

**TOWNSHIP OF RIVER VALE
PLANNING BOARD
June 18, 2007
REGULAR MEETING
MINUTES**

ADEQUATE NOTICE STATEMENT:

A Regular Meeting of the River Vale Planning Board was called to order at 8:05 p.m. The following statement was read: "This is a Regular Meeting of the Planning Board of the Township of River Vale. I am informed by the Clerk that adequate public notice has been provided by mailing notice to the Pascack Valley News/Post Review and The Record, by posting notice on the bulletin board in the Municipal Building, and by filing a copy of the notice to all persons who requested the same and prepaid the cost fixed by the Board".

The Planning Board saluted the flag.

=====

ROLL CALL:

Members Present:

George Shalhoub	
Bruce Carillo	Vice-Chairman
Chris Wahmann	Secretary
Mayor Blundo	Class I
Peter Wayne	Class II
Dwight de Stefan	Class III (Councilman)
Norman Goldman	
Mark Ericksen	
Kenneth H. Koons	Chairman

Also Present:

Paul Kaufman, Esq.	Board Attorney
By Marc Leibman, Esq.	
Christopher Statile, PE	Board Engineer

Absent:	Ron Tucci	Alt. #2
	Maria Sapuppo	Alt. #1

MINUTES:

(RVPB 6/18/07 Minutes)

The Minutes dated April 16, 2007 and May 21, 2007 were approved upon motion of Chairman Koons, with second by Mr. Goldman and carried.

RESOLUTION:

1. Jewish Home, 685 Westwood Avenue, Block 2101, Lots 2, 3, 28 - Final Site Plan - Mr. Koons stated a letter was received from the Miraglias stating that there is a lot of noise going on. Mr. Statile said he visited the site today, and it was very hot, but it was very difficult to hear the roof-mounted air conditioning, which is the mushroom air conditioning unit. The Mayor commented there have been other complaints and suggested the Board hold off on the Resolution until Mr. Statile looks into mitigating factors on the fans. Mr. de Stefan said he would agree, in that it could be remedied quickly. Mr. Koons so moved to carry the Resolution with second by Mr. Carillo, and the motion was carried. The Mayor said he would give Mr. Statile a punch list.

2. Papamichael, 187 Rivervale Road, Block 2206, Lot 17 - Change in Use (Bagel Store) - Mr. Wahmann inquired if the applicant submitted a floor plan and a site plan. Mr. Statile received Floor Plan and he visited the property and reviewed the site. It just needs to be organized. He did look at it for parking capacity and it does have a lot of potential for parking. He had no problem with the floor plan. After discussion, the Resolution was moved by Mr. Koons and seconded by Mr. Goldman. Mr. Koons suggested the Board should have the engineer write the attorney. Mr. Leibman advised that the Ord.142-49 does not require a site plan unless improvements are being made to the structure. There are no improvements, just a tenant going in. He would recommend striking that language. Mr. Goldman asked about signage. Mr. Leibman indicated the Resolution provides they must comply with Borough Ordinances. There were no further comments. On roll call vote, Mr. Shalhoub, Mr. Wahmann, Mr. Goldman, Mr. Carillo, Mr. Wayne, Mr. Ericksen, and Mr. Koons voted yes. Mayor Blundo abstained. Mr. de Stefan was not eligible to vote.

3. Saoud, 460 Cedar Lane, Block 1301, Lot 1 - Minor Subdivision - Mr. Wahmann commented it is on for preliminary, final and soil moving, with no hearing on soil moving. The Resolution should be re-written. He suggested reading the minutes; it was not the discussion we had. Mr. Koons noted there was too much to correct. The comments

and references to soil moving are too extensive to strike without re-writing. Mr. Wahmann moved to rewrite with second by Mr. Goldman. On roll call vote, Mr. Shalhoub, Mr. Wahmann, Mr. Goldman, Mr. Wayne, Mr. Ericksen, and Mr. Koons voted yes. Mayor Blundo abstained. Mr. Carillo and Mr. de Stefan were not eligible to vote.

PUBLIC HEARINGS:

1. Pascack Hills Properties, 634 Orangeburgh Road, Block 302, Lot 29 - Russell R. Huntington, Esq. represented the applicant and reviewed from the prior hearing. The letter from Mr. Statile dated 6/16/07 indicates he reviewed the plan and the applicant revised the map as requested. The latest revised map was date 5/22/07. Also, there were some changes in calculations of soil movement. Robert Costa, applicant's engineer, came forward, previously sworn, and clarified same. Mr. Statile explained he said the curb is designed per County standards. Before the next meeting, Mr. Statile could put up what they can put up. Mr. Koons relies on Mr. Huntington's willingness to comply with Mr. Statile's requirements. Mr. Statile stated they also are applying for soil movement to move 721 cubic yards of soil. Mr. Costa gave an overview of moving soil for building the homes and taking the quickest route out, unless River Vale wants the soil, then he would speak with the client. Mr. Huntington said they would take a route suggestion from the Police Department. It would be 80 truckloads. They would be willing to accept routes and comply with school hours. Mayor Blundo asked if the Police Chief requests the route to be altered, would they agree. Mr. Huntington agreed.

Mr. Carillo read from Mr. Statile's letter and stated these plans contain a different lot layout. Mr. Costa answered it may be the position of the houses, and it was different because of the dedication to the County. Behind the houses there will be an easement. Mr. Costa stated it represents what the County has said verbally and in letter form agreed to. This is what we are seeking approval of, Mr. Huntington added, and the improvements are there to rectify and improve upon an existing situation. They have applied to for freshwater wetlands permit and would accept a condition.

The matter was open to public, but there were no comments. Mr. Koons moved to close the hearing; all were in favor. A motion to instruct the attorney to prepare a

favorable Resolution granting Preliminary and Final Major Subdivision and Soil Moving Approval was made by Chairman Koons with second by Mr. De Stefan. On roll call vote, Mr. Shalhoub, Mr. Wahmann, Mr. Menville, Mr. de Stefan, Mr. Goldman, Mr. Carillo, Mr. Wayne, Mr. Ericksen, and Mr. Koons voted yes. (Mr. de Stefan voting having listened to the tape)

2. Pumpernicks, 215 Rivervale Road, Block 1719, Lot 6 - Change in Use (Delicatessen) Russell R. Huntington, Esq. represented the applicant in a continued hearing. Mr. Goldberg, principal, and Mark Enfante, Baseline Developers, owners of the property in question, were also in the audience. Mr. Huntington stated they took some of the Board's suggestions. This is an application for a change of use with seating for 50. They are reducing the number down to 40 patrons, which will hopefully eliminate the concerns about parking. They are anxious to move into town and reopen the store, which is the old Echo & Whetstone. He passed the site, and there are no other cars in the parking lot except the Echo-Whetstone van. The other uses are daytime uses. Different uses have different parking and usage patterns, and one hopes they will be complimentary uses. Mr. Koons showed him a letter from the Police Chief, which Mr. Huntington did not have. He had no problem with the change in parking plans as long as the police can patrol around, with no parking on Montview Place. Mr. Koons suggested this be made a condition, and Mr. Huntington agreed.

Mayor Blundo asked, and Mr. Statile responded the original approval stated 55 spaces were required for retail. They had a waiver and had 42 spaces. Mr. Koons asked how many they would need for a restaurant if devoted just to seating. Mr. Statile said 26. The calculation happens to be 22 based on the 10 less seats now proposed. Mr. Huntington stated it is quite a proportional rationale. They are below the anticipated count that a restaurant of this nature would have for parking under the ITE Traffic Manual Formulas. It also happens to be less than 1 space for each 1.5 seats plus employee calculation. He has never seen the standard of 1 space for every 50 seats.

Mayor Blundo asked if this was also for the two change of use applications, including the pizza place, Garlic Jim's. Mr. Koons said it was separate, as they have their own legal counsel, but to keep this in mind. The pizza

store testified it is predominantly delivery. It is based on retail. Mr. Wahmann commented the Board should consider this counter-effectively. Mr. Koons stated the question is whether the pizza place is less of an impact than a retail store, and they felt it was.

For the restaurant, the hours would be 10:00 a.m. to 8:00 p.m. The Board went on to say that when the original site was approved, the Board did not want food. A discussion ensued. Mr. Huntington was prepared to say they would not sell alcohol in that location. Mr. Carillo was concerned about the disposal of food. Applicant would get daily pickups. It would be contained in a covered dumpster. Mayor Blundo asked what the total allotment would be using the formula for the restaurant and the remaining for retail. Mr. Koons commented they would have to take into consideration the hours of operation. Mr. Statile responded 62 spaces. Currently there are 42 spaces—a 20 space difference, without using the 15 in back. Using the aggressive, based all on square footage, Mr. Statile said, it would be 92 spaces. Mr. Koons commented it was looked at before with keeping the buffer in the back reserved.

Mr. Huntington explained, when this was approved for an 8,245 sq. ft. strip mall, it was variance-free with precisely the amount of parking required for its size. With a strip mall you get varied uses. The only exception is the deferral for the 15 spaces in the belief they were not needed. In looking at the 2,400 sq. ft., the 150 into the 2,400, means that area contributed 16 spaces to the facility. Now because it is becoming a 40 seat restaurant, and its parking demand goes from 16 to 42, using the lower of the two formulas and the ITE formula, it falls into line. The shortfall we are looking at is six spaces.

Mayor Blundo spoke about the difficulties with this change of use seeing other businesses, such as Greco's crowds. The Board has the empowerment to not pass something like this. From a business view, it would probably be a good thing to have, but based on the impact on the residents, he would have a problem approving this. Mr. de Stefan asked about the verbal representation about restaurants that was not in the Resolution. Mr. Leibman reviewed the Resolution. Mr. Huntington stated it was already built out as a food establishment. He would rather look at the practicality of what is being proposed—a food establishment, a restaurant, which is a permitted use. They

(RVPB 6/18/07 Minutes)

are basically looking at a benign use, without alcohol. They are looking for six spaces. If you take the spaces allotted on the approved site plan, 400 sq. ft. would have 16 spaces, and take the ITE and the ordinance, and they only need six spaces. It's the devil you know, not the devil you don't know. There could be another permitted use that would generate more traffic.

Mr. Leibman said it was a variance-free application. Mr. de Stefan suggested listening to the tape of the original hearing. Mayor Blundo asked if they would be responsible to remove the trees for the 15 spaces. Mr. Huntington suggested making sure there is the use of the 15 spaces. Mr. Leibman advised there were. Mayor Blundo said they are short 20 spots, because they need 42. Mr. Huntington said they will have 15 cars at most, with 40 seats. Tonight they could have all the spaces, because no one was open. If Mindy's Munchies and the pizza place and real estate were open, in reality, the 42 spaces are going to be enough.

Mr. Koons asked to bring this to conclusion and open to the public.

Rich Marcellari, 637 Montview Place, was sworn in. He owned his own business for 23 years. There are many spaces available at Eckert's. People are parking on Montview. Mindy's Munchies is closed tonight. It is usually open to 10:00 p.m.

Sal LoCicero, living across the street, was sworn in and counted the spaces, being 38 spaces, including three handicapped. The buffer spaces are for compact cars. Goldberg's will be a huge success, and tons of people will come. He has four parking spaces in front of his home. He wants to keep a nice property. If there are no parking spaces, Mindy's will be out of business. He spoke about the fact there was to be no food. Mr. Statile advised food is a permitted use. He gave Mr. Huntington a copy of his letter.

Harry Mosca, 11 Todd Lane, Old Tappan, owner of Mindy's Munchies, was sworn in and said they are open 11:00-6:00 Tuesday through Thursday; Saturday 12:00 to 10:00, and Sunday 12:00-5:00. They are closed on Monday. Most of their business is orders, phone, catalog and internet. Out of 20%, 5% being generous is those coming in

(RVPB 6/18/07 Minutes)

and enjoying a piece of cake. He just wanted to give a point of clarification.

Margaret McGee, 634 Montview Place, expressed concern about children and safety, and parking on one side. There are no sidewalks.

Paul Shields, 636 Montview Place, was sworn in, and made observations about the numbers. The math is not working out. Probably it goes without saying, Montview is a street filled with children. He was concerned with safety aspects. What happens when there is a turnover in the other business if it gets more intensive with parking spaces. As to the buffer zone, part of the reason for it was the impingement on the residential area.

Robin Malley, 9 Zanoni Street, Woodcliff Lake, was sworn in. She manages the real estate office in the strip mall. She holds morning meetings at 9:00 and always end by 11:00 a.m., so there is no impact on parking. They are mostly out of there at 5:00 p.m. Maybe there is one employee on the weekend.

John Balter, Montview Place, was sworn in, expressed concern about safety with his children walking to school with no sidewalks, and the parking lot is dangerous.

Howard Lawrence, 607 Montview Place, was sworn in, expressed concern about traffic and safety.

There were no further comments from the public.

Mr. Huntington stated the discussion should not be the interface between commercial and residential zoning. Nor should it be about traffic and safety. Mr. Goldberg's hours do not coincide with the school's. Other uses may. It is incorrect and a little unfair to connect this use with traffic and safety. It is a commercial use in a commercial zone, and variance-free. If they are going to come back next month, there are some implications that weigh in their favor in that it is an existing building with no variances. The parking count that this was built with should be applied across the Board and not adjusted for application after application. He may recommend to somehow pin down a use mix or a count so that as people come and go you are protected. If you take the parking demand as calculated with them and the pizza and the other uses at the center

and make a formula, he believes the landlord would commit to that so there would not be a another restaurant in there making the counts worse. Lastly, he would just point out for the record that the Police Chief's letter seems to find no problem with this. He sympathizes with the residents. If your street ends in a commercial area, you are concerned, but the horse is out of the barn, it is a commercial use, and this is a relatively benign use. He would try to separate the concerns about traffic and safety, and as for people who make wrong turns and speed, don't hang them around his client's neck. He is just trying to open a restaurant in a town that is particularly suited for him.

Mr. Koons suggested maybe he could discuss with the landlord closing the entrance out to Montview and putting a fence and shrubbery, so people cannot park there and go across to get into the restaurant, to get rid of the residents' fears to not park there. Then they could pick up another few spaces. Mr. Huntington responded he was not familiar with the design and deferred to Mr. Statile, who said they would have to change the turns. Mr. Huntington commented it may be a County matter. Mr. Wayne mentioned it may interfere with Police and Fire emergency services. Mr. Huntington suggested more stringent signage resulting in law enforcement by way of tickets.

The matter was carried to 7/16/07. Mr. Huntington consented to an extension of time to the next meeting on 7/16/07.

3. O'Neill, 700/705 Orange Court, Block 101, Lots 22 & 23 - Major Subdivision and Soil Moving - Mr. Koons recused himself and stepped down from the dais. Mr. Carillo chaired the meeting for this application. Antimo Del Vecchio, Esq. represented the applicant and reviewed from the last hearing. He addressed all comments from Mr. Statile's engineer review letter, and received a new one dated 6/14/07. He can say they are generally in agreement with all comments in the report. The only two items they may differ in is that there should be no problem having a basement and the seepage pits in the basement. He proposed to put pipes in the street. If the Board wants seepage pits on a trial basis they are happy to do so. They recognize the water problem and try to avoid putting more water into the dirt. They also addressed the comments of the Board as to drainage and otherwise during the course of

the hearing. Mr. Eichenlaub testified to the drain and curtain drain at the last hearing. The remaining witness would testify as to the variances, for lot width and steep slope disturbance. Mr. de Stefan had a question for the attorney, what would be the standard and criteria for the steep slopes. Mr. Leibman advised it is also a "C" variance.

Peter Steck, Planner, Maplewood, NJ, was sworn in, gave his credentials and was accepted. Mr. Del Vecchio handed out a brief outline of his testimony and list of visual aides. He visited the property, reviewed the ordinances and master plan and plans, Mr. Statile's review letter of 6/14/07. He told the Board what he did, how he did it and the conclusions he drew. To give structure to his presentation, he submitted his Outline of Planning Testimony. He called the Board's attention to the map taken from Google Earth Map, showing portion of 7/5/05 Rive Vale Municipal Master Plan showing O'Neill Property, and low/medium density designation superimposed on a Google.Earth Map. The area is a large area, and the lots are very much larger than most lots in the area. Mr. Wahmann asked if he thought they were subdivided in that fashion because of the steep slopes. He asked if Mr. Steck studied the subdivision, but he did not. Mr. Wahmann said they were kept that way for a reason. There are two houses on two large lots.

Mr. Steck continued. The Master Plan recommends low density, hence smaller lot sizes. The Master Plan noticed there were a few oversized lots and expected some subdividing. The property is in the "A" Zone and is 120' in width. Each lot requires a lot width variance of 109.7', in lieu of 120'. There is a variance for steep slope category as appears on Page 5 of the plan. In terms of subdivision standards, lot lines should be straight. The three lots proposed will have side lines that have bends in them. The rear line of Lot 22 is not straight, and they are asking for a waiver or exception.

His conclusions for the granting of the lot width variance are that they are C1 and C2 variances. These lots are oversized today, even as subdivided. The way the slopes are combined results in a hardship - benefits vs. detriments. There would be a correction of drainage problems. The subdivision will bring the money to fix this. There is a hardship and practical difficulty. As for C1,

if you look at lot width with the existing houses, there is 120' or more. Because they are oversized, there is an opportunity to solve the drainage problem. They can rework the drainage. The benefits are that there will be drainage improvements that will not only solve the problems of new construction, but one that is there today. The practical difficulties of the side line is a waiver or exertion, and does not require showing negative criteria. This would allow for bending the side lines. They only deviate in the rear portion of Lot 22. Mr. Steck went on to discuss standards of the RSIS for driveways. In his judgment there are a combination of things that fit together on this subdivision. The homes will fit nicely in the area. To gain more frontage would require extending the cul-de-sac, but that would create greater land disturbance.

Mayor Blundo asked if there have been any evaluations about how to handle the water problems. It is realistic to think it would be improved. We have the entire back of the cul-de-sac to implement those proposals. The map and outline were marked into evidence.

Mr. Del Vecchio questioned Mr. Steck. He asked what if the lots were divided into three lots instead of two. Mr. Steck indicated each lot will be 109.7. The lot line deviation would not be visible from the street. The lot width standard is to produce lots homogenous - and at the end of the day to accommodate reasonable side yards and lot lines. In his opinion, because of the proposed house, the applicant has elected to put it where the lot is fully functioning, at 120'. Mr. Del Vecchio asked if there would be any detriment to the zone plan. Mr. Steck responded no, there would be no substantial detriment. He had no further questions.

Questions from the Board followed. Mr. Carillo said he does not know of any other properties that have to deal with this situation - steep slopes. When it was said this approaches the issue of hardship, he agrees, but there are certain things that have to be looked at. When these lots were first divided, this was left untouched. He wasn't there then, but the question remains why hasn't anything been pursued to correct the problems with this land. He does not agree with his statement that a lot of attention has been paid to drainage. He was not sure the Board would want to let any of these standards go.

Mr. Steck felt there was an issue of hardship. The applicant has offered drainage improvements. There will be many conditions that would include drainage. The houses are on the high side of the slope. A lot will be served, which will produce revenue, and drainage will be improved. Presently the situation is hazardous, at least in the winter time. Everyone will benefit; anyone who uses the cul-de-sac will benefit.

Mr. Wahmann asked Mr. Statile for his opinion. There will be reasonable improvements. Mr. Wahmann commented the major argument is for that improvement. Mr. de Stefan asked how the proposed benefits to the Township outweigh complying with the ordinance regarding steep slopes. Mr. Leibman stated there needs to be a public benefit, not just someone making a profit on a lot. There is a substantial public benefit and a lesser public benefit. Mayor Blundo commented he was concerned that the application would set precedence. Mr. Leibman advised the Board should not feel pressured about this. Every application is unique. Even on appeal, precedence is not brought in. Mr. Del Vecchio said he never saw precedence ever brought up. Mr. de Stefan expressed concern about steep slopes.

Mr. Statile mentioned, and Mr. Leibman explained there is a 125-unit age restricted housing development proposed in Orangetown, NY. There are wetlands and a clubhouse in rear.

Mr. Del Vecchio stated they would apply for soil conservation. Mr. Goldman commented as to seepage pits per Mr. Statile's letter. Mr. Statile said they would have test pits. Mr. Wahmann asked, and Mr. Del Vecchio showed him there would be borings. Mr. Del Vecchio stated the total export of soil movement for the new home and driveway is just over 1,600 cubic yds.

Mr. Carillo moved to open to the public with second by Mr. Goldman. Amy Luchsinger, 708 Orange Court, was sworn in and testified she continues to have water questions, as her property borders Lot 23, and there is substantial water flow, which they spent thousands of dollars, including putting in three trees. She has water all the times. Who will address the problem a year from now if this project goes through. Mr. Del Vecchio explained the water would be collected by a trough drain. She wants to know what happens long term. Mr. Carillo said they don't even know, but they

are trying to determine. She was also concerned about the safety of the children on the street during the dirt removal. Mr. Carillo stated if it is when school is out, the Police Dept. would be compensated to have someone with an orange vest there. A bond and money are held per the potential developer's agreement. She already has a drain 3' down, but the water has re-routed. This is what she is worried about. There were no further questions, and the matter was closed to the public.

Mr. Statile asked for clarification, and Mr. Del Vecchio agreed the applicant is proposing to set the proposed dwelling 61' back. This was one of the benefits by Mr. Steck. Mayor Blundo commented he was more concerned about the water problems after hearing the public speak. Mr. de Stefan added there are many variances asked if it would be carried. Mr. Carillo deferred to the applicant to see if they would grant an extension of time to allow the Board to decide. There are complex issues and four variances. Mr. Wahmann asked Mr. Statile to prepare a report as to guidance for the Board as to the engineering. The Board thanked Mr. Steck, and he was dismissed.

Mr. Del Vecchio asked, and Mr. Leibman advised the proposal would be for someone to make a motion to grant preliminary approval. That would give the applicant a good shot at getting these things built, and would spend the money required. We could ask the engineer to put in details and look further to mitigate the runoff. They have submitted the geotechnical data and quite a bit of information, but the Board seems to be concerned, rightfully so. This is a way to take a step forward but still have a say in the drainage. The Board would be granting subdivision approval, the line on the map as proposed and an acknowledgement that if you went with C1 and C2, that the benefits outweigh the detriments, there would be no detriment to the zone plan, and a hardship. Mr. Carillo agreed the Board could go that way, or if anyone on the Board had a motion other than that.

Mr. de Stefan commented he would like to make a motion to carry the matter, since there are many complicated and complex issues, and he would like an opportunity to think about it. Mr. Goldman seconded and commented he would like to know how the time is running on this. He does not want to be in a position of running out of time at the next meeting if carried, and end up in court. In reviewing the

time period, it would be running out. Mr. Carillo asked Mr. Del Vecchio if they would extend the courtesy of another 30 days. Mr. Del Vecchio had a question, and would the Board consider taking a poll of granting preliminary before going down the road of asking for an extension. Mr. Leibman would suggest they not do that. Mayor Blundo made a statement. A potential public benefit would be the only way he would vote along with a detailed engineer and any other expert's review. If remedied, the public good would justify the need for the variance. He would like to advance to a point to get the detailed plans and study. The Board asked Mr. Statile if he could direct a letter back to the Board if given some extra time, detailing whether the C1 and C2 have been proven and if the engineering could be handled most effectively on the application. Mr. Statile, said regarding C1 & C2, he is not a professional planner. Mr. Statile said he would meet with Mr. Eichenlaub to enhance the plan as proposed. Mayor Blundo addressed the request for the poll, and also stated he gets a sense this is the biggest issue facing the Board; hopefully they could get it resolved. Mr. Ericksen said he would like to personally visit the property.

Mr. Del Vecchio stated they would grant the Board an extension to 7/16/07 to do whatever they have to in order to put the Board in a position to vote. He asked to be placed in the earlier portion of the evening, since he has to be somewhere else too.

Mr. Koons returned. The Board took a 10 minute recess at 10:05 p.m. and reconvened with the same attendance.

4. DMF Pizza 215 Rivervale Road, Block 1719, Lot 6 - Change in Use (Delivery Pizza) - Anthony Iacocca, Esq. represented the applicant. Brian Fitter, Managing Member was present. The attorney commented the application is unique, and he will keep it brief. Hopefully, the Board will make a decision. Mr. Koons asked how many cars they would need based on the number of drivers. There are no seats, so it is just square footage. Also, there would be no delivery vehicles, only the employees' cars. The pizzas come out the back. The drivers are not permitted to park. They just drive up and pick up the pizza. They don't want a lunchtime use--just a dinner hour, as testified to at the last hearing. They would be permitted by the franchisor if the receipts are warranted and shown. Mr. Leibman asked, and they agreed, the delivery cars with the signs would be

(RVPB 6/18/07 Minutes)

parking in the back. Also, the Board asked them to consent to daily purging of food items. The franchisor confirmed it is all baked goods. There were no questions from the Board and one from the public. Paul Shields asked if the eight seats would be seen. Applicant said the pies are done in 11 minutes; people are encouraged not to come in unless they are on their way home. There would probably not be more than four people in there at once. He managed Domino's, and the lobby was not a popular place to be. It is a delivery business.

Sal LoCiccero asked and the age requirement for the drivers was 21; there is no time limit delivery policy. There were no further questions.

Mr. Koons moved to close the hearing with second by Mayor Blundo. Mayor Blundo commented the business is compatible for the location, the parking is not burdensome, and he would make a motion to approve the request for change of use with memorialized at next meeting. The motion was seconded by Mr. Goldman. On roll call vote, Mr. Shalhoub, Mr. Wahmann, Mayor Blundo, Mr. de Stefan, Mr. Goldman, Mr. Carillo, Mr. Wayne, Mr. Ericksen, and Mr. Koons voted yes.

DISCUSSION: None

JPE - Mayor Blundo commented and summarized the status. The developer was trying to protect his rights that if he wins on appeal, the Council would have to pay his legal fees. We are on a conditional approval, and he is fighting that. And saying we would be liable. The Council said it is protecting the overall risk of the Township and decided this is a risk worth taking. The Township hired Mr. Kaufman to fight these motions, and we prevailed. Mr. de Stefan commented the Mayor and every Councilperson felt it was important to back the Planning Board and every resident that was affected by the Board's decision. They reviewed it with Mr. Kaufman and the Chairman and balanced the cost, with the unanimous desire to do this. Mayor Blundo continued. Mr. Koons met with Mr. Kaufman and the Council. It is not an ego thing, we are not arbitrary or capricious; we are just trying to do our job. We were well received and compliment Mr. Kaufman for his presentation.

Payment of Invoices: None

(RVPB 6/18/07 Minutes)

Next Meeting: July 16, 2007

Adjournment: On motion made, seconded and carried, the meeting was adjourned at approx. 11:30 p.m.

Respectfully submitted,

Mary R. Verducci, Paralegal
Recording Secretary