and pick up the garbage and recyclables and leave. In his opinion, the loading as proposed and given the use is safe, adequate and sufficient for the property because he felt that some of the parking is rarely ever going to be used, noting that there was prior discussion about banking all the stalls to the west. But even to the north of the building, he felt that it will be very uncommon for cars to park there.

In response to Mr. Gemma, Mr. Harter said that the purpose of banking parking is, rather than having impervious area on the site that would just be catching rain water, they could have greenery and put in the stalls if they are ever needed in the future, which he did not expect to happen.

Mr. Gemma said that that is an option that the applicant is proposing to the Board and the obligation to put in the additional parking would be at the direction of the Township's or Board's professionals or the Building Inspector or Code Enforcement Officer – whoever might be cognizant that there would be a problem with parking.

Mr. Harter agreed.

Mr. Gemma said that at the last meeting a question was raised by a member of the Board as to how the public would be notified that the existing green signal arrow would be removed and about the change on the signalization by the County. He said that this is a County road and the County has jurisdiction. He said that Mr. Harter spoke with someone at the County and asked him to describe the conversation.

Mr. Harter agreed that both Plainfield Rd. and Valley Rd. are County roads. He said this morning he spoke to Christopher Vitz, Asst. County Engineer, who does all of the reviews of the reviews of the traffic signal plans including signing and striping. Mr. Harter recalled that at the last meeting Mr. Collins had asked how the traveling public would be made aware that the eastbound right turn lane that currently has a green arrow that runs continually is going to be gone and now what happens? He said that, typically if a new signal is put on there is actually a flashing mechanism and it is very obvious. In this case, as he discussed with Mr. Vitz, it is not as easy to make the public aware. He said that it is going to be obvious because the signal is going to be under construction for probably two weeks, so motorists will get used to seeing that something major is going on. He also said that some great safety upgrades are proposed with completely new equipment for the traffic signal and pedestrian crossings, as well as signing and striping. As soon as the intersection is built, he said that Mr. Vitz explained that they will install advance signs on all approaches. They would be orange construction-type signage that would read "New traffic patterns ahead". It is something that they would have in place for a month and that is the County's policy in such situations to notify of changes. He said that there is nothing that would be specifically done about the arrow, but Mr. Vitz said that this would be the measure they would take to address that.

Referring to Pg. 8 of 9 of Mr. Lemanowicz's report dated 1/12/12, Sec. IX entitled "Traffic", Mr. Harter said that the first item relates to the traffic data that was used in his Traffic Impact Analysis. He said that at the beginning of the last meeting he provided Mr. Lemanowicz with a copy of the prior traffic study his office had prepared on 10/3/1/06 for the bank/office that was previously approved for the site. It used traffic data that they counted in 2005. He said that their response to the initial comments on the subject explained that they were able to take their new (very recent) counts and also compared them and looked back at this report and found consistency in terms of the volumes that they had counted. He said that they roughly found a 1% growth in the P.M. peak hours compared to the 2005 study to the more recent counts they conducted. He said that the D.O.T. recommends a 2% growth rate for County roads like this. They have seen a downturn in the economy and so, generally, the volumes in growth have been lower than in the past, therefore the volumes based on that seemed reasonable.

He said that the second comment was about the fact that the Board of Education elections were ongoing. Based on the data comparison he had just mentioned, he did not see anything unusual in terms of the data being significantly lower or higher when he compared it to the 2005 data, so he did not see any issues with the data they put together.

He said that his third comment relates to the level of service and focuses on the northbound left turn lane and the level of service changes. He said that he went over a lot of detail at the last hearing about the fact that the intersection is currently a "T" intersection and is going to a 4-way intersection. By virtue of that, he said that they have to change the phasing that affects the overall level of service and how the intersection operates. Another factor was that they have added the westbound phase on Valley Rd., which he felt is important – a left turn arrow which does not exist today. He noted that the volumes of left turns are high – about 200 peak hour trips, so he said that it really does warrant this left turn phase which he felt is a safety improvement. Because of that, he said that it also takes some time from the Plainfield Ave. approach and affects the left turn. Overall, he said that they are still providing "D" and better levels of service. During Saturdays he said that they see the level of service change from a "B" to a "D". He said that you don't like to see two level of service changes which he described as an "eye opener". However, he said that just a point in his report, the "D" level of service that they are getting is a 33.5 second delay. He said that levels of service are simply ranges of delay time, so a "D" is defined as 35-55 seconds, so we are just getting into that range of "D" level service, so it *appears* like it is a worse degradation than it really is. He said that his testimony the last time also explained that queuing is another way to look at what is happening with the vehicle backups and the estimation or projections and they didn't see a significant dramatic change in that queuing north bound. For all those reasons, he felt that the levels of service are reasonable and good for peak hour and that they are not going to encounter any significant problems at the intersection.

Because a lot of testimony had been presented, Dr. Behr asked Mr. Gemma if he would be amenable to allowing questions on the testimony that was just heard before letting the witness continue.

Mr. Gemma agreed to do so if that was the preference of the Board.

If she was coming out of the gas station heading north bound and wanted to make a left, Mrs. Malloy asked what was said about that egress that is heading west bound that has no light? She asked what mediates that traffic that is turning out of Walgreen's if she is in the process of making a left hand turn?

Mr. Harter said that Mrs. Malloy is talking about the secondary access – the right turn only. He said that, if you are heading north bound, once you take the green light and take the left, you would proceed west. He said that this is stop controlled and how the County previously approved the access. He noted that there was also more traffic on that application for the site. He did not see why the County would have any issue with the access again. He said that Mr. Vitz is in the process of reviewing the application again and didn't mention any issues with that design. He also said that they have moved the driveway and it meets the clearance distance to the medical office to the west and meets the County standard. He said that his real focus, if he were

doing a D.O.T. application, is that he would like to meet that and they do, but the real concern is getting this driveway as far as they can to the west, away from the signal, and they have done that.

In response to Mrs. Malloy, Mr. Harter said that he believed the diner is right across the street at that point, noting that the existing bank does not have direct access. He said that, roughly, there is about a 200' separation between the signal and the right out.

Dr. Behr asked for the distance between the right hand turn out and the doctor's office.

Mr. Harter replied that the separation that the County requires is a 20' tangent straight curb between the radius of the subject driveway and the radius of the doctor's office and they have that 20'.

In response to Mr. Gemma, Mr. Harter said that the distance between the intersection and the driveway well exceeds the County standards. He believed that the standard would be 50' from a signalized intersection and the current proposal is about 4 times that.

Mr. Gerecht said that driving Valley Rd. quite often and coming out of the doctor's office quite often, he noticed that it is very difficult to make a left or a right because of the cars making a left from Plainfield Rd. He said that, turning around there, before you know it they are on top of you. He said that you don't have a clear path even when the light is red because you have the green light for people making a left. Using a red laser pointer, he described a potential alternate circulation pattern eliminating one entrance onto Valley Rd., which he felt would cause less confusion, less crossing, and less people going back and forth which would provide a smoother flow and less blacktop.

Mr. Harter replied that the first issue would be getting a truck to be able to navigate such a circulation.

Mr. Gerecht said that what he proposed is that, instead of having the entrance going all the way north and then turning west, you would have it go north (shorter), turn west into the parking lot at a closer pace to the front of the building, and then have the cars go around the building and then exit. He could see Mr. Harter's point about trucks, but he said that you could have a one lane truck only lane for deliveries further north and feed it in to the back or you could have a little wider opening so that trucks could make the turn and change the configuration of the southwest corner so that the trucks *can* make the turn by making a different configuration. He said that the trucks would be the *only* concern, but he felt that that could be dealt with. He felt that, aesthetically, it would look better and said that he was very concerned with the second exit off of Valley Rd. He said that he drives this road and it is very tough to get out of the doctor's office at *any* time and he felt that the proposal will make it even tougher and the cars making a left off of Plainfield Rd. going west will have to sit there for quite a while trying to get out. He felt that the less openings on Valley Rd. the better.

Dr. Behr asked, if he pulled into the western exit off of Valley Rd. to make a right hand turn, what would be his angle be to Valley Rd.?

Mr. Harter replied that it would be roughly 45 degrees.

Dr. Behr asked what the degree of turn (of his head) he would have to make in order to see if somebody was coming from his left.

Mr. Harter replied that it is a very common design if you have an intersection. He said that it has a channelized right turn lane where you have an island.

Dr. Behr again asked what his turning radius would be to be able to see if someone was coming from his left.

Mr. Harter replied that he did not know exactly.

Dr. Behr and Mr. Fagnoli felt that it would probably be a little more than 45 degrees.

To provide some context, Mr. Gemma said that the concept of having a slight angle was to make sure that there is not an improper movement out to the left and asked Mr. Harter if that was correct.

Mr. Harter replied, "Correct".

Mr. Gemma said that that is nothing unusual and, in fact, it is fairly common particularly when you have a divided boulevard with a triangle in the middle.

Mr. Harter agreed that if they had a right in, right out, driveway it would be a very similar design.

Mr. Gemma said that he understood Dr. Behr's concerns but asked if that is something that is common and consistent with traffic patterns today throughout most of N.J. where they have a right in, right out, or have a triangle that has an entrance point.

Mr. Harter agreed.

Dr. Behr said that the Board's issues are twofold. First is safety and second it is to everybody's interest to have a well functioning building so that it is easy for traffic to operate here and for this building to be able to accomplish its purposes as well.

Mr. Gemma replied that they understand that, but also asked the Board to consider one of its other prior comments that they had which all goes into the mix. He said that when they first discussed the entrance and the circulation, one of the concerns the Board has was that there was too much pavement in the front along Valley Rd. So, they actually pushed back a little bit and created more of a green space there and he was fearful that this type of design would result in *more* pavement there. He said that they were asked to be cognizant of a design standard for Valley Rd. and so, when doing something like this, you are right in that you may make circulation a little more effective, but does it have an adverse impact against the standards that you asked us to be aware of and try to maintain?

Dr. Behr said that he felt everyone recognizes that we are weighing a number of variables here and, for better or worse, you hear a piece of testimony at a time and so he felt that it takes a little while to pull all of these pieces together. What he was hearing were some questions about whether it is possible to create a workable design for this site that is going to still maximize the greenery in front but, perhaps, eliminate that additional curb cut and right hand turn. He said that he did not know what the answer to that is, but that is the question being asked.

Mr. Hoffman said that he would rather, not on behalf of the applicant but perhaps in terms of fairness to the witness, note the following followed by a question or suggestion which is that Mr. Gerecht has obviously given a great deal of careful thought to his suggestions and comments that he has offered by way of an alternate circulation and access pattern. He asked Mr. Harter if that is something, before commenting upon those thoughts from a traffic engineer's perspective, he would want to take back to the home office and study carefully, put templates down, and do other types of studies and consider data that a traffic expert such as himself do?

Dr. Behr said that he would be happy to let his question wait for the traffic expert.

Mr. Hoffman said that it was basically put forth by Mr. Gerecht, although Dr. Behr had added a point about the channeling of the westerly exit driveway which is part of the overall thing but not the entirety of it. He asked Mr. Harter if he felt that that is something that he would want - to have the opportunity to carefully study it if he is going to be returning to the Board. He said that perhaps this is something that he could report back on. In the alternative, he asked Mr. Harter if he felt that he felt that he is prepared to respond back "off the cuff"?

Mr. Harter felt he should respond. He said that he has been working on signal design and intersection design for 18 years and some of the principles are to keep distances away from

signals and to keep conflict points as far as you can away from a signal, similar to the proposed right out driveway. His focus was to get it as far west as he could. Similarly, with the north leg of the intersection that they are creating, they wanted to get it as perpendicular and straight an approach as they could for storage of vehicles and stacking. He said that they needed to align the lanes, which they did. He said that during the last application they spent a lot of time talking about a boulevard access, but it would just not align properly so that was a big issue they went through and it ultimately came back to this design which is head on head left turn lanes and through right lanes on the north and south approaches. He said that the problem if they had an aisle connection as close as was suggested to the intersection, is that you end up creating conflict points which are just too close to the intersection for operation and now a queue at the signal could block inbound traffic and potentially block into the intersection. He said that they want to get aisle or access off of the signalized driveway as far as they can from the signal in practicality which is what they have done by running it to an aisle just north of the building and now running west into the site which he felt is a good perpendicular design with good storage and keeping the conflict points as far away from the intersection as they can. He said that he believed that they have optimized the access and looked at it many different ways in the past. He said that, in the last application, they looked at a number of different building layouts and the present proposal is very similar to what was ultimately approved for the bank/office.

Mr. Fagnoli asked Mr. Harter to define “conflict points”.

Mr. Harter said that it is essentially an intersection if they created a driveway or an aisle that would intersect with a signalized driveway just north of the intersection. He said that that would then become an intersection unto itself or adding more conflicts.

Mr. Fagnoli asked if every conflict point is a safety issue.

Mr. Harter replied that it is a *potential* safety issue. He agreed that the general theory behind it is that the more conflict points you have, the more potential you have for accidents, etc. He also agreed that theory is to reduce the amount of conflict points as practical.

Mr. Fagnoli asked Mr. Harter if he had any safety data regarding the western exit onto Valley Rd. such as any kind of studies regarding a straight driveway versus the one that is angled.

Mr. Harter replied that he may have answered the question of the angle of the right turn a little quickly. He said that it is angled to suggest to have a right turn only movement but it is sufficiently wide. It is wide because they need tractor trailers to be able to circulate the building and make a right to come out which is really dictating the design. He said that they like to have a little bit of an angle, as Mr. Gemma suggested, to suggest the right turn only movement. He said that they will have signage that says “Do Not Enter” facing traffic on Valley Rd. and then “Right Only” or “No Left Turn” for traffic exiting the site. He said that it is so wide that you would be able to approach it as a perpendicular movement direction and then make a right or you could be up to a 45 degree angle. It is really what you are going to be comfortable with. He said that it is a single lane.

Mr. Gemma asked Mr. Harter if one of the other purposes was because that side of the building is where the drive-thru is and the whole intent was that, if someone was to go to the drive-thru, you don't want them to have to circle back around through the parking lot to get out – you want to get them off the site, particularly if they are going to go west bound on Valley Rd., which was a way of *avoiding* conflicts, rather than increasing them. If you took that away, everyone going through the drive-thru would have to circle around and interact or interfere with a conflict point with someone going into the building.

Mr. Harter replied that that was a good point. He said that if this driveway were not here and we didn't have the truck issue, for example, and the drive-thru movement would then have to come out and make a series of 4 turns to replicate what they can directly make, which is adding potential conflicts through the site. He wanted to see if they can avoid sending traffic unnecessarily through a signal and do it safely, which he believed they certainly can, so why not

allow this traffic to exit and *not* have to go through the signal. He said that that is how the current design evolved.

Mr. Gerecht had another concern. He said that, if you have the front area 2-way, then you do have conflicts with the k-turns and conflicts with people who use the drive-thru and want to continue going east. They still have to go around and out, so they are still circling the building if they want to continue east. He said that the only thing this is accomplishing is getting trucks out without having to go around the building.

Mr. Harter replied that trucks, from a geometric perspective, and for efficiency and practicality for passenger cars, the proposal makes sense.

Mr. Gerecht replied that you *are* having conflict points if you have somebody making a k-turn right in front of someone coming along the front of the building and there are other conflicts by the westerly exit, so you do have a lot of conflict points even with the proposed design. He said that, if you took the main entrance driveway and put it in the center, you could eliminate some black top and have the trucks be able to make the turn. He asked how many vehicles are anticipated to go in and out of the site at any one time. He said that you make it sound like you are going to have this whole thing lined up with cars, but then you don't seem to be telling us that you are going to have 30 spots filled up at any one time, so why would you have an area filled with cars at any given time, going in and out?

As to Mr. Gerecht's first point about the conflicts and circulation, Mr. Harter said that Bohler Engineering has proposed certain stop bars and stop signs that he felt will control (this) area fine without an issue. He said that the k-turn is a rarity and the movements on site are fairly low volume. He said that there is some queuing and a principle is that you would rather not bring an aisle directly into a building. You either want it to come in with an aisle that in this case is east/west, or one that is north/south to the building.

Mr. Gerecht said that, if you took the front driveway area and made it 1-way going east and took it in at some point to (this) area, you would have cars making the left but either they are getting into the left or right turn lane. He did not think that there would be a lot of cars backed up over (here). If they did, he said that they would only be backed up right (here) and not affect (this) or several other (unidentified) areas. He said that it would only be backed up into (here) a little bit, but you are talking about probably at least able to back up 3 cars (here). He said that the car coming in from Valley Rd., either through Plainfield Rd. or making a left or a right onto the driveway area would turn right into (here), be forced to make the right, park, come back out, go back around, and go out. It seemed to him to be a little smoother to have a flow than to have back and forth, back and forth, (this) way and out (here) with a k-turn potential. It seemed to him to be too much clutter and too much potential for too much movement by people getting confused. He said that, whenever you have a parking lot with 2-way traffic, you are bound to have somebody making a mistake. He said that if you could somehow work through this area (here) and this area right (here), you would eliminate (this) but you would still have more green in the front and would eliminate (this) entrance or exit and would still have green right (here), so whatever you took off (here) you could put a little (here) so the trucks could make the turn. He said that the road in front of the building could be 1-way and even made a little narrower which would make more green there (west to east), so there would be less blacktop. He suggested working through the calculations to see how the biggest truck could still get around safely. He felt that it would be a lot cleaner and have a lot less blacktop and look like the building is not in a "sea of blacktop" basically.

Dr. Behr said that, in essence, Mr. Gerecht is suggesting a counter-clockwise rotation around the building.

Mr. Gerecht agreed and added, with angles to allow a truck to do it, if that could be done.

Mr. Gemma asked Mr. Harter to consider Mr. Gerecht's suggestions in the context of good engineering practice.

Mr. Harter replied that for the reasons he had stated, he really did not think that is feasible, but he said that he would pass that information onto Bohler Engineering.

In response to Dr. Behr, Mr. Harter said that the reasons he did not feel confident that this would be feasible are first, the principles of the tractor trailer. He said that (this) 20' is actually a 21.01' driveway and is governed by the tractor trailer's swing. He said that, if he needs that much swing for a tractor trailer (here) for the tractor trailer to then, alternatively, make the pattern of movements that were just described, (this) driveway would become so wide that we are discussing intersecting essentially on the east side of the building along the signalized driveway, and that it would be impractical for passenger cars.

Mr. Gerecht said how about if (this) went right like (that). He asked if you couldn't make the turn from the front of (this) blacktop in front of the building and make a right turn onto the driveway area onto Valley Rd.?

Mr. Harter replied that you wouldn't want to bring (this) close to the intersection, which was his concern with extending the east/west aisle at the south of the building and bringing it out to the signalized driveway. He felt that it will be too close. He said that he would not recommend it unless you are in an urban situation where you have buildings already in place, to bring an aisle into a building like that. It is something that you try to avoid. If you did, and you assume that the aisle came in midway to the building, you don't want (these) stalls to be used and have movements backing up into that aisle that comes into that parking area. So now, you are going to eliminate some of your prime spaces and, again, your efficiency is lost and it is just not an efficient layout. He did not expect the queuing to back up to the access that they are showing on the site at the northern end of the signalized driveway, but he could envision 2 or 3 cars in a queue 60' back, so to have a practical location, he said that you are getting so close to (this) point where we have it now, it is just the right way to lay out the site, bring in the access off the signalized driveway to an east/west aisle, as proposed. He felt that that is the practical and proper way to do it.

Mr. Gemma asked Mr. Harter to provide an overlay at the next meeting to see what the queue would look like and also to see the turning templates so that the Board will have a feeling what it actually is.

Mr. Harter agreed that was a good idea.

Mrs. Raimer said that Mr. Harter had made reference to a 2006 traffic study and how there were modest changes since then. She was not suggesting that she needed to look at that traffic study, but said that there are some elementary issues that she was hoping he could clarify. First, she said that he mentioned levels of service in two categories ("B" and "D"). She asked for the amount of delay when you are at a level of service "B".

Mr. Harter replied that there are levels of service ranges for signalized intersections and level of service "B" is greater than 10 seconds and equal to or less than 20 seconds. He said that that is an average delay per vehicle that is arriving to the intersection over a peak hour.

Mrs. Raimer asked Mr. Harter, when he referred to level of service "B", if he was referring to weekends or weekdays.

Mr. Harter replied that it is a variety and depends upon the movement. He said that in the build conditions for P.M., they found levels of service "C" and "B" and then for Saturdays they found the same with the exception of that one "D" northbound. So only at one point on the weekends in his surveys did he find that it degrades to a level of service "D". He said that the 35.9 second delay he described is the average delay per vehicle that is calculated from the northbound left turn. He said that some cars could wait 5 seconds and some could wait 45 seconds, and the 35.9 second delay is an average result. For the first study they did 3 periods but for this study they did 2 periods and counted 5 hours of data. From that data, he said that they found the peak hour in each period and so you break that down and find the worse case. He said that you are counting in 15 minutes intervals and you find the 4 consecutive highest 15 minute periods and then you

create your peak hour data from that. Hypothetically, if approved, he said that you would see the worst traffic delay on the northbound left on a Saturday (which is the “D” level of service) at an average of 35.9 seconds. He noted that the peak hours at most intersections are at levels of service “E” and “F”, which is much more common.

Mrs. Raimer said that Mr. Harter had indicated that he did not see “significant queuing” and asked him to define “significant queuing”.

Mr. Harter replied that it is queuing that is sitting at an intersection and not clearing, so it is waiting through successive cycles. He said that he was also looking relatively at what the no build queue is and the northbound left that he testified to at the last hearing and it is roughly 10 cars in a queue no build and then, when they added their traffic, the queue went up 1 or 2 vehicles (or 11 or 12 cars in that queue). He said that, if he were to see the queue increase by 50% or double, then he would say that is significant but he was not seeing that. He said that “no build” is the future build year without the Walgreen’s and “build” is simply the same time, just adding their traffic.

Mr. Ruiz asked if there is are any examples of any Walgreen’s at all using the proposed configuration?

Mr. Harter replied that he was not aware of an exact one, but in some ways the Berkeley Heights Walgreen’s is somewhat comparable.

Mr. Ruiz asked if it has a k-turn?

Mr. Harter replied that it does not, but it has a situation that is similar. He said that he has looked at aerials of that site since (or during) the last meeting and as you come around from the side street access and, if you were not to find any parking along the Springfield Ave. side of the building, you could not take a right to continue around the building because the drive-thru is 1-way and of a very similar fashion to this site, but there is parking along the Springfield Ave. side in Berkeley Heights. If you were to come around and find no parking at the Berkeley Heights site, he said that you would be forced to exit onto Springfield Ave. directly at the driveway area. He said that there is an engineer in his office that lived in Berkeley Heights for about 5 years and he asked him about his experience and if he ever saw that site parked up and he didn’t and he said for that reason he was not aware of an issue where the parking is so full that it became a problem. Mr. Harter said that he did not think it will be a problem in the case of the present proposal either, but he offered a k-turn because there were concerns expressed.

Mr. Ruiz asked if, when the tractor trailers are delivering the materials, will they be parked along side of the building rather than backing up into the building?

Mr. Harter replied, “Correct”. His recollection from the Bohler testimony was that the truck would enter and enter in a west bound direction on top of the concrete, noting that there is plenty of room. It is dimensioned at 55’, but he said that there is really about 70’ between the dumpster and the extension of the parking row to the east of the building.

Mr. Gemma believed that the testimony of Mr. McMorrow, as well as Mr. O’Malley, was that it was not like a loading dock where you back up to the building. They unload from the side of the building.

In response to Mrs. Malloy, Mr. Gemma believed that Mr. O’Malley had testified that when the big trucks come, it will be during the off peak hours in the early morning or later on so that they do not interfere with customers.

Mrs. Malloy said that her primary concern is the holidays. The only time she has seen it teeming with people in Berkeley Heights (specifically) was at that time and she was able to find a parking spot but it was in the back of the building. Thinking about the amount of people you are generating at the Shop-Rite site right now, she asked what will happen when there are significant sales, big holidays (specifically at Christmas time)? She said that you are conflicting with a

number of different shopping areas on Valley Rd. that will be incurring an intense amount of people and she felt that is an issue.

Mr. Harter said that they don't design retail for the Christmas holiday because there is such a dramatic increase in traffic during the period of late November through December that it is just impractical. He said that most shopping centers don't have enough parking, but if you *did* provide enough, you would have a sea of asphalt for a majority of the time. He said that with this site, they have an extensive queue signalized driveway that is being questioned that it is longer than necessary and it really is for the typical peaks. During the Christmas period, he said that it will be nice to have that extra queuing area and the parking as well. Even if they do bank all of the stalls to the west of the building, he still believed that they are in excess of parking, so the stalls on the north side of the building are extra during typical peaks but will be available during the Christmas end of the year peak times. For those reasons, he felt that the site is over designed in those aspects and he felt they would work well during that time of year.

Focusing on the supplemental exit, Mr. Pesce said that the Berkeley Heights Walgreen's has something similar, if not identical. He asked Mr. Harter if it was possible for him to provide the data on how far that exit is from the controlled intersection to its east, and also the data on the volume of traffic there at the time it was approved (assuming that it hasn't been updated), so the Board would have a sense of how it compares to the proposal.

Mr. Hoffman said that one of the tasks that was left over from the prior hearing was to compare the site plans and this would cover the external measurements of the exit driveway back to the intersection.

Mr. Gemma said that, in case it doesn't, that is a specific question and they will address it.

Mr. Pesce said that he assumed that counts were taken at the time the Berkeley Heights Walgreen's was approved to show the volume of traffic. He said that Mr. Gerecht had made the point of whether this is going to be a difficult right based upon volume coming from a controlled intersection. He said that that is a very similar intersection if he was not mistaken.

Mr. Harter said that there would be counts for the intersection but then there would have been projections for the driveway, like his study. He said that they could do that. He believed that that driveway was full movement, so it is quite different.

Mr. O'Brien said that that exit is for right turns only.

Mr. Harter said that he would research it.

In response to Dr. Behr, Mr. Harter said that he was clear on what Mr. Pesce was asking.

Getting back to the issue of what happens if you turn into the left parking lot if it is full, Mr. Pesce said that he, too, was concerned that a k-turn creates more problems than it solves. He felt that if you use the most southeasterly place, you are backing right into the front of the store. As you are coming into the property from the entrance off of Valley Rd., he asked if you can look left and see at that point what spaces are open.

Mr. Harter said that he felt that as you come in you will have a fine view to your left.

Mr. Pesce said that ordinarily we are looking for greenery but with the trees here over time, will that obstruct that view?

Mr. Harter replied that he did not think so. Because you are seeing a plan view, he said that the branches appear to be more in the way than they truly are. As long as they are limbed, he did not feel there will be an issue from the ground up to a certain distance.

Mr. Pesce asked if technology exists if you wanted to put sensors in those spaces at the beginning of the lot which would indicate that it was full if every spot had a car on top of it.

Mr. Harter said that he was sure it could be done, but it is not a common practice.

In response to Mr. Keegan, Mr. Harter replied that the County is not *requiring* a secondary exit.

Mr. Keegan asked if the southbound lane onto Plainfield Rd. is anticipated to be a permitted right turn on red.

Mr. Harter replied that currently they are proposing to allow it and that it would be a part of the County's review of the signal plans.

Mr. Keegan asked if, at some time in the future there is an interest in subdividing the property, would the second curb cut be required on the property.

Mr. Gemma replied that he did not believe that a subdivision controls the access point.

Mr. Collins referred to **EXHIBITS 11 (a-c)** and said that in every single one of them, the example is in the most unused parts of the parking lots. In **EXHIBIT 11(b)**, he said that you can actually see in the furthest corner to the left that there is actually someone parked in one of the hashed out parking spots. He felt that that would be an attractive place to park if one were just running in and didn't know (or care) if it was meant for k-turns. He felt that it is an important point that we recognize that.

Mr. Harter noted that it is a hashed out spot but is *not* intended for k-turns.

Mr. Gemma said that they recognize that people don't necessarily pay attention to things like parking laws.

More importantly than some people deciding that they are more important than other people, Mr. Collins said is the fact that all of the other spots are in areas that are *remote* from the entrance.

Mr. Gemma agreed that that is a good point and said that maybe that is not the appropriate location, but it was the idea of what happens if someone gets stuck there and can't go out. He said that this is an *option* being provided to the Board and if they think that it is not effective, they will go to the old school of actually opening up your eyes to look for a parking space. It can be left as is.

Mr. Gemma asked Mr. Harter to address the 4th item in Mr. Lemanowicz's report under the heading of "Traffic".

Mr. Harter said that he felt a lot of this was addressed by Mr. McMorrow at the last hearing, which was a comment about the 1-way width of the circulation out to the west of the building. He said that he proposed it at 15' and the comment was that, because there is parking on that aisle, it really should be 17'. He said that it was discussed and, at that point, the idea of land banking was mentioned by Mr. McMorrow and, if there is no parking there, it was decided that 15' would be appropriate. He said that that is what he understood in terms of the 1-way circulation. Towards the end of the comment, he said that the 2-way aisle width standard for the Township was noted at 25' but he thought that it was now 24' that was agreed to. He said that the one area where they *don't* provide 24' is the aisle just to the north of the building. It is a 22' aisle between the perpendicular parking and the loading area and what his comment was that the 22' is measured just to the edge of the actual reinforced concrete area, but in reality there is several feet beyond that that would provide 24' more for all of these cars, with the exception of one bollard at the western proposed dumpster, so in that area there would be about 23' of 2-way aisle width rather than the 24' that they typically like to see. Given that it is simply a bollard and is low use in terms of parking, he did not see any concern with that operation. He said that it is also a 1-way operation, so as you back out, you are going to be pulling to the east to then proceed westerly around the west side of the building.

At Mr. Gemma's request, Mr. Harter referred to 2 comments on Pg. 21 of Mr. O'Brien's report dated 1/11/12, under Item K entitled "Traffic Impact Analysis". He said that both comments were responded to and they were noted and basically accepted. The first item relates to the level of service changes at the intersection and he said he put in a lot of testimony in in terms of that and the northbound left turn on Saturday and that seemed to have been accepted. He said that there was another comment about the highway capacity software printouts at the back of his report that give you the level of service results. He said that there was simply a label that was incorrectly noted on some of the printouts that had nothing to do with the analysis results but was simply a typo and that comment was acknowledged, as well.

In response to Mr. Gemma, Mr. Harter said that he had had an opportunity to review the Traffic Safety Report from Lt. Mazzeo dated 1/10/12. He read aloud a copy of the report which stated in part that "The Long Hill Township Police Department has reviewed the proposal submitted on January 3, 2012 and recommends any and all changes made to the traffic control plan effecting Valley Road and Plainfield Road to be approved by the Morris County Engineer's Office and the Long Hill Township Engineer's Office prior to commencement of construction". He said that he objected to *prior to commencement of construction* because he did not see why it would be a problem to have the building under construction. He said that they wouldn't open the Walgreen's until the intersection is fully complete, which he felt is the logical way it should proceed.

Mr. Gemma said that they would agree as a condition of approval that a C.O. for the building would be subject to completion of the intersection improvement design as accepted by the County.

Mr. Harter agreed. He said that Lt. Mazzeo's report goes on to say, "Please eliminate the wasted time, resources, money, and efficiency by utilizing something other than the signaling system currently in place at the intersection of Valley Road and Morristown Road". He agreed that it is very outdated and said that they would be replacing that with new equipment which would have the battery backup system that Mr. Mazzeo asked for in the last paragraph of his report. He said that this is a common thing that the D.O.T. uses and they are following the D.O.T. standards so that there would be a number of hours that the signal could still operate under battery power.

In response to Mrs. Raimer, Mr. Harter said that the battery backup would last for a one day period at the most.

Mr. Gerecht asked if the battery backup system works via solar panels.

Mr. Harter replied that he has never seen enough solar power for a signal operation and was not aware of any that are available. He knew that D.O.T. does not have any such current specs that they are using and added that the County essentially follows the State standards.

Mr. Lemanowicz said that his report went into some discussion about the stacking on Plainfield Rd. and the impact of the existing driveways along Plainfield Rd. He based his estimate of the queuing on the 35.8 seconds, but said that Mr. Harter is saying that, on average, it may actually be longer than that on occasion.

Mr. Harter replied that he was talking about *delay*. He said that the delay result is an *average* and, therefore, it would be a combination of some vehicles waiting very little time and some waiting longer. But the queuing is represented in 95th percentile queuing, so it is essentially the worse case calculation over an hour. He said that he testified at the last hearing that that 95th percentile queue is probably occurring 2 or 3 cycles over an hour, so it is a pretty rare occasion and is a worse case.

Mr. Lemanowicz referred to another queuing issue which Mr. Harter talked about for the drive-thru. He asked if Walgreen's has any records or experience as to the queuing for the drive-thru because, obviously, if the drive thru backs up to where the drive-thru lane starts, which is off the northwest corner of the building, it's going to make several parking spaces impossible to maneuver in and out of.

Mr. Harter said that that is a good point and that it was really shown just to provide guidance. He said that he did not anticipate queuing back that far. He said that 3 cars could stack (the car being served and 2 behind it) along the western building façade, so that they would not reach the point which Mr. Lemanowicz had described or interfere with any parking. He said that it is rare to see any backups beyond 3 cars for this type of drive-thru and is unlike a bank or fast food drive-thru. He said that, if it did under a rare and unusual circumstance, they don't expect the spaces to the north of the building to be turning over, let alone to be used much at all.

Mr. Lemanowicz said that that goes to the conversations we had at the last meeting where Walgreen's is the current prospective occupier of the building, but is not necessarily the *permanent* occupier. If the building does go to another similar type of service, he said that those parking spaces may be needed and he did not think that the Board is in a position to design this particular parking lot for this particular user. It has to be designed for what it is zoned for in case the Walgreen's does come out and a higher volume user comes in that needs that floor space, and the parking area is not only provided, but is practical which goes to the discussion of the aisle width along the westerly side. He said that the Ordinance requires that the aisle for the 60 degree parking be 18', where right now it is 15' but, again, we can't depend on that parking never ever being used either by Walgreen's or the next potential occupier of the property. He said that Mr. Gerecht had an interesting point in his experience in exiting the adjoining property and his problems with making a right turn out of that driveway. He asked Mr. Harter if he had done any calculations on the gaps that would be available for a tractor trailer truck to come out, being that it is a much slower and larger vehicle?

With regard to the question as to what if another user comes in for a different application, Mr. Harter said that they would need approval and he was not aware of any user that would occupy the building and be more intensive and have a drive-thru in that configuration.

In response to Mr. Gemma, Mr. Harter agreed that the proposed drive-thru window is located at the mid-point of the pharmacy.

Mr. Gemma asked Mr. Harter asked, if in fact, there was someone who would have more queuing, would it there then be the possibility with that other tenant to move the drive-thru from the midpoint to some other point in the building?

Mr. Harter replied that the interior of the building would have to be changed.

Mr. Gemma asked, if there is a need for more queuing, for something like a restaurant or bank, would there be room to move the window further to the south in order to provide additional queuing along the side of the building?

Mr. Harter replied that another option would be that it could be removed altogether. He said that the second question Mr. Lemanowicz had posed was about the Township standard for the 1-way aisle. He said that he understood the Township standard, but functionally with the 15' from the Urban Land Use (U.L.U.) standards, there is sufficient width. He understood that it is a Township standard, but said that it would still function properly as a 15' 1-way aisle with the 60 degree parking.

Mr. Gemma asked how far the aisle is to the adjacent property. He asked if 3' additional feet could be picked up.

Mr. Harter replied that, physically, there is enough room. He said that the distance from the edge of the western curb to the edge of the property line varies but is roughly 20'. He acknowledged that he was trying to maintain the 29' side yard setback and they would be violating the setback at that point. However, if the Board so desires and feels that it is more important to have a wider driveway, he agreed that the applicant is willing to seek such a variance.

Mr. Lemanowicz said that the parking is already less than 20' from the side line.

Mr. Gemma agreed that in one area it is.

Mr. Lemanowicz said that that is the building setback, not the parking setback.

Mr. Gemma thought there was a parking setback as well and that is why they tried to maintain that. He said that, if there is no need for variance relief, obviously the applicant can do so because there is more than enough room to pick up an additional 3'.

Mr. Harter agreed and said that it would be for 2'.

In such case, Mr. Gemma said that, if the Board so desires, the applicant will seek a variance and make it 2' wider.

Mr. Lemanowicz said that his last issue was the gap for the truck to leave.

Mr. Harter agreed and said that the question was, when the tractor trailer exits, do we do a gap study and the answer is, "No". He said that a tractor trailer is such a large object, it is very obvious to motorists so they didn't do an analysis and it usually isn't an issue because it is going to motorists or a truck coming in before the store is open. He said that if he ran an analysis it is going to be one vehicle making this right turn and it might be during the morning rush hour, but basically it will have to wait until it gets a gap to leave and it is a very obvious large presence when it makes that movement, therefore he did not see an issue with it.

Mr. Lemanowicz said that the loading area is dimensioned as being 15.7' off the rear (or north) wall of the building. He said that the Ordinance requires a 12' x 50' loading space and asked how far out the tote enclosure extends from the building.

Mr. Harter replied that that is not his area of expertise and that it is difficult to measure because he was not sure of the line weight. He said that it defines that tote enclosure, but he was not sure how accurate it is.

Mr. Gemma said that where Mr. Lemanowicz is going is that if it extends beyond a certain period of time they do not have sufficient loading.

Mr. Lemanowicz agreed and said that, in addition to that, you've only got less than 4' to do that and he thought that the structure was actually a block structure and it had the totes in it.

Mr. Gemma said that, according to their architect, it is 5 ½' and constructed of block and so that area wouldn't meet the standard.

Mr. Lemanowicz said that you would only have effectively a 10' x 55' area and you would not be able to open the tote doors.

Mr. Harter agreed that you wouldn't be able to swing them open when the truck is there.

Mr. Lemanowicz said that they are 2' shy on the parking space width and already 2' shy on the aisle width, which leaves a total of 4' shy.

In response to Mr. Gemma, Mr. Harter said that, from a traffic engineer's perspective, there is the possibility of extending the parking further to the north, however he was unsure in terms of the NJDEP because of potential environmentally sensitive areas. He said that Bohler Engineering would be better to answer the question.

Mr. Gemma said that Mr. McMorrow will be speaking with Mr. Lemanowicz about stormwater and, perhaps, that is a discussion that they could have at that time as well.

Mr. Lemanowicz said that the comments that the Board has been giving about the circulation of this site (probably 4 scenarios this evening) shows that there is a lot of concern of how this site is

going to work. He encouraged Mr. Harter to provide those examples that were to be provided to us so that they can be looked at closely and how they work in the real world.

Mr. Harter asked if he was referring to layouts of the site.

Mr. Gemma replied that they are the overlays.

Mr. Lemanowicz added, the existing stores that have some of these features.

Dr. Behr said that, where is it working and under what conditions does it work, he felt become very important questions for this Board to resolve.

With respect to the 3 photos that were marked for identification as **EXHIBITS A-11 (a-c)**, Mr. Hoffman said that these are each of what might be called high density development or urban or industrial areas. He asked Mr. Harter if he agreed.

Mr. Harter agreed and felt that was a fair observation.

Mr. Hoffman noted that one is on U.S. Rt. 1 and another is in an urban area which appears to have industrial type buildings around it and the third being what seems to be a high density residential apartment complex. In any case, he asked if those scenarios factually are comparable and which Mr. Harter said are to illustrate how k-turning will work in that type of a setting, are those comparable to what is essentially a proposed development on an 8 acre vacant piece of property?

Mr. Harter replied that the developments aren't but the purpose of the aerials was to demonstrate how the turnaround space works.

Mr. Hoffman asked Mr. Harter if he would agree that a site can be designed to operate *without* k-turning which, presumably, should be able to be done on a vacant piece of property – that would be preferable to maneuvering back and forth as necessary in a k-turn?

Mr. Harter replied that he felt that was fair to say, but a fair response as well is that he did not think it is going to be a problem and that he simply presented the option because of Mr. Lemanowicz's concern. Again, he felt that the proposed parking being provided on the east of the building will be more than sufficient and he did not think that we are going to run into the - problem of people not being able to find parking and having to u-turn or turn around in that area.

The meeting was opened to the public for questions. There being none, the meeting was closed to the public.

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In response to Mr. Hoffman, Mr. Gemma agreed that Mr. Harter will be returning at the next meeting for the several reasons already discussed and which appear in the record.

Mr. Gemma said that, at the 12/6/11 meeting, Mr. Taus testified as a licensed architect when he described what was proposed and to certain renderings and photos entered onto the record. As a result of that meeting, he said that the Board had certain questions as to the rear elevations and materials he was proposing, as well as overall questions as to signage that he had not addressed as of that time. Since that time, he said that additional drawings and elevations were submitted for the Board's consideration.

Mr. Albert Taus, licensed professional architect, was previously sworn. He presented the following items which were marked for identification as follows:

- **EXHIBIT A-12** – Colored rendering of the exterior elevations of the proposed Walgreen's store, last rev. 1/18/12.

- **EXHIBIT A-13** – Colored perspective rendering (Revision #5) with a revision date of 1/18/12.
- **EXHIBIT A-14** – Black and white rendering of the exterior elevations of the proposed Walgreen's store, last rev. 1/18/12.
- **EXHIBIT A-15** – Floor plan of the proposed Walgreen's store, last rev. 1/18/12.
- **EXHIBIT A-16** – Monument Sign Elevation, dated 1/18/12.
- **EXHIBIT A-17** – Color board containing a sample of the proposed brick and photo depictions of the proposed trim mouldings to be used on the elevations of the proposed Walgreen's store (Revision #5), with a revision date of 1/18/12.

Mr. Taus confirmed that **EXHIBITS A-12 through A-17** were prepared by his firm under his direction and control.

Referring to **EXHIBIT A-12**, Mr. Gemma said that one of the concerns at the last meeting that the Board had was with regard to the rear elevation. He asked Mr. Taus what is different from what was first shown and asked that he spend some time focusing on the rear elevation and what he did to address the concerns of the Board.

Mr. Taus said that the west and rear elevations were enhanced somewhat by adding some fenestration, windows, and also some architectural elements. He said that he ended up moving the drive-thru window just a little further forward and provided another window which gave him the opportunity to break up the brick exterior wall. He agreed that one of the concerns previously expressed by the Board was that there was too much brick (a blank wall) along the western exposure. He said that the only other item that was changed that he could think of was that he lowered the roof to a maximum height of 34' in order to address the issue of not needing a height variance. He said that the rear elevation was pretty much a brick wall and it had a few bands of soldier course brick running around the back of the building. He said that he broke it up by trying to create the image as though there were also fenestrations. He said that he recessed the areas below the lintels and the keystones and tried to create a little bit of a shadow line to have a break in the wall. He said that it was also intended to mimic the look and feel of the other elevations, style, lintels, and keystones with a Colonial look.

Referring to **EXHIBIT A-13**, Mr. Taus said that it is a colored perspective of the proposed Walgreen's. He said that it is different from the perspective that was previously shown to the Board in that the roof was lowered to a 34' elevation. Besides that, he said that the signage was further to the west and it was relocated to where it is proposed today. Benches and landscaping were also added as proposed by the landscaper. He said that the drive aisle also changed somewhat in that it was at more of an angle/skewed parallel from the building. It is now consistent with the plans by Bohler Engineering. He said that that was the idea of trying to make the front of the building meet some of the design criteria for Valley Rd. in terms of having more green space. He said that there is lots of landscaping throughout the whole area.

In response to Mr. Gemma, Mr. Taus agreed that someone entering the site down the entrance road they will be able to see over to the left to see if there is parking available, rather than to have a potential k-turn. He said that the vegetation is low enough to see through it.

Referring to **EXHIBIT A-14**, Mr. Taus described the differences from what was previously submitted compared to the newly revised plans. He said that it is basically the same as the colored elevation where he added an additional window and the architectural Colonial elements at the back of the building, as well as the 34' maximum height.

Referring to **EXHIBIT A-15** (the proposed floor plan), Mr. Taus said that the drive-thru window has been moved a little further back. He said that the Walgreen's pharmacy people and his office moved the window forward.

Referring to **EXHIBIT A-17** (which includes a sample of the proposed brick), Mr. Taus said that, when he was selecting the brick, he wanted to make sure that it matched the brick that was

used on the Township Municipal Building. He said that it is a very close match. He said that the Fypon, which are the elements such as the dentil, keystone, and trim board, mimics wood but requires less maintenance than wood. He said that it is a great material because you can do lots of unusual shapes out of it. He said that the proposal is like no other Walgreen's that he has ever done and he has done close to 50 others.

In response to Mr. Gemma, Mr. Taus said that he felt that the building that his firm has designed is in harmony with the Township's desired architecture and provides a hallmark focal point in the midst of this great area. He agreed that the intent was to make it look like part of a downtown area and not just a strip center.

Referring back to **EXHIBITS A-12 and A-14**, Mr. Taus said that on the south elevation (which is the front elevation), there is a red Walgreen's sign that is 25' 11 1/2" with a height of 5'9 1/4" and contains 77.96 S.F. He noted that all of the wall signs use LED lighting. Below the Walgreen's sign, the pharmacy sign is 12'9" long and 18" high and contains 19.13 S.F. The "W" inside the wall is 4" high by 6'2" and contains 24.66 S.F. He said that that elevation and signage is duplicated on the east side of the building and also has the same size Walgreen's sign, pharmacy sign, and "W" inside the clear story of the entrance area. He said that all of these signs are corporate branded signs of Walgreen's to identify the use and provide identity to the passing public as to what is there and the type of use that is there. He said that they are standard whenever you build a Walgreen's. He said that the other signs are on the drive-thru side of the building. There is a drive-thru canopy exit sign that is 6 S.F. and there is an entrance sign that is also 6 S.F. He said that they are directional signs for those using the drive-thru. He said that the last sign is the monument sign which is 10' wide by 2 1/2'6" high and below that is the reader board which is 2'6" x 10' and contains 50 S.F.

In response to Mr. Gemma, Mr. Taus said that he reviewed a concern raised by Mr. Hoffman in his review letter of today. He said that the size of the monument sign at 50 S.F. is a variance in and of itself. He said that the architectural elements that surround the sign contain 47 S.F. which would also need a variance. He agreed that the whole sign itself should be included in the determination of square footage. At the interpretation of the Board, he agreed that the applicant will seek that variance.

Referring to **EXHIBIT A-13**, Mr. Taus pointed out the location of the proposed monument sign. He said that it was relocated to accommodate and address the concerns expressed by the Board. He agreed that, in his opinion, it is located at an appropriate location and provides directional signage for someone going by so that they know where Walgreen's is.

Mr. Gemma said that he thought the applicant is seeking a total of 8 variances for the number of signs where only 1 sign is permitted and 8 are required.

Mr. Taus agreed.

Mr. Gemma said that the applicant has also sought variances for the sizes of the signs.

Mr. Taus agreed. He also agreed that, in his professional opinion, the signs provides directional guidance to the public and identifies a brand.

In response to Mr. Gemma, Mr. Taus said that he had an opportunity to go through the review letters of the Board's Engineer and Planner. He said that most of Mr. Lemanowicz's report dated 1/12/12 is engineering in nature. Referring to Sec. II entitled "Site Plan", Item #17, he said that it relates to the monument sign and reader board which was just discussed. He agreed that the applicant is, in fact, seeking those signs.

In response to Mr. Gemma, Mr. Lemanowicz said that his report didn't really get into architectural issues, however he had one question on the testimony given previously. He noted that Mr. Taus had mentioned that he had moved the drive-thru. Referring to plans revised 11/14/11 and plans revised 1/18/12, he said that it has not been moved.

Mr. Taus replied that it was his understanding that they moved it and that was what he was told. He said that they were anticipating what Walgreen's calls a "bridge pharmacy", so maybe this didn't take effect as he thought it did.

Mr. Gemma asked Mr. Lemanowicz if there was a disconnect between the architectural plans and the site plan?

Mr. Lemanowicz replied, "No", and said that it is between the architectural plans and the architectural plans.

Mr. O'Brien added, "And the architectural testimony".

Mr. Lemanowicz said that the architectural plans of 1/18/12 and the architectural plans of 11/14/11 show the drive-thru in the exact same place.

Mr. Taus replied that it probably never got implemented. He said that he knew that Walgreen's *wanted* to move it forward at one point. He said that he may be confused and asked for forgiveness.

Mr. Lemanowicz said that he just wanted to be sure that we have it correct.

To be clear, Mr. Gemma asked if it was the intent to move the drive-thru at this point?

Mr. Taus replied that he would say that, if this is what we proposed, that is the way it is going to be.

Mr. Gemma asked if that is what is shown on the floor plan marked as **EXHIBIT A-15** and the elevation that was provided and identified as **EXHIBIT A-14** and, if there is a disconnect, he said that they would have to revise the architectural plans to, in fact, meet what was shown.

Mr. Taus agreed.

Mr. Gemma said that Mr. O'Brien indicated in his report dated 1/11/12, that he did *not* have time to review the revised architectural plans, therefore he was not going to ask Mr. Taus to go through his report since it will be revised based upon the testimony.

Mr. O'Brien said that, if he would like to address anything from his 1/11/12 report, that would be fine, but he was in a position to comment on what was submitted last week.

Mr. Gemma replied that he understood and that was the point he had made. He said that he would then like to hold off and let Mr. O'Brien put a letter together for Mr. Taus to address rather than to be redundant.

Mr. O'Brien asked where we are with the drive-thru then?

Mr. Taus replied that he would say that the drive-thru is in its correct position, has not been moved, and is not proposed to be moved.

Dr. Behr said that he was now confused. He asked if the only change was that a window has been added?

Mr. Taus replied that that was correct.

Dr. Behr said that the official testimony that we are working with is that the drive-thru will *not* be moved and, therefore, the architectural plans that we have that show it not moved are going to continue to be the official plans.

Mr. Taus agreed.

Mr. Gemma added, with the only change being that window on the one side.

Mr. Taus agreed and apologized for the confusion.

Mr. Collins had a question between the November plans and the newest revised plans. He said that he was trying to understand from the newest plan in the northwest corner where the new proposed window is and in the back of the building where the dumpsters are. For lack of a better word, he said that there appear to be “little clouds” and asked what they are indicating? He said that neither of those are on the last plans he had. He confirmed that he was talking about the floor plan (Sheet A-111).

Mr. Taus replied that they are revision clouds.

Mr. Collins said that he thought that the window was the only revision, so what is the other revision?

Mr. Taus said that he would have to take a look. He asked if he was referring to the one that runs across the entire length of the rear?

Mr. Collins replied, “Yes”.

Mr. Taus thought that at one time they had a different elevation that they had revised. He agreed that it was an elevation cloud.

Referring to the proposed reader board, Mrs. Raimer asked if the reader board portion of the monument sign were eliminated, would a variance still be required for the size of the monument sign or the height of the monument sign?

Mr. Taus replied, “Yes”.

Mrs. Raimer asked if the monument sign, other than the reader board, LED lit as well?

Mr. Taus replied, “Yes”.

In response to Mr. Hoffman, Mr. Taus said that the reader board is proposed to be LED lit.

Mrs. Raimer said that she was asking about the Walgreen’s logo that is not part of the reader board itself. It is above the two reader board lines. She noted that Mr. Taus had mentioned in his testimony that all of the wall signs are LED lit. She asked if there are any Walgreen’s that have wall signs that are *not* LED lit, but made of something else.

Mr. Taus replied that earlier Walgreen’s stores that were built a few years ago did not use LED. He said that they are composed of neon signs.

Mrs. Raimer asked if any Walgreen’s ever used carved wood signs?

Mr. Taus replied, “None in my experience”.

Dr. Behr said that he thought that Mr. Taus was familiar with the Township standards for signs. He asked Mr. O’Brien if the monument sign meets such standards.

Mr. O’Brien replied that it does not.

Dr. Behr asked what would be the disadvantage to Walgreen’s of signage that would comply with the Township Ordinance?

Mr. Gemma asked Dr. Behr to clarify what he meant by “comply with the Ordinance”.

In response to Dr. Behr, Mr. O'Brien replied that the Ordinance calls for 10 S.F., plus carved wood.

Dr. Behr said that his present question focuses on the ground sign. He said that the Ordinance calls for a carved wood sign with a maximum of 10 S.F.

Mr. Hoffman said that that is apart from the so-called "design enhancement features" which will allow, under the Ordinance, an additional 10 S.F. or whatever fits within those terms.

Dr. Behr asked what lighting would be permitted for that sign?

Mr. O'Brien replied that right now we allow exterior lighting, rather than internally lit letters or numbers.

Dr. Behr asked what the detriment to Walgreen's would be of having a sign that conforms with the Ordinance?

Mr. Taus replied that he would say the identification of a Walgreen's store and the logo of Walgreen's so that it can be identified.

Dr. Behr said that he was focusing on what is the value of varying from the Ordinance when a sign that would have the Walgreen's logo, in the appropriate color, and would be lit so that it would be perfectly visible could be constructed that would nevertheless conform to the Ordinance?

Mr. Gemma said that, assuming that Mr. Taus can testify as an architect on whether it meets the architectural criteria or not, certainly there are other issues noting that Dr. Behr's question assumes that it can be externally lit and be safe and adequate and that would be something that the traffic engineer would properly testify as to. He asked Dr. Behr to reserve his question to Mr. Harter as to whether an externally lit could, in fact, do two things. One, be equally as visible as an internally lit sign with exterior lighting and still meet the lighting requirement about having too much lighting. He said that certainly if you have a spotlight on there you can see it for miles around, although he added that that would probably also violate one of the other requirements. He said that in the blend of the things you are trying to seek and obtain that has to be taken into account.

Mr. Hoffman disagreed to the extent that Mr. Gemma was saying that this witness, as an expert in architecture, is not qualified to respond to specific questions and issues pertaining to Walgreen's signage when he testified that he has extensive expertise and familiarity with Walgreen's needs and signage having designed some 50 stores for Walgreen's.

Mr. Gemma replied that Mr. Taus can testify as an architect. However, when it comes to only issues that Dr. Behr wants addressed in front of this Board, if one of those is traffic safety, he is not a traffic safety engineer and to preclude a traffic safety engineer from discussing issues of directionality and safety is inappropriate.

Dr. Behr said that that was a very fair point.

Mr. Hoffman said that he agreed that a traffic expert can also testify.

Dr. Behr said that he was interested in his testimony, but to follow up on the direction that Mr. Hoffman was taking, from an architectural point of view, looking now *not* a traffic and safety but simply at the purpose of signage, which is to call attention to a location, he asked Mr. Taus if he had any testimony as to any *detriment* of a Walgreen's sign that would be conforming to the Township Ordinance – not from traffic and safety, but looking at a sign as a way of calling attention to a structure which he believed could be a legitimate architectural question.

Mr. Taus replied that, as an architect and as a consumer, driving past this store one identifies the Walgreen's sign with a Walgreen's store, so if it was something other than what is shown here on the drawings.....

Dr. Behr interjected and said that we are looking right now just at the monument sign. He said that he would get to the other signs, although Mr. Taus made a very good point that, if the ground sign were changed in some way, the likelihood that people would miss the fact that this is a Walgreen's ----they've got other opportunities to identify it as a Walgreen's.

Mr. Taus thought that, if you are driving at night looking for a Walgreen's store, or even during the day but more at night, he felt that is illuminated to the point where it is a branding item for Walgreen's. He said that that is there symbol.

Dr. Behr said that we are assuming that the red script of Walgreen's would be exactly what would appear on the conforming sign.

Mr. Taus replied that he did not want to be adversarial, but he felt that the proposed sign is more identifiable.

Dr. Behr said that signage is often created and designed based on assumptions of automobile traffic. He said that he was not talking safety here but was talking about the visibility of the sign in relation to the speed of the cars on the road that pass by. He said that very clearly there is a difference between signage that is appropriate for a highway and signage that is appropriate for basically what is a street in a town and obviously the slower the traffic moves, the smaller the sign can be and still be visible. If people are going by at 65-80 mph, for them simply to see a sign, it has to be big. If they are driving by a sign at 35 mph, that sign can afford to be smaller. He wondered if Mr. Taus had any thoughts about the Walgreen's signs he had built and asked if he would describe them as primarily being for highway construction, street construction, or if that is a question he could not answer.

Mr. Taus replied that it is a question he could answer. He said that there are many stores that he has done in a setting of this type. One that came to mind was in Pt. Pleasant, NJ. He said that, if this sign was not illuminated the way it is now, yes, it could be seen but they think it is more prominent and easier to see. He said that he knew, himself, when he is driving around looking for a particular store, even as aware and observant as he thought he might be, he said that he misses stores. He felt that another type of sign would work here, but he felt that the proposed sign would be "a little bit better".

Dr. Behr said that this is a road where people travel at 35 mph and it is not like we are Rt. 46 where this particular location is "cheek by jowl" with one neon sign after another neon sign after another neon sign. He said that the question he was pursuing is what are the reasons that you would give for wanting a variance from the Township Ordinance for the sign and, if you were to comply with the Ordinance, where would be the real harm to the applicant? He said that that is the question he thought was still unanswered.

Mr. Hoffman said that he had several follow-up questions on this very issue. He asked Mr. Taus if he felt that Walgreen's, as a company and a matter of policy, is concerned of the visibility of its store locations and, for that reason, the internally illuminated ground signs or monument signs of this size are needed?

To Mr. Taus, Mr. Gemma said, to be clear, to the best of your ability to answer on behalf of Walgreen's only as someone working for them.....

Mr. Hoffman interjected, from your familiarity with their policies and practices as you have dealt with 50 or so of their stores.

Mr. Taus replied that, dealing with 50 of their stores, there is a prototype store that we try to follow as closely as possible, which this store doesn't follow. He said that there are guidelines that we follow that is determined by Walgreen's and their policies, not by the architects. He said

that they prepare the construction documents so that the stores can be built. He said that some of these elements and the signage in this situation is not something that he put together other than that they need some identity on the road, visibility, and also branding.

Mr. Hoffman asked Mr. Taus if he understood that the visibility of their stores, including at night time, is important as a matter of company practice.

Mr. Taus replied, "Yes".

Mr. Hoffman asked Mr. Taus if it would be surprising to him if he were to state and represent, subject to his verifying if of course, that the external ground (or monument) sign located at the corner of Springfield Ave. and Snyder Ave. at the Berkeley Heights location that has been referred to earlier has *not* been illuminated for at least 3-4 years?

Mr. Taus replied that he wouldn't know that.

Mr. Hoffman replied that that would not seem to be consistent with the importance to Walgreen's of the visibility, would it, if that were factually accurate?

Mr. Gemma objected. He felt that it was not fair to ask Mr. Taus and he said that he doesn't know that. He said that you are making an assumption as to why it is not lit.

Mr. Hoffman replied that he was not making any assumption.

Mr. Gemma replied that he objected to the question, that Mr. Taus can't answer it, and he did not feel it is appropriate.

Referring to the so-called reader board sign, Mr. Hoffman asked if it also is going to be internally LED illuminated?

Mr. Taus replied that that was his understanding.

Mr. Hoffman asked if those signs, and particularly the one here, involve a regular or continual change in what the message or messages contained on the sign consist of so that we have, every several seconds or every half minute at most, a message as to one event or sale item and then it changes to another and another, etc. so that you have a continual panel of advertising?

Mr. Taus replied, "Yes".

Mr. Hoffman replied, so that for example, items of special sale that the company wants to bring to the attention of the motoring public are regularly and consistently changed so that we have a sale item of one thing and then it changes to another, etc.

Mr. Taus replied that it changes, although he did not know how often it changes.

Mr. Hoffman asked who determines what the content of the so-called reader board sign would be?

Mr. Taus replied that he could not tell him how Walgreen's internally determines that, but it is for promotional sale items.

Mr. Hoffman asked, so it is not simply for matters of let's say general community interests such as "Come to the 4th of July fireworks festival or church bazaar or something of that sort, but basically deals with sales items such as a special this week on, for example, rat poisoning. He said that that could be placed on an illuminated basis at the most prominent location in the Township. He asked if this is what Mr. Taus was saying?

Mr. Gemma replied, “No, he is not”. He did not think that Walgreen’s sells rat control poison and he said that he thought that Mr. O’Malley testified at the last meeting that, in fact, the reader board could contain not only special advertising, but community service type items.

Mr. Hoffman replied that it could, but not necessarily would.

Mr. Gemma said that Mr. O’Malley, who is the District Manager who testified at the last meeting, more than Mr. Taus who is an architect, testified as to the content of what it could contain. He did not think that it was appropriate to ask Mr. Taus that question because he is not the District Manager.

As someone familiar with Walgreen’s signage as well as the physical architectural features of its buildings, Mr. Hoffman asked if a prominent sale item in the stores be, let’s say various types of birth control devices?

Dr. Behr said that he was going to stop this.

Mr. Hoffman said that he realized that there are constitutional issues involved here.

Mr. Gemma objected.

Mr. Hoffman replied that his position was well taken, but he thought that the community, with all due respect to the Chairman, has an absolute right to know, subject to their constitutional first amendment rights, what is going to be advertised at the most prominent location throughout the Township, right at this key corner.

Dr. Behr said that the other question, which was still an open question for him, is the variance with what is the standard in town in terms of signage, because this is clearly not just simply a sign, it is also an advertising board.

Mr. O’Brien replied that it was a little unclear. He said that Mr. Taus is testifying that there is going to be an electronic reader board, but the plans say that there is going to be a manual board.

Mr. Taus replied that, from what he understood, the backlighting of the reader board is LED, and that would be the message sign.

Mr. O’Brien said that it is then not manual.

Mr. Lemanowicz said that the lettering just sticks on somehow.

Mr. Taus said that from his understanding of what is being proposed for this reader board is one in which letters are manually put onto the sign and, from the inside, it will be illuminated.

Mr. O’Brien said, like a movie marquee.

Mr. Taus replied, “Yes”, it is manual.

Mr. O’Brien asked what is the electronic board that he was talking about?

Mr. Taus replied that he had not spoken about an electronic board. He said that he said that there would be different advertisements placed on it at different times.

Mr. Gerecht said that the Board was getting the impression that it was a constant stream of information going across and LED where it would say to buy something and it would move.

Mr. Taus replied that, from his knowledge, he was not familiar that this sign is to be an electronic sign with moving letters.

Mr. Gemma said, just so that we are clear for the record, this is *not* going to be an LED reader board that has letters sprawling across.

Mr. Taus replied, “As far as I am aware, from what information I have gotten from Walgreen’s”.

Mr. Gemma said, “But the applicant is not seeking a variance then for an LED reader board sign”.

Mr. Taus replied that the backlighting is LED.

Addressing Mr. Gemma, Mr. Hoffman said that what we do seek to know at this point is that the applicant is seeking a sign that is five times the allowable measurement in area permitted under the Ordinance, the contents and frequency of which changing messages is completely unknown.

Mr. Gemma replied, just to be clear so what we do know, is that they are not seeking what the Board perceived to be an LED reader board type sign. They are seeking one that is backlit with LED lights that will be hand changed and won’t have the flashing rat poison on there, as far as we know. To be fair to both the applicant and the Board, he said that they will confirm at the next time the applicant is before the Board *exactly* what the sign is going to be.

Dr. Behr replied that he felt that would be helpful.

Mr. Gemma agreed that it would be helpful for all parties. He said that he would also check with his constitutional scholars as to its content.

In response to Mr. Farnoli, Mr. Taus said that he was not familiar with the Berkeley Heights monument sign.

Mr. Farnoli said that he did not think that they have any kind of reader board or message board, as he recalled. From appearances, he said that it looks like it might be smaller area-wise than the one which is proposed. He said that maybe Mr. Gemma could find that information out.

To make a fair comparison, Mr. Gemma asked Mr. Taus to check the size of the monument sign in Berkeley Heights, what *type* of monument sign it is, how it is lit (front or back), and the number of signs they have on the building and the size of those signs as well.

Mr. Hoffman said that he respectfully represented that it is not illuminated.

Mr. Farnoli asked Mr. Taus if he had done any monument signs that are smaller than the one proposed?

Mr. Taus replied say that he would have to say, “Probably, yes”.

Mr. Farnoli asked if he remembered if all of them had message or letter boards?

Mr. Taus replied that he would have to check, but he thought that *most* of them had message boards.

Mr. Gemma asked Mr. Taus to try to check whether, in fact, in his experience *any* of them did not have message boards.

Mr. Gerecht asked Mr. Taus to also inform the Board if all of the monument signs, in his experience, were internally lit or were some externally lit.

Mr. Gemma said that he would ask Mr. Taus to check on the 50 that he did because he will be testifying as to what they were – whether any had message boards, whether all were externally lit or where any internally lit and how it worked, so that the next time he comes back he can provide concrete information.

For purposes of preserving the record in this proceeding, pending of course on what the ultimate determination of this Board would be, Mr. Hoffman said that he respectfully asserted that Mr. Fagnoli's question is irrelevant in terms of whether a certain number or percentage of the company's policy signs do or do not contain limited or restricted messages. He said that a party seeking to engage itself and open a store in a municipality presumptively must comply with the Township's standards rather than the town having to meet the company's policies the other way around.

Mr. Gerecht replied that he did not think that was the purpose and that the Board just wanted to see whether they have such an inherent interest in having the sign that big and why – just to see if it was that important to them.

Mr. Gemma said that he thought there was a question asked about the importance of the context of branding and whether they have ever broken that branding. He felt that that was the purpose of the question.

Mr. Fagnoli said that he was just curious as to the range of the signs and if they have messages in them.

Dr. Behr said that there are historical communities that have national chains in them in which accommodation is made to the standards of the community and national retailers will, in fact, modify their signs accordingly. He said that it would be interesting to know and, perhaps there could be somebody from Walgreen's that could testify on this, has Walgreen's made any kind of concessions to local standards where those standards were appropriate and reasonable?

Mrs. Malloy said that, to that end, she had an occasion to go to Belle Meade over the last couple of weeks and stopped at a Walgreen's in Hillsborough on Rt. 206. She said that it actually has a barn type of look to its architecture and that she took pictures of it.

Mr. Taus said that he passed it on his way up to Long Hill Township.

Mrs. Malloy said that it stood out to her for exactly the reasons that Dr. Behr had pointed out.

From a legal perspective, Mr. Hoffman felt that Mrs. Malloy is exactly on point in that the franchise operating under the name MacDonald's originally, in several reported cases, had taken the position that its infamous golden arches were absolutely immutable and an essential condition to any approvals being sought in any municipality and they, as a matter of legality and practical business policy over the years, have changed that position and modified their logo considerably to accommodate municipalities that say a certain Colonial or other type of traditional look is essential.

Addressing Mr. Gemma, Mr. Collins said that he was disappointed in having sat through this on two different Boards and spending a lot of time with him through the years on the same property. He said that what we have been asking *consistently* about the Berkeley Heights property and we *consistently* hear, "I don't know because I didn't do that" from many different experts that come up. He said that we had a regional manager that doesn't represent Berkeley Heights and, every single meeting, we all bring up Berkeley Heights and want to know similarities and nobody knows the answers. He said that he was confused and said that he bet the Assistant Manager could answer 95% of the questions that were asked about Berkeley Heights. Why we can't get those answers easily, was beyond his understanding.

Mr. Hoffman agreed and said that he should not have to be a fact witness here (and Mr. Gemma doesn't want him to be a fact witness here).

Mr. Gemma agreed with Mr. Hoffman and said that Mr. Collins is right. He said that they have tried very hard to compare themselves with Berkeley Heights and where it is different and that is why Mr. McMorrow is doing that. He said that they will look at the specific issue of signage in Berkeley Heights and see how it compares.

Mr. Collins said that there have been *many* issues, over and over again.

To be fair his client, Mr. Gemma said that this isn't Berkeley Heights.

Mr. Collins said that that is fine, but the Board is asking as a matter of something that they are all familiar with.

Mr. Gemma replied that he understood that and said that they provided an indication of (he thought) 10 different Walgreen's around the area. He said that the focus has been Berkeley Heights because of the proximity to it – the closest one here, that's why. But he said that they are trying to say that this is different and when it comes to a specific issue, they are trying to address it. He apologized that they didn't think ahead of time to address *all* the Berkeley Heights issues, but are trying to say that this is a little bit different than that.

Mr. Pesce said that, when Mr. Taus talked about the dimensions and the square footage of the large Walgreen's sign on the façade of the building, he thought it he said that the dimensions were 5'9" by just short of 26', but he thought that he then said that the square footage was 77 S.F. and when he did the math, that doesn't work. He wondered if he misheard or if Mr. Taus misspoke, because it comes out to be over 150 S.F. In the other calculations he provided, he believed that he was calculating via "the box".

Mr. O'Brien said that here we draw a box.

Mr. Taus said that from the top of the "W" to the bottom of the "g" is 5'9 ¼". He said that he assumed that they didn't tabulate it in that respect.

Mr. Gemma said that there is a signage table on **EXHIBIT A-14** and it shows the size of the sign and the area. He asked Mr. Taus to confirm how it was tabulated so that the Board knows specifically what dimensions were taken as to area to address the question. He asked him to find out specifically how he came up with those numbers and, if his computation of those numbers is consistent with how the Ordinance is written (with a box). (He confirmed with Mr. O'Brien that "the box" is the outside of the letters).

Mr. Farnell asked if the "W's" are on inside of the building in the clear portion of the tower and do they require any variances?

Mr. Taus replied that they are inside the window.

Mr. Gemma replied that they are part of the 8 signage variances being sought and they are lit.

Mr. Farnell asked what would make them not be signs? He said that, if you had the alphabet there which had a "w" in it, is that a sign? He said that these are on the inside of the building projecting outwards. He said that, what if had a mortar and pestle – is that a sign? He asked what constitutes a sign in this instance since it is not on the exterior of the building.

Mr. O'Brien replied that, if it can be seen from the exterior, it constitutes a sign regardless of what it is. He said that a mortar and pestle is advertising a drugstore and the "W" is advertising the Walgreen's. He said that the sole purpose for them being at the location is that they can be seen from the outside, so they are signs.

Mr. Gemma felt that the intent, fairly, is to convey a message – in this case a brand identity and what the type of use is there.

Mr. Hoffman said that at the outset, after the break this evening, Mr. Gemma stipulated on the record that, to the extent it would be necessary, his client would amend their requested relief for signage to include a variance, not only for the square footage of the ground sign, but also for the square footage or size of the accompanying design enhancement features and that is fine with him, procedurally. But he suggested that Mr. O'Brien be given the opportunity to submit his comments on that because, ultimately, in listing the several items of variance relief in the

Resolution (whenever it is prepared), he needed to know whether that is or is not going to be required.

Dr. Behr said that he wanted to make sure from the Board's consultants that all additional information has been identified that is deemed to be necessary.

Mr. O'Brien said that he had two additional questions of Mr. Taus.

Due to the lateness of the hour, Mrs. Raimer made a motion to extend the meeting for 5 additional minutes which was seconded by Mr. Fagnoli. All were in favor.

Mr. O'Brien asked Mr. Taus to describe how the prototype store that he described in earlier testimony differs from the proposed store.

Mr. Taus replied that the most recent prototype store uses a lot of sandstone block and some horizontal canopy elements that hang over the windows and is a much more contemporary looking type building.

Mr. O'Brien asked if there is a change on the floor plan?

Mr. Taus replied that the this would be a prototype floor plan.

Mr. O'Brien said that the essential difference between the prototype and this design is the exterior.

Mr. Taus replied that that was correct.

In response to Mr. O'Brien, Mr. Taus named the following towns as being a part of the 50 towns for which he has designed Walgreen's stores: Haledon (under construction); Pt. Pleasant; Bayville; Heightstown; Hamilton; Egg Harbor; Hammonton; and Dover Twp.

Mr. Hoffman noted that most of them are in south Jersey where there is more open space.

Mr. O'Brien noted that they are certainly closer to Philadelphia than we are. He asked Mr. Taus to submit a list of towns in Morris, Union, and Somerset Counties.

Mr. Taus replied that, if he has done anything up in those areas, he will. He said that Haledon is under construction now.

Mr. O'Brien replied that it would not be fair to look at that one because it is not finished.

Mr. Taus asked, in what respect would you like to look at it? The style of the exterior of the building?

Mr. O'Brien replied, "I think the entirety of the building"

In response to Mr. Fagnoli, Mr. O'Brien said that Mr. Taus has indicated that he has designed 50 other stores and he was just wondering where they are so that we can take a look at them. He said that there were two different issues. One was the stores he designed and comparing the designs to what is here and the second is that he mentioned in his testimony a prototype store, which he presumed is some type of super model that they use everywhere. He said that he gave him the impression listening to him that this store was a change and it turns out that what we are talking about is the facades and not the floor plan.

Mr. Hoffman noted that they have been asked several times to furnish the plans for the Berkeley Heights location which he felt is not consistent with their prototype.

Mr. Gemma replied, to be clear, we are not providing the plans for Berkeley Heights because they don't have them. He said that they will get what they can to make a comparison from the

engineer in terms of the parking and layout, but if you want the actual plans they will try to get them, but they were not asked to get them. He said that we are just trying to make a comparison to the other two properties. He said that they don't own Berkeley Heights, but asked Mr. Taus to get them if he could.

Mr. Hoffman replied that this Board is interested in seeing the approved Berkeley Heights set of plans, both engineering and architectural, which are a matter of public record. He said that you can get them from the Township or Board Secretary and you do not have to go to Walgreen's.

To conclude, Mr. O'Brien said that Mr. Taus will provide a list of other Walgreen's he has designed in Morris, Union, Somerset and (let's throw in) Middlesex Counties.

Dr. Behr said that the testimony we have heard is that they have modified the design to try and make it fit within the look and feel of Long Hill Township and that is primarily going to be an issue of the exterior, he would think.

Mr. O'Brien replied, "That's been said".

Dr. Behr asked Mr. Gemma if someone will be available at the next meeting to talk about additional landscaping.

Mr. Gemma replied that Mr. McMorrow will be back at the next meeting and he felt that the engineer would be the most appropriate. He said that he thought that he provided testimony at the last meeting about landscaping.

Dr. Behr said that he had a question with the rendering that has been presented.

Mr. Hoffman said that, if the Board is going to avoid the scenario that we spent the first several minutes dealing with at the outset this evening, we need to be mindful of our time requirements on submission of additional plans, documents, or data. He felt that it was Mrs. Wolfe who pointed out in one of her e-mails over the last couple of days that, in order to meet the Board's 2 week lead time submittal, they would have to submit this additional data that has been requested no later than today. He said that he did not know if we are going to go through this whole scenario again.

Dr. Behr addressed the Board's consultants and said that, obviously, there is some kind of information that they need to look at in great detail and review and there is some kind of information that can simply be looked at understood. However, he said that the germane question here, are we asking is whether the information being requested can be delivered in time for them to do a review. He noted that Mr. Lemanowicz had requested information before the weekend and that it was going to be e-mailed directly to him and Mr. O'Brien.

Mr. Lemanowicz replied that that was correct and that was for the circulation issues and such, however he said that he was also still waiting for a drainage report.

Dr. Behr agreed that the drainage report is necessary.

Mr. Gemma replied that they understood.

Mr. Lemanowicz added that, if he got the traffic information on circulation and the drainage report, he could not do a report on both by Tuesday.

Dr. Behr questioned if it made sense to move the next hearing date from March 6th to a later date in fairness to the applicant. He added that nobody benefits by not being able to have a full discussion on something.

Mr. Gemma replied that he understood, however he noted that he still has one expert who has not testified at all and that is his planner. He said that he would like to keep the March 6th date and bring Mr. Harter back noting that the only issue he submitted this evening were the 3 photos, so

there could be additional questions of Mr. Harter and open and close that. He said that he also agreed to do an acetate overlay so that the Board could see those questions. He said that he would also like to have his planner come on board and he will not bring Mr. McMorrow back at all on the 6th. He said that he would wait so that all of the plans are in and there is more than sufficient time and that gives everyone time to make their comments. Also, to be fair to Mr. O'Brien, noting that he has not had time to write his report based upon Mr. Taus, he said that he will not bring Mr. Taus back either which will give Mr. O'Brien more than enough time to write a report on the architectural changes which he knew Mr. O'Brien wants to see how they meet the design standards.

Dr. Behr said that that seemed very reasonable, however the issue that he was very concerned about is a) that we get the information we need in a timely fashion and b) that we are not in the position to jerk the applicant around.

Mr. Gemma replied that he appreciated both. He said that he will have their planner here and Mr. Harter, but he would *not* have their engineer or architect until a subsequent meeting when all of the additional data is submitted with plenty of time.

Mr. O'Brien suggested setting *that* meeting to give everybody a site to work on. He said that, if the applicant's planner is going to be testifying at the next meeting, the application is not *final* before this Board, so the planner may very well have to come back in order to testify upon the *final* plan.

Mr. Gemma replied that he understood that, but he said that oddly enough he recognized that it may take more than 1 meeting to get through any one expert, so he would rather get through the bulk of the testimony if he could. He said that, if we have the meeting, let's get through as much as we can with the recognition that, if there are changes, it comes back.

In reviewing the Board calendar as to future meeting dates, and in response to Dr. Behr, Mrs. Wolfe said that she did not believe that Mr. Gemma had been made aware that a (homeowner) application was carried to the March 6th date. She said that she mentioned it to Mr. Koutsogiannis when he was in her office this morning, but she did not know if Mr. Gemma had been made aware of it.

Mr. Gemma asked Dr. Behr if he had any idea how long the other application would take.

Dr. Behr replied that the original intent when the first half of the March 6th meeting was given to the other applicant was that we would have been able to get through a considerable amount of testimony this evening. He said that Parthenon Realty, LLC will be given one half of the meeting on March 6th.

In that case, Mr. Gemma said that it may be appropriate just to have their traffic engineer come back and finish up any questions he has. He said that he would use that half of the meeting to get Mr. Harter out of the way. He said that he would take Mr. O'Brien's advice not to even start that evening with their planner.

Mrs. Wolfe said that the following meeting is March 20th.

Dr. Behr asked Mr. Gemma if that would give him enough time to get everything in so that we could actually hear this and move forward?

Mr. Gemma replied that he will be here on March 6th. He said that, in order to meet the 14 day requirement for March 20th, everything would have to be in by at least March 6th. He said that, if he is here on the 6th, then he screwed it up again and he would let the Board know. He said that he *hoped* they could do it.

Mrs. Wolfe noted that she had two brand new applications to schedule.

Mrs. Raimer said that we can't keep holding dates for this applicant.

Mrs. Wolfe agreed and said that she did not know how she could hold other applications off indefinitely and Mrs. Raimer agreed and felt that it is unfair to other applicants.

Mr. Gemma said that his client has indicated that he would rather cancel the March 6th date and come back on the 20th.

Mrs. Wolfe noted that there is not enough time to schedule the new applications on March 6th.

Mr. Gemma then said that he would rather get Mr. Harter done on March 6th and clear up more of the Board's time going forward.

Mr. O'Brien addressed Mr. Gemma and said that if he could commit to the 20th of March, that would be one thing, but if he could not, then maybe that date should be given to another applicant and give this applicant the following meeting date and that way it would allow him more time to prepare, if he was not sure.

Mr. Gemma said that he could easily say "yes" that he could do it, but he is not the expert. He said that he would like to keep the 20th, but can't commit because he did not know. He said that he is not the applicant's engineer and did not want to mislead anybody.

Mrs. Raimer said that, if another applicant is available, we are going to have to give them that date with that understanding.

Mr. Gemma said that the Board should be fair to them and bump his client. He said that that is the only way to do it fairly.

Mrs. Wolfe added that she felt that each of the new applications would take at least one full meeting.

In response to Mr. O'Brien, she said that the next meeting after March 20th is April 3rd, followed by April 17th.

Mr. Gemma said that, if they get bumped they get bumped and they understood.

Discussion followed regarding the fact that there is a school holiday during the week of April 3rd. Mrs. Raimer and Mr. Collins indicated that they will not be available to attend on that date.

To be clear, Dr. Behr asked if the meeting of March 20th is being held for this applicant?

Mrs. Wolfe replied that, from what she was hearing, the answer is "No".

Dr. Behr noted that the following meeting is April 3rd.

Mr. Gemma said that to be clear on the record, this application will be carried to March 6th and they will return on April 3rd. He said that he would extend on the record the time for decision until the end of April, so there is plenty of time.

Dr. Behr announced that this applicant will have half of the meeting on March 6th and the full meeting of April 3rd.

Mr. Gemma added (in jest) that if he could not get everything in on time for April 3rd, "You can shoot me".

Due to the lateness of the hour, the meeting adjourned at 11:20 P.M.

