

MAURICE RIVER TOWNSHIP LAND USE BOARD

Meeting Minutes: August 1, 2012

Present: B. Stowman, Chairman, C. Thompson, V. Chairman, Mayor K. Ireland, R. Hoffman, R. Chard, J. Lafferty, Jr., T. Imbaratto, Alt. #2, T. CuvIELLO, Planner, C. Morrissey, Engineer and M. Benson, Solicitor.

The Chairman announced that this meeting was being held in accordance with the Open Public Meetings Act of New Jersey.

The minutes of the 7-5-12 meeting were approved on a motion by Chard and seconded by Hoffman. Ireland abstained. All other members voted in favor of the motion.

An addendum to the 6-6-12 minutes was approved on a motion by Chard, seconded by Hoffman and a unanimous vote.

Resolution No. 2012-04, for the approval of parking and setback variances along with approval of a major site plan granted to the Dorchester United Methodist Church for Block 273, Lots 1 & 8, was adopted on a motion by Chard, seconded by Ireland and a unanimous roll call vote.

Resolution No. 2012-05, for the Board's determination in an appeal from the decision of the Zoning Officer filed by Jerry Pantilidis in connection with alterations to Block 229, Lot 7, was adopted on a motion by Thompson and seconded by Chard. Ireland abstained. All other members voted in favor of the motion.

The Secretary announced receipt of the following correspondence:

1. A Mining Certificate Notice from Cumberland-Salem Conservation District issued to Albrecht & Heun, Inc. dated 7-25-12.

ROBERT & PATRICIA CALHOUN
Front Yard Setback Variance

BLOCK 305, LOT 1
139 Newell Rd.

This application requested approval of a reduced front yard setback of 30 feet, where 40 feet is required, for the installation of a modular home to replace a mobile home.

Tiffany CuvIELLO, Board Planner, commented on her report dated 7-23-12. She stated that she conducted a site inspection and presented photos showing three views of the subject property. She noted that the mobile home had been removed prior to her site visit. She further stated that an existing garage, in good condition, would not permit a new home to be located on this property in keeping with

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the required front yard setback. She stated that in looking at the existing vegetation along the road, situating the new home 10 ft. closer would not have an impact on Newell Rd.

Patricia and Robert Calhoun were sworn in. Patricia testified that the trailer that had been removed was in a dilapidated condition and the proposed modular home would be a big improvement.

On a motion by Chard, seconded by Thompson and a unanimous vote, the application was deemed complete.

On a motion by Lafferty, seconded by Ireland and a unanimous vote, the public hearing was opened. There was no public comment. On a motion by Lafferty, seconded by Ireland and a unanimous vote, the public hearing was closed.

Chard stated that this would be a major improvement to the site and create a better ratable.

On a motion by Ireland, the requested front yard setback was approved. Hoffman seconded. Unanimous roll call vote.

JOHN LAFFERTY, SR.
MINOR SUBDIVISION/MAJOR SITE PLAN
AND REGULATORY ISSUES

BLOCK 236, LOTS 18 & 19
BLOCK 124, LOTS 9, 11 & 12
BLOCK 230, LOT 35

Jack Lafferty, Jr. stepped down and did not participate in this application due to a conflict of interest.

Terance Bennett, Esq. presented Jack Lafferty, Sr. and Harold E. Noon, PE as witnesses. Both were sworn in by Solicitor Benson.

Bennett provided a summary of the application. He stated that the applicant was seeking approval of a minor subdivision and major site plan along with findings requested by Pinelands that there is no available contiguous land to add to the property to satisfy the septic dilution requirements; that 4.89 acres is required by Township ordinance and the Pinelands Comprehensive Management Plan to meet nitrate dilution requirements; and, that the five permits referenced by Pinelands in correspondence dated 3-6-12, were issued by Township Officials between the years 1987 and 2000 and are valid.

Cormac Morrissey, Board Engineer, stated that the applicant was seeking approval of a minor subdivision to realign lot lines involving Block 124, Lots 9, 11 & 12. He gave his comments on the checklist items based on his review memo dated 7-25-12.

Morrissey stated that this property consists of existing development and he had no objection to the requested waivers from the Minor Subdivision Checklist for providing (#6) all zoning district lines and

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all setbacks since the use of the property has been determined to be conforming. This requirement would have no material impact on the Board's decision; (#9) all existing structures, uses and wooded areas within the portion to be subdivided and within 200 ft. of the subject property along with trees 8 inches or more in diameter as the development is already defined and would create an undue burden; (#10) the location of all streams, lakes and drainage rights-of-way within the limits of the tract and within 200 ft. considering the total size of the lot compared to the size of the area being subdivided, sufficient information was provided ; (#11) location of all wetland areas and required buffers as a certification from the applicant's surveyor stated that the nearest wetland is approximately 660 feet from the proposed development.

Morrissey commented on the Major Site Plan checklist items as follows: (#14) The site plan should be revised to show building dimensions and setback information; (#19) Since the small scale storage building and storage trailers are existing and their locations have been provided on the plan, the requirement of providing architectural elevations would have no material impact on his technical review; (#23) there would be no relative impact in providing a floor plan since the building exists. Applicant could address this item in testimony; (#24) Testimony may be needed on existing and proposed circulation patterns. The revised plan shows access to the back lot through the garage property. There is no public access to the rear property; (#24b) Testimony is needed on lighting and could satisfy this item; (#32) He had no objection to a waiver from providing an Environmental Impact Statement since this application has been through a Pinelands review and their purpose is to review environmental concerns.

Bennett responded that the wetlands are far from this site and would have no bearing on the application. He stated that dimensions of the structure and the floor plan could be added to the plan if needed. Lafferty testified that the structure was for storage only. Bennett further stated that the only traffic on this lot is by employees and the public is not permitted on this lot. The impound yard is closely controlled as required by the County Prosecutor's Office. The applicant did not propose any new lighting. The entire area is fenced in with one existing light post. Bennett stated that Pinelands reviewed the environmental aspects of the application and did not require an EIS.

On a motion by Chard, the application was deemed complete with the described waivers. Hoffman seconded. Unanimous roll call vote.

Tiffany CuvIELLO, Board Planner, commented on her review report dated 7-25-12. Her report identified the applicant's request for a determination from the Board that the proposed development meets the septic dilution requirements of the Ordinance with the inclusion of proposed noncontiguous acreage (Block 230, Lot 35). Her report deferred this issue to the engineer, however, after talking with the engineer and looking at the Ordinance, CuvIELLO felt that a variance was required and the applicant would need to provide testimony as to why this property was chosen and why additional property was not purchased from the adjoining property owner.

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Morrissey concurred that a variance would be needed as the Ordinance makes no provision to use non-contiguous land for this purpose. He stated that the Board had the latitude to grant such a variance.

Cuviello continued that the subdivision did not require a variance and the resulting lot sizes would conform to the Ordinance. She further stated that variances were needed for a 10 ft. front yard setback of the storage area where 50 ft. is required; a 30.5 ft. front yard setback for the storage building where 50 ft. is required; and, an access easement to a lot that does not abut a public street; and, possibly variances for fence height in a front yard area and the setback of the asphalt area along the northern property line if used for outdoor storage.

Cuviello stated that, as per Section 35-9.20.B, there were five items listed that the applicant must address. Those items were (1) that the proposed use fits the definition of village oriented commercial, which had previously been determined by the Board; (2) adequate buffering to prevent nuisances to adjoining properties; (3) hours of operation and reduction of impacts from lighting; (4) adequate on-site parking; and (5) site plan approval.

Bennett responded to Cuviello's report. For Item 4a, he submitted a photo of the railroad right-of-way in front of the vehicle storage area, showing the track missing in that area. This photo was marked as Exhibit A-1. He stated that while the storage area is 10 ft. from the front line, it's actually 70 ft. to the back yards of the properties in front of this lot.

Harold E. Noon, PLS, testified that the railroad appears to be abandoned and he believed that Winchester-Western would not have granted the easement otherwise. He further stated that the right-of-way has now grown up with pine trees creating a natural buffer between the storage area and the rear of the lots fronting on Port-Cumberland Road.

For Item 4b, Bennett stated that the storage building pre-dated Mr. Lafferty's ownership as it was placed there by the railroad a long time ago. This building sits back 30.5 ft. from the 60 ft. wide railroad right-of-way. For 4c, he stated that this lot does not abut a street; however, the applicant has obtained an easement from Winchester-Western Railroad that provides access by way of the lot where the auto repair garage is located. A copy of the Access Agreement dated 10-26-10 was provided and marked as Exhibit A-2.

Bennett addressed Item 4d. He stated that the existing chain link fence is 6 ft. high. The County Prosecutor's Office requires more than a 4 ft. high fence for vehicle storage in the impound area. Bennett noted that this is not a typical front yard as it abuts the tree covered railroad bed.

Cuviello asked for additional testimony to address Item 5d in her report relating to parking. Bennett stated that parking spaces for his employees were provided for on the front lot and they were not creating the need for additional employees by this application.

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Morrissey clarified that parking requirements for Lot 18 were not being reviewed; however, the applicant had indicated that his parking needs are being met on that lot.

Cuviello stated that enough testimony was given during discussion of the setback variances to determine whether there is adequate buffering and screening from the neighboring properties. Bennett reiterated that the existing trees provided adequate buffering. He also stated that the asphalt area along the northerly property line pre-existed on the slice of property that is to be acquired from Whibco and is not being used. No additional lighting was proposed.

Morrissey commented on his technical review. As to the minor subdivision, the plan notes that the applicant has not performed an outbound survey of Lot 11. The plan meets requirements of the Map Filing Law with the exception of this requirement.

Harold Noon, PLS stated that the total area of Lot 11 is 240 acres. The subdivision involves 1.1 acres to be added to the applicant's parcel. He further stated that the survey would cost more than the land would be worth. He asked that the Board to accept the boundaries shown due to the hardship of surveying all 240 acres. He stated that the boundaries have been shown to the best of their ability. He added that a full survey was performed on Lots 9 and 12.

Morrissey further stated that the Pinelands Certificate of Filing requires a consolidation of Block 124, Lot 9 with Block 236, Lots 18 and 19. He noted that there should be appropriate language in the deeds to link the properties, including Block 230, Lot 35, due to the use of parts of each lot in connection with the auto repair business. He further noted that a consolidation of the lots may create practical difficulties for the applicant and he deferred this matter to Solicitor Benson.

Benson stated that the lot consolidation is a requirement by Pinelands, and if not satisfied, they may call up the application.

Bennett informed the Board that he sent a letter to Pinelands dated 3-16-12 stating that he was not sure that a consolidation was possible since the railroad company owned land in the middle of it. He asked if a deed restriction would be okay. Pineland's Environmental Specialist, Branwyn Ellis responded that a deed restriction would be acceptable. Her letter dated 4-3-12 was presented to the Board and marked as Exhibit A-3.

Morrissey went on to state that no boundary data was provided for Block 236, Lots 18 & 19 and should be submitted before the final deeds are recorded.

Morrissey continued with his technical review of the Major Site Plan. He stated that there should be appropriate language in the easement from Winchester Western Railroad to address the applicant's

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responsibility to maintain a clear access for emergency vehicles. He noted that the Rails to Trails project should not impact the applicant's use of this section of the right-of-way.

As a condition of approval, Morrissey stated that a stormwater maintenance plan must be submitted as well as a Soil Erosion and Sediment Control Plan certification from the appropriate soil conservation district.

Morrissey addressed the issue of nitrate dilution requirements. Pinelands required 4.89 acres to meet septic dilution standards for the existing development as stated in their Certificate of Filing. Even with the additional 1.1 acres to be acquired with the subdivision of Lot 12, the applicant needed an additional 0.53 acres. The applicant proposed to deed restrict a non-contiguous parcel, Block 230, Lot 35, to meet this requirement. This property is located within a half mile of the subject property and is also located in the PVC-3 Zone. He stated that from an engineering standpoint, he is not overly concerned with the distance, however, the applicant must show that he was not able to acquire more property from Whibco or any other contiguous land in order for the Board to consider a variance to accept the proposed lot for deed restriction to meet this requirement.

Bennett provided signed certifications from adjoining owners that their property was not for sale. They were marked as Exhibits A-4, a through c as follows:

- a. Joseph Vasquez, Owner – Block 236, Lot 17 Dated 7-23-12
- b. Jerry Dilks, Owner – Block 124, Lot 6 Dated 7-17-12
- c. Suzanne Dilks, Owner – Block 124, Lot 8 Dated 7-19-12

Submitted and marked as Exhibit A-4.d was a certification from Wade R. Sjogren, Rep. Whibco, Inc. owners of Block 124, Lots 11,12 Dated 7-11-12, stating that apart from the portions already under contract of sale to Mr. Lafferty, these lots are not for sale.

Submitted and marked as Exhibit 4-A.e was a copy of e-mail correspondence dated 7-19-12 from George Kalapos, General Counsel for Winchester and Western Railroad, stating that the railroad is not currently interested in selling any of its property in this vicinity.

Bennett also submitted a map showing an "x" marked at the Lafferty property and an "x" marked at the location of Block 230, Lot 35 to show the distance. Morrissey stated that all septic treatment takes place in the septic field. If the field is adequate, it absorbs the nitrates. He stated that the acreage required is a way of preserving density to lessen impact on the aquifers and preserving density elsewhere accomplishes the same purpose.

Bennett continued to address technical items relating to the major site plan. He stated that the only lighting of the property was located on the Whibco side. The access easement was provided and there

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would be a low volume through the easement even on a busy day. He further stated that if Rails to Trails cyclers were going to be using this section of the railroad bed, a sign would be put up.

Bennett stated that he acquired the nitrate dilution calculations model from Pinelands and provided them with his application. Morrissey stated that he would accept Pinelands calculations.

Bennett described Block 230, Lot 35 as flat, open land consisting of 1.05 acres located in town. It is not wetlands. Lafferty added that this lot has always been vacant.

Benson questioned the 4-3-12 Pinelands letter submitted as Exhibit A-3 since it did not appear to address lot consolidation, but nitrate dilution. Mr. Bennett then offered a letter from Pinelands dated 5-21-12 that did address the issue of lot consolidation. This letter was marked as Exhibit A-6. It was noted that the letter acknowledged that Block 124, Lot 9 could not be consolidated with the other two lots, however, it still required the consolidation of Lots 18 & 19. There was discussion regarding the practical difficulties and the additional uses on one lot that a consolidation would create. Morrissey stated that this matter may be better left to be resolved between the applicant and the Pinelands.

Benson stated that Pinelands also wanted the Board to consider the five permits issued by the Township on Block 236, Lots 18 & 19 for work relating to the repair garage.

Bennett stated that there were three zoning permits and two building permits issued between 1987 and 2000. The most recent permit No. 00-015, was issued by Ernest Higgs, Construction Official, on 2-24-00, to attach an existing building to the garage and convert to an office. Bennett then presented two Certificates of Occupancy signed by Ernest Higgs, that he believed would answer the question of whether the permits were carried out appropriately.

The Certificate of Occupancy for Building Permit No. 99-171 for a 38x35 pole barn garage to replace a garage with the same footprint was marked as Exhibit A-7a. The Certificate of Occupancy for Building Permit No. 00-015 to attach an existing storage shed to the main building and convert to an office, was marked as Exhibit A-7b.

Bennett talked about the legal issue of estoppel. He stated that Mr. Lafferty applied for and was issued permits by the Construction Official who returned to the site and confirmed the work that had been done by the issuance of Certificates of Occupancy. If the Township were now to take the position that those permits could no longer be relied upon, Bennett stated that, in accordance with case law, they would be on solid legal ground to take the position that it is too late to challenge the validity of those permits. He stated that his client did what he was told to do. Bennett further stated that Pinelands wanted the chance to weigh in on this matter at the time and didn't get the chance. Pinelands wants the

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Township to acknowledge that the permits exist and they will weigh in when they wrap up their review.

Benson replied that the referenced case law, Hill vs. Eatontown, addresses various problems concerning permits, however, it does not address a matter involving Pinelands. He was not sure that an estoppel argument would apply if Pinelands were to require a whole new review for each of these permits.

There was further discussion regarding the meaning of estoppel. Benson then stated that Mr. Higgs may not have required everything he should have, but he asked the Board if they could conclude that Lafferty properly relied upon, completed the work and did not go beyond the scope of his permits.

Imbaratto stated that he did not understand why these permits were an issue for the Board. Benson replied that these permits were issued without a Pinelands review and without site plan review. Pinelands would like the Board to look at the history of these permits and make a determination. He further stated that the Board is not being asked to cast blame on any previous official.

Benson went on to state that the subdivision plan depicted the footprint of the building. Noon testified that an as-built plan was provided and shows, to the best of Mr. Lafferty's recollection, how each permit related to the as-built plan.

Bennett stated that in 1987, zoning and construction permits were issued by William Trout to construct a pole type garage, which is the repair garage. Lafferty confirmed that he did not go beyond the scope of this permit.

Bennett then stated that in February of 1999, and February of 2000, Gordon Gross issued zoning permits for the attachment of an existing building to the garage and conversion to an office. Mr. Higgs issued a building permit for this construction in February of 2000. Lafferty testified that this construction has not changed.

Bennett summarized that the applicant is asking for permission to use his property as it is already being used. He added that this is a quiet site with no noise and no pollution.

On a motion by Chard, seconded by Ireland and a unanimous vote, the public hearing was opened.

Stowman announced that the public hearing was opened on the John Lafferty, Sr. minor subdivision/major site plan and the resolution of other regulatory issues involving Block 124, Lot 9, 11 & 12; Block 236, Lots 18 & 19 and Block 230, Lot 35.

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Benson announced that public comment should address only the issues of this application.

Jeffrey Snow, Esq. of 329 Delaware Ave., Riverside, NJ approached the Board. He represented Rebecca Ashton, who was sworn in by Benson.

Mr. Snow presented a letter dated 9-6-91 addressed to Jack Lafferty from Frank Norman, Zoning Officer. He asked that this letter be marked as Exhibit P-1. He read the letter which stated that:

1. the existing repair garage was an existing non-conforming use in the R-3 Zone and he had the right to continue to use it.
2. Zoning Permit #394 and Building Permit #2108 were both issued on 5-8-87 to construct a 56X42 garage. There is nothing in the permit file indicating that this building was to be used for commercial purposes. MRT Development Regulations state that the expansion of non-conforming commercial uses are not permitted without a use variance, site plan review and in this area, Pinelands approval.
3. A zoning permit and building permit are required for the existing 8x10 storage building.
4. Regarding Block 54, Lot 2 (now 124/9), this letter stated that there was a mobile home on the property for which no permits were issued. The R-3 zone did not permit this use and it should be removed immediately. The letter also stated that the storage of asphalt paving equipment was not permitted in this zone and would need to be removed until such time that a use variance, site plan and Pinelands approvals were obtained. Any cleared area for the purpose of storing vehicles associated with the non-conforming repair business should be made part of any application for the expansion of the non-conforming repair business.

Mr. Snow noted that in 1991 Mr. Lafferty was put on notice that he needed approvals to continue using the repair garage.

Mr. Snow then referenced the 3-6-12 and the 4-3-12 letters from Pinelands. He stated that he interpreted the 3-6-12 letter to say that the five subject permits had to be approved by the Pinelands Commission before the application could be acted on.

Benson disagreed and stated that the follow up letter dated 4-3-12, was in response to correspondence from Mr. Bennett and describes what should have been done and that we are now dealing with an existing situation.

Snow again disagreed and read from the 4-3-12 letter that the permits cannot take effect until such time that a no call up letter is issued. This letter was submitted to the Board and marked as Exhibit P-2.

Benson stated that the Pinelands Commission, without question, will ultimately have to approve these permits.

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Snow read a 7-12-95 letter from Gordon Gross, Zoning Officer, stating that Mr. Lafferty was advised that the operation of a junk yard on Block 54, Lot 2 (124/9) is not a permitted use and a use variance is needed. The letter gave instructions for how to apply for the proper approvals to operate a junk yard. A copy of this letter was presented to the Board and marked as Exhibit P-3. Snow emphasized that in 1995, the Zoning Officer referred to the operations on this lot as a junk yard.

Snow presented a letter dated 7-15-08, from Gordon Gross, Zoning Officer, which was marked as Exhibit P-4. The letter was addressed to Mr. Lafferty and stated that a site inspection was conducted on 7-14-08 and there was business activity taking place as well as the construction of a pole barn for which permits were needed. The letter stated that Pinelands and Land Use Board approvals were required.

Snow presented aerial photo of the Lafferty property that Mrs. Ashton acquired in April 2011. This photo was marked as Exhibit P-5. Snow then stated that the public notice for the 6-6-12 meeting said the application involved a storage area. It made no mention of an impound yard, which in his opinion was a big difference. He further stated that the Board has totally overlooked Section 35-9.5 of the Ordinance in their review. He specifically pointed out Sections A-4, A-5, D, F, H and K as factors to be taken into consideration with the development of a repair garage.

Bennett was asked to respond. Bennett stated that as to the 1991 letter from Frank Norman, the Lafferty property and permits were addressed in the Certificate of Occupancy issued in 2000. It is possible that the new Township officials had a different interpretation of what was required. He felt that the Certificate of Occupancy issued in 2000 overruled the 1991 letter of notice.

Bennett stated an objection to the exhibits marked "P", if the "P" stood for Plaintiff. It was clarified that the "P" stood for Public. Bennett then asked the Board's professionals to comment on whether Section 35.9.5 should have been addressed.

Stowman stated that the front property has always been a repair garage and asked Mr. Snow if he was referring to that lot or the back lot.

Snow responded to a question from Stowman that he was referring to the back lot; however, since it is proposed as an accessory to the repair garage, Section 35-9.5 should be taken into consideration.

Lafferty testified that the back area was a storage and impound area and no repairs took place on that lot.

Snow stated that no permits at all have been produced for the back lot and there were structures there. All of the permits issued apply to the front lot.

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Benson responded that the reason we are here is to address the activities on the back lot.

Lafferty testified in response to questions from Snow that there were 20 cars in the impound area, which is completely fenced in. After additional questioning by Snow, and Bennett's clarification of the question regarding the other vehicles on the lot, Lafferty testified that those vehicles are awaiting service.

Snow also commented on septic dilution. He stated that if the trailer and the house each have a septic system and they are the only two systems on the property, the calculations should have been for a seven day average considering the residential uses. The calculations were based on a five day average.

Morrissey responded that Pinelands used their own formula to determine what was needed for nitrate dilution. They normally work with average daily flow. He stated that he relied on their review and what they required to meet the septic dilution standards.

Snow concluded that the Board must take their own Ordinance into consideration when reviewing this site plan.

Mrs. Ashton stated that many sitting here have been aware of this for many years.

Carolyn Fitzgerald of Port Elizabeth was sworn in. She asked if there was a statute of limitations on an appeal of permits.

Benson responded that he and Mr. Bennett addressed this earlier in their legal exchange regarding estoppel. He stated that after a period of time the courts may look at this as being too late to do anything. Benson stated that Bennett asserted earlier that this is the case he was making.

Fitzgerald asked if this was in writing. Benson responded that the case law is in writing.

Barbara Hiles of Port Elizabeth was sworn in. She testified that she has lived near the Lafferty property for 44 years. There is no noise and no light coming from the property. She stated that she doesn't know it's even there most of the time.

There being no further public comment, Thompson motioned to close the public hearing. Ireland seconded. Unanimous.

There was Board discussion regarding the non-contiguous lot issue for septic dilution requirements and the railroad easement. Thompson stated that a good faith effort was made by the applicant to acquire contiguous property and that the 1.05 acres proposed exceeds the density requirement. Morrissey

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reiterated that density is the real issue for septic dilution. The consensus of the Board was that they were satisfied that there was no other way into the back property except through the railroad easement.

Imbaratto stated that he would like to see the vote delayed to give the Board time to digest what they have heard and to give careful consideration to the legal issues of the five permits and other issues that he was not sure of.

Cuviello offered some guidance for the Board. She stated that Frank Norman's 1991 letter acknowledged the existence of a repair business. His concern was that there was expansion without getting a variance. The property was then zoned R-3 and was rezoned to PVC-3 in 2000. In June 2012, the Board determined that auto repair businesses are permitted uses under village-oriented commercial in the PVC-3 Zone. Norman's letter raises points and concerns, but there was no follow up. No action was taken to bring the matter into court and what is there today is permitted and has existed for a period of time. The zone change helps to clean up some of those issues.

Cuviello continued that the standards in Section 35-9.5 were considered, however, since this use was determined by the Board to be a village-oriented commercial use and the standards in Section 9.20 of the Ordinance were used for this review as they are specific to village oriented commercial uses.

Morrissey concurred that Section 35-9.5 was considered, but nothing was applicable with the exception of possibly the storage of vehicles for a reasonable length of time. Benson added that it is not for the Board to impose a time frame for storage of vehicles as it would need to be done on a case by case basis.

Morrissey commented on Gross's letter that referenced a junk yard. He stated that he did a site inspection and saw no indication of a junk yard. He did see that there were buses and cars that appeared to be waiting to be worked on.

Cuviello stated that this matter is confusing and there may have been missteps along the way, but we can't go back to 1987. Today this use is permitted and that's what we're here to deal with now. She further stated that the Board must determine whether the use that was determined to be permitted is allowed to expand on Block 124, Lot 9.

At the request of the Chairman, Benson framed a motion to approve the minor subdivision, major site plan and the four bulk variances described by Cuviello, as well as a variance to permit the use of non-contiguous land to meet the requirements of septic dilution. The approval would be conditioned on the submission of a stormwater maintenance plan and approval of the Cumberland-Salem Soil Conservation District. The resolution should also address the five permits of concern to Pinelands by an acknowledgment that the permits were issued for the purpose of permitting certain development, that the development took place in reliance on those permits and the Board concurs with the existence

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of the development that took place as a result of those permits and they are the conditions as they currently exist on Lots 18 and 19. The approval would be also subject to the recording of the railroad easement.

Morrissey added that the language for a deed of consolidation, if required by Pinelands and the deed restriction for Block 230, Lot 35 should be reviewed by the Township before filing.

On a motion by Chard, the application was approved as framed by the Solicitor. Ireland seconded. Imbaratto abstained. All other members voted in favor of the motion.

MASTER PLAN REEXAM AND UPDATE

Cuviello advised the board that she met with the Master Plan sub-committee on 7-25-12. The complete draft is to be completed and ready for distribution next week. The public hearing will be scheduled for 9-5-12.

There being no further business, Chard motion to adjourn. Hoffman seconded. Unanimous.

Respectfully submitted,

Barbara D. Sutton, Secretary