

MINUTES OF THE
REGULAR MEETING
OF THE LAND USE BOARD
APRIL 4, 2017

THE REGULAR MEETING OF THE LAND USE BOARD OF THE BOROUGH OF MANVILLE, COUNTY OF SOMERSET, STATE OF NEW JERSEY, WAS HELD ON APRIL 4, 2017, IN THE MANVILLE MUNICIPAL COURTROOM, 325 NORTH MAIN STREET, MANVILLE, NEW JERSEY AT 6:30 P.M.

CHAIRMAN GEORGE KELMAN PRESIDED

Chairman Kelman called the Regular Meeting to order at 6:30 p.m., and the Acting Secretary announced that proper notice had been given by the posting of the Regular Meeting notice and by transmitting the notice of the meeting to the Courier News and the Star Ledger.

SALUTE TO THE FLAG

Everyone present participated in the Salute to the Flag.

ROLL CALL :

CHAIRMAN GEORGE KELMAN, Present
VICE-CHAIRMAN, TED CAMACHO, Present
JOE BARILLA, Present
COUNCILWOMAN DAYNA CAMACHO, Present
KURT KAGAN, Absent
RUDY NOWAK, arrived at 6:40 p.m.
MAYOR RICHARD M. ONDERKO, Present
JIM POWERS, Present
DONALD QUICK, Absent
BRANDON AGANS, Alt. #1, Present
STEVE RODZINAK, Alt. #2, Absent
MICHAEL KASSICK, Alt. #4, Present
CHRISTOPHER M. CORSINI, ESQ., BOARD ATTORNEY, Present
BOB BOGART, BOROUGH ENGINEER, Present

APPROVAL OF MINUTES

Chairman Kelman requested approval of the minutes of the Regular Meeting of March 7, 2017.

Councilwoman Camacho, seconded by Joe Barilla, made a motion to approve the minutes of March 7, 2017.

All present were in favor.

APPLICATION S

A/ Application #PB-17-03
SBA 2012 TC Assets, LLC
Block 37, Lots 10-12; 41-43, 247 North Main Street
Bulk Variance; Amended Site Plan

Chairman Kelman announced that at the February meeting, there was a malfunction of the recording device, and therefore, there is no record of that meeting. He stated that anyone that spoke at the February 7th meeting with regard to the application will have to come back and state their questions and comments tonight.

Eric Goldberg, Esq., with Stark and Stark, attorney for the applicant. He stated he apologized for being repetitive, however, because of the malfunction of the recording equipment, some of the information on February 7th will be re-presented. He stated that he had one witness tonight, who was sworn in by Attorney Corsini. He also stated that the application is not looking to add any carriers but is looking to relocate the equipment from the roof of 249 North Main Street to the ground. He stated that the application is for an Amended Site Plan and Bulk Variances to relocate the equipment. He noted there are currently four wireless telecommunication carriers that service this area: Sprint, AT&T, T-Mobile and Verizon. He stated that his applicant is looking to relocate the equipment of Sprint and AT&T from the roof to the ground; T-Mobile is already on the side of the building, and Verizon has approval, but has not yet supplied the equipment.

Mr. Goldberg stated he has reviewed the previous Resolutions for this property, and noted that his client, SBA is a telecommunications tower company. He stated that the equipment must be located since the roof is not structurally adequate to accommodate it, and it is imperative that it become relocated. He stated that there were three options for relocation: bolstering roof, relocating to basement, or relocating outside. He stated that they chose relocating outside for resale purposes.

Jim Powers asked about the four alternatives set forth in the report.

Mr. Goldberg stated that they proposed four alternatives in their report, reviewed all four, and found the fourth alternative the preferred alternative. He explained that two involved bolstering the roof.

Peter J. Tardy, P.E., with French and Pearl Associates, Wall, New Jersey gave his curriculum vitae, which was accepted by the Board.

Mr. Tardy testified that a structural site survey was performed which found deficiencies such as cracking in the walls and water damage. He stated that that they discussed the options for moving the equipment or reinforcing the existing platforms. He stated that moving the equipment to the basement would require significant space, limiting storage area, and bracing would require 16 new footings and lateral bracing. Therefore, the decision was made to move the rooftop platforms to the southern property line in a 15 x 37 fenced in compound area. He also testified that there will still be 11 viable parking spaces in the rear of the property, as well as a loading area that will not be impacted by the proposed relocation.

Chairman Kelman asked about the planned building repairs, the fenced enclosure on the property, the flood zone, and required variances.

Mr. Tardy addressed his questions. He marked the enlarged site plan as Exhibit A-1, revised on March 22, 2017.

Councilwoman Camacho asked if the owner has received a proposal from Verizon, and how many parking spaces would be lost by Verizon equipment.

Mr. Goldberg stated that they have spoken, but not formal proposal has been made.

Mr. Tardy stated approximately 3 additional spots would be required, totaling 8 spaces.

Attorney Corsini confirmed that Verizon would have to come before the Board.

Mayor Onderko asked why the equipment was originally placed on the roof and if there was any fire hazard with the equipment.

Mr. Tardy stated that he was not a part of the operation at that time. He also stated that the units are all self-contained and located on a concrete pad, therefore, he was not aware of any fire hazard.

Chairman Kelman opened the public portion for questions of the witness.

Dean Shepard, P.O. Box 222 - had questions and comments regarding the parking spaces.

Mr. Tardy addressed his questions regarding parking. He suggested sliding gates if parking is an issue.

A discussion was held regarding the parking spaces on the site plan.

Chairman Kelman opened the public portion to general comments.

Maria Janucik, 720 East Frech Avenue - commented that there was no notice of this meeting on the bulletin board. She also asked who the owner of the site was and the address.

Mr. Tardy commented that the owner is SBA 2012 TC Assets, LLC.

Mr. Goldberg stated that the correct address is 247 North Main Street.

Mrs. Janucik stated that the notice she received stated 249 North Main Street and that the public cannot see the presentation.

Attorney Corsini stated that all members present are eligible to vote since there are two vacancies and two alternates. He encouraged the members present as they vote be mindful of the C Variances and standard therein by which they are required to judge this matter.

Chairman Kelman requested a motion to accept the application for proposal number four.

Joe Barilla, seconded by Dayna Camacho, made a motion to accept proposal number four.

ROLL CALL: AYES:BARILLA, KELMAN, AGANS
 NAYES: CAMACHO, D.; CAMACHO T.; NOWAK*,
 ONDERKO, POWERS, KASSICK

*Indicated that he is voting no because if the property was subdivided, there will be inadequate parking.

Attorney Corsini strongly suggested that Mr. Nowak couch his comments and vote in the terms of the application before him now.

Chairman Kelman stated that the motion to accept alternate #4 has been denied. He stated that we now have the decision of whether to accept an alternate proposal. He asked Attorney Corsini if the Application would have to present another application.

Mr. Goldberg asked that the matter be continued to the next meeting.

Chairman Kelman stated that the application as currently presented has been denied, however, it will be carried to the next meeting if the Applicant wishes to submit an alternate plan.

B/ Application #PB-17-01
 Mark Manville, LLC
 Block 82, Lot 42.01, 1 North Main Street
 Preliminary Major Site Plan, Final Site Plan, Use Variance,
 Bulk Variance, Conditional Use Approval

Chairman Kelman reminded the public that when this application was originally presented on February 7th, the recorder failed. He stated that any resident that had comments or questions on the record should reiterate their comments or questions tonight.

Chairman Kelman further stated that this Application contains D Variances, and therefore, Mayor Onderko and Councilwoman Camacho have stepped down from the dais.

John P. Wyciskala, Esq., Attorney for the Applicant Mark Manville, LLC., stated that his Engineer who testified at the February 7th meeting would begin and reiterate his testimony with new exhibits. He also stated that they have hired a court reporter for the evening. He stated that his client is the Contract purchaser of the property known as One North Main Street, Block 82, Lot 42.01 on the Tax Map and is located in the Commercial Zone and known as the Chester House Bar, a landmark of Manville for 100 years.

Mr. Wyciskala stated that they are seeking Preliminary and Final Site Plan approval with Use Variance, Conditional Use Variance and Bulk Variance to permit the development of a Royal Farms convenience store. He stated that the company has been in business since 1959 and currently operates 170 stores in the mid-Atlantic region in the States of Pennsylvania, Maryland, Delaware and Virginia. He stated that they are expanding their roots into New Jersey and currently have three stores under construction in the State. He stated that they support their communities and are looking to hire between 45 and 50 employees from Manville or the surrounding communities 70% part time and 30% full time.

Mr. Wyciskala stated that the application is to permit the development of approximately 4,200 square foot convenience store with fuel sales under a canopy of six dispensers and twelve fueling stations. He further stated that retail uses and fuel sales are permitted as conditional uses, however, they do not meet all the conditional use criteria which pertains largely to the proximity of a church or other similar conditional use. He commented that the former LukOil facility is abandoned with no fueling operations. He also stated that there are two uses on the site, which requires a variance. He stated he will be presenting three witnesses: Michael Jeitner, Project Engineer; Matt Seckler, Traffic Engineer; John McDonough, Professional Planner; and Marc Steinburg, one of the principals of Mark Manville as well as Matthew Guillo. He asked that Mr. Jeitner come forward to be sworn in.

Michael Jeitner, P.E., with Bohler Engineering gave his curriculum vitae, which was accepted by the Board.

Mr. Jeitner provided the Board with an overview of the application, and he presented Exhibit A-1 which was an Aerial View of the Site. He gave an overview of the dimensions of the site, and described the aerial view noting the entrances on Brooks Boulevard and North Main Street, and the Post Office, Quick Chek, Northside Lounge and Christ the King Church. He noted that the Police Department is located across the street in the EDD Zone. He also stated that there are no fuel stations within the 200 radius, however, there is a Connoco station located approximately a mile from this location.

Mr. Jeitner presented Exhibit A-2, which is a Site Plan with the revision date of March 16, 2017 submitted with the application showing an approximately 2,200 foot convenience store, approximately 49 parking spaces, 3,600 square foot gas canopy with 12 fueling stations. He stated that there is a full-access driveway on Brooks Boulevard and an ingress and egress access on North Main Street, which was revised in accordance with Somerset County's review. He stated that there will be three types of fuel offered: regular, regular rewards, super, and low-flow diesel. He stated that low-flow diesel is only used by smaller trucks. He stated that the hours of operation will be 24/7 and manned throughout that time period, and there will be 10 employees on a max shift consisting of 8 inside and 2 outside manning the fueling island. He stated they anticipate hiring 45-50 employees (70% part-time and 30% full-time employees). He stated that the goal is to provide for local individuals as employees. He also confirmed that there may be less employees during off-peak times, but there will always be two employees outside for fueling.

Mr. Jeitner stated that the inside will be a restaurant with seats that have been accounted for in the parking estimation. He stated that Royal Farms has been very well received in other municipalities. He stated that the restaurant serves fresh fried and grilled chicken on a daily basis.

Mr. Jeitner presented Exhibit A-3 which represented the truck maneuverability through the site, and which consists of five documents. He explained in detail the maneuverability for passenger vehicles and trucks as set forth on the Exhibit. He noted that trash pick-up will be 2 to 3 times per week, however, not during peak times.

Mr. Jeitner explained the WB40 or "box truck" deliveries which would fit in a standard parking space. He stated that most deliveries will be made with this truck through the front door. Mr. Jeitner also explained the soda trucks, which would be larger and will enter off Main Street but will stage in the southeast corner of the site. He stated that the spaces that will be used will be marked "employee parking". He also stated that the soda truck would make 2 to 3 deliveries per week.

Mr. Jeitner discussed the fueling trucks, which would make 3 to 4 deliveries per week. He noted that the location has been moved to a new area, and explained that there are two 30,000 gallon tanks, which will hold 30K of regular, 20K of diesel, and 10K of premium. He stated that the trucks hold approximately 9,000 gallons of fuel. He stated that they anticipated they will be using 50-60K gallons per week, and 250K per month, which is a lower number based on other Royal Farms sites. He also noted that Somerset County has accepted the new plan of the North Main Street access for fueling trucks.

Mr. Wyciskala noted that Kelly Major at the County sent an email stating that the alignment was acceptable on April 4th.

Mr. Jeitner discussed the underground storage tanks, which will need to meet NJDEP requirements: 1) double-walled with fiberglass, which is over and above the DEP requirements; 2) overfill protection with auto shut-off; 3) 5-gallon sump to prevent overfill. He reiterated that the DEP requirements must be met prior to receipt of permits. He stated there will be continuous electronic monitoring, which is also required by the DEP. He reported that there will be tank shutoffs at the tanks, inside the store, and electronically monitored at a central location. He noted that Royal Farms intends to comply and exceed all DEP requirements.

Mr. Wyciskala asked Mr. Jeitner to discuss training of fuel attendants for operation, safety, and response.

Mr. Jeitner stated there will be a minimum of two employees at the tanks, and they will be thoroughly trained.

Mr. Jeitner explained the proposed plan on the site, using the site plan exhibit. He described the operation of the truck turn-arounds and ingress and egress. He also explained the parking, which includes ADA spaces which have been suggested by the Engineer to be moved further south. He also stated that the Engineer has suggested a

space be removed on the south side to allow for a “back out” area. He stated that there are 47 required spaces, and the plan submitted will be at 48 proposed spaces.

Mr. Jeitner also noted there will be an underground stormwater management facility north of the building, which will comply with the Engineer’s comments. He also noted that there is new landscaping proposed around the perimeter of the property, as well as LED lighting throughout the site. He stated that all the lighting complies with the Ordinance, with the exception of one area at Brooks Boulevard driveway, which is slightly above the one-foot maximum candle level as required, however, they feel it is a necessity to provide accurate lighting in that area.

Mr. Wyciskala asked Mr. Jeitner to discuss the fueling deliveries, which he noted will not be during peak hours, however, they cannot set the deliveries to specific times. He stated that the attendants will have a few hours in which to make preparation for the deliveries.

Mr. Jeitner stated that the trucks are in contact with the facility, and they will be alerted within two hours of arrival. He stated that the trucks will be on site for approximately 25 minutes and will be staged in the tank locations. He noted that there will be plenty of area for cars to maneuver around the site, and he reiterated that they will not deliver during peak hours. He also reiterated that the site of refueling has been relocated due to comments from Somerset County to the south side of the site.

Mr. Jeitner presented Exhibit A-4 which are photos of the interior of the facility: 1) Convenience store operation; 2) Prepared food area; 3) Counter area; and 4) Seating area. He explained that there is no table service; seating is provided as a convenience.

Mr. Jeitner presented Exhibit A-5 depicting the frontage of Royal Farms facing North Main Street.

Mr. Jeitner explained the signage for the building consisting of a 37-square foot illuminated sign for “Royal Farms”; a “World Famous Chicken and Fresh Kitchen” sign which is 12 square feet with no illumination. He stated that “Royal Farms” will be on the canopies facing both Brooks Boulevard and North Main Street. He stated there will be four total wall signs: two on the main building and two on the canopy for a total area of 120 square feet. He stated that over 250 square feet is permitted, so they are well under. He also testified that there will be one free standing sign located 6.3 feet off the right-of-way, and the Ordinance requires a 15-foot setback for the sign. He stated that the sight triangle will not be affected. He stated that the Ordinance allows 160 square feet, however the sign is 163 square feet, so they will require a 3-square foot variance. He also noted that the free-standing sign is internally illuminated. He added that there is a directional sign for the ingress driveway off of North Main Street, which meets the requirements for area. He stated that they are considering this a free-standing sign for the purposes of relief, and it will have a directional arrow and Royal Farms.

Mr. Jeitner presented Exhibit A-6 which is a sign detail of the free-standing sign which will be located close to the intersection of North Main Street and Brooks Boulevard. He stated that the size of the sign is 163.2 square feet in total area, and 25-feet high with

the Royal Farms logo on top, and the four fueling types located along the sign. He stated that this sign requires relief from the Board for 3.2 square feet.

Mr. Jeitner discussed the Variances for this application for the record. He began with the two design waivers which are safety related.

- 706.1 - more than one-foot candle level for the light at Brooks Boulevard
- 801.2-6 - to permit an 80-linear foot wide driveway at Brooks Boulevard in lieu of the 30-linear foot allowed. He stated that the other driveways meet the Ordinance requirements.

Mr. Jeitner also noted the other variances:

- 301.42 - parking stall sizes of 9 x 18 and 9 x 20 in lieu of the required 10 x 20. He noted that 9 x 18 is the standard stall size, however Royal Farms like to increase the depth of their stalls around the building. He also stated there will be bollards to provide a buffer between the sidewalk and the parking area.
- 403.5 - for accessory structure for the trash enclosure to be located 6.5 feet from the side lot line (south) in lieu of the permitted 10 feet. He stated that that side lot line is adjacent to the railroad tracks. He stated it will be a masonry structure, and it will be screened.
- Shade Trees to be located within 30-feet of the right of way. He stated there will be landscaping at the corner, but outside of the sight triangle. He stated that the trees are located within that 30-foot right of way for the radius of return.
- 606.2 - Rear-Yard building setback required is 50-feet. They need a variance for 10-feet. He noted that the Post Office is located about 3-feet from the rear property line. He stated there will be a sidewalk and landscaping along that 10-foot area at the rear of the property.
- 606.4.1 - to permit off-street parking and permitting parking in the front yard due to the type of operation. He noted that they are substantially improving the landscaping along the perimeter of the site.
- 711 - Conditional Use Variances - gas canopy setback of 32.3 feet to the edge of the canopy from the Main Street right-of-way in lieu of the required 37 feet. He noted that the closest actual gas pump is approximately 35 feet. He stated that the rest are well away from the setback. He stated that the edge of the canopy of the Connoco station is 25-30 feet, and the closed station is within the setback as well.
- 712 - Condition Use within 1,500 feet of the church, and the Planner will provide additional testimony as to that variance.
- 801 - parking spaces 2.7 feet from Main Street, but the majority of the parking is well over 5-10 feet away from the roadway. He noted that the current facility has no buffering. He noted there is also a requirement that parking be 10 feet from the edge of a building. He stated that due to the footprint of the building, there are a couple parking spaces that are 3.6 feet from the front of the building. He stated that the majority of the parking around the perimeter of the site meets the 10-foot requirement.
- 802 - specific designated loading area - because of the type of operation, there is no specific area. He added that the majority of the deliveries will be box trucks for a short duration, as described earlier. Although there will be no designated loading area, they have adequate area for the vehicles to stage during operation.
- 901 - sign variance to permit the 163.2 square foot free-standing sign, which is 3.2 feet over the allowed 160 square foot. He noted that they are also requesting illumination. He also noted the setback for the free standing sign on Main Street 6.3 feet rather than the required 15-foot separation.

Chairman Kelman asked about the pumps and their setback to Main Street. He stated that it is his understanding that the canopy will be within the 37-foot setback, however, the closest fuel pump will be at least 37 feet back.

Mr. Jeitner stated that was correct.

Chairman Kelman stated that he was glad to see that the storage tanks were moved to the south side of the property to provide more open space for the movement of vehicles. He asked if it was anticipated that any of the fuel delivery trucks will interfere with the parking spaces on the lot.

Mr. Jeitner stated that the only spaces that he can see that would be block would be the two parking spaces adjacent to the trash enclosure area. He stated that it is the intention that those spaces will be labeled as "employee parking". He stated that the rest of the parking spaces on the lot will have access around the facility.

Chairman Kelman also asked about the size of the parking spaces 9 x 18 and 9 x 20 as opposed to 10 x 20. He asked if the reason for the variance is to fill the requirement for parking spaces in this facility.

Mr. Jeitner stated that it is standard operation for Royal Farms to use 9 x 18 spaces. He stated that if they revised the plan for 10 x 20 on the site, they would need an additional variance. He stated that they fill the request is well within industry standards.

Mr. Wyciskala noted that 9 x 18 is part of the RSIS (Residential Site Improvement Standards) for multi-family residential.

Chairman Kelman asked if this is both an eat-in and take-out facility.

Mr. Jeitner stated that the seats are provided for convenience for customers, and it is not intended for table service.

Jim Powers asked if there would be outdoor seating.

Mr. Jeitner indicated that there are approximately 12-16 seasonal seats around the outside perimeter of the site. He stated there are 4 proposed outdoor tables in the plan.

Rudy Nowak asked how many parking spaces will be used by the employees.

Mr. Jeitner responded that some of the employees may not have vehicles, or may choose to ride with other employees. He stated that the intention is to hire local help.

Mr. Wyciskala stated that many of the employees are high school or seniors. He stated that they meet the Ordinance standards and they are comfortable that the parking is sufficient for our needs.

Mr. Jeitner stated that the Ordinance requirement is for 1 for 100 is based on total calculation of space, which includes storage areas, restrooms, and kitchens.

Rudy Nowak asked if there will be a time limit for parking.

Mr. Jeitner stated that it is not intended to be a park-and-ride facility. He stated that signs will be installed indicating time limits if problems occur.

Mr. Wyciskala stated that the advantage of the operation is that Royal Farms is the sole occupant, and there are two people at the pumps at all times who can keep an eye on the site and notify management if issues occur. He stated that they do not intend to put in time limits, but if issues occur they will enforce it.

Jim Powers asked what the specific plan was to keep tractor trailers and large trailers from Adesa from utilizing the fuel facilities.

Mr. Jeitner stated that Royal Farms will provide specific signage, and reminded everyone that they will not be selling high-flow diesel; only low-flow diesel. He stated that the site is not designed for large trucks, and he mentioned the clearance under the railroad tracks.

Mr. Wyciskala stated that there will be signage available to discourage tractor trailers. He also noted that the Traffic Engineer will discuss this issue.

Rudy Nowak asked if the quality of the gasoline would be Tier 1.

Mr. Jeitner stated that he will try to get an answer for him.

Joe Barilla asked if this is their standard "Main Street" design.

Mr. Jeitner stated that Royal Farms does have larger locations, and the plans for this one have been scaled down.

Mr. Wyciskala asked that Mr. Jeitner explain the materials that will be used.

Mr. Jeitner explained that in Exhibit A-5, a big portion of the building is glass and stone within the base with metal awnings and a cupola on top. He stated that there are muted colors on the building.

Rudy Nowak stated it is a very attractive facility, and he stated it will be the nicest building on the Main Street.

Bob Bogart commented that the trucks the Board is concerned about are the car carrier trucks that are only carrying a couple of cars.

When no one else from the Board had questions for the witness, Chairman Kelman opened the public portion for questions to Mr. Jeitner.

Ryan Ramsey, 710 South Main Street - asked where the underground storage tanks will be located. He asked how close the tanks are to the canopy.

Mr. Jeitner stated that the edge of the fueling tank to the edge of the corner is approximately 5 feet.

Mr. Ramsey asked if it would be possible for a car to be sandwiched between a trailer and the dispenser while the tanker is delivering gas.

Mr. Jeitner stated that a vehicle would have the ability to move either east or west to get out of the spot.

Mr. Ramsey also asked Mr. Jeitner to point out the ingress points to the property. He commented that if there are more than two cars at the canopy, it would be difficult for the fuel truck to get to the tank. He also questioned the amount of fuel being consumed each month and the number of deliveries.

Mr. Jeitner stated that it is anticipated that there will be twelve filling stations under the canopy, and the truck would notify the facility when it would be arriving to give the attendants notice. He stated that this is not atypical from other gas facilities in the area. Mr. Jeitner noted that there is always some reserve in the tanks. He also noted that the 50-60 thousand gallons per week are an anticipated projection.

John Gluch, 710 South Main Street - had comments regarding the amount of traffic at peak times and noted that it will be unsafe. He noted the areas of concern on the Exhibit.

Mr. Jeitner stated that the Traffic Engineer will be speaking about this, however, he stated that there is proper distance for maneuverability at more than 24 feet.

Mr. Gluch also stated that in 2009 Royal Farms was cited for releasing 5,400 gallons of gasoline into an adjacent building, and he asked that with that spill in 2009 and a spill in 2011, how has Royal Farms changed their inventory control and safety measures.

Mr. Jeitner stated that all new facilities that he has been part of are built under the strict regulations of the DEP.

Maria Janucik, 720 East Frech Avenue - asked that Mr. Jeitner show the ingress and egress, and she asked again about the frequency of deliveries. She had questions about the maneuverability of trucks turning onto Brooks Boulevard.

Mr. Jeitner showed her the ingress and egress for both streets and addressed her questions. He reiterated the frequency of deliveries: beverage trucks 2-3 per week; fueling 3-4 per week; box truck 3-4 per day.

Mrs. Janucik also asked the size of the largest truck that would utilize low-flow diesel. She also asked if Royal Farms was aware of the surrounding businesses that sell chicken such as Popeye's, Quick Chek and Walmart.

Mr. Jeitner stated a single-unit vehicle or a trash truck would be the largest, and responded that they are aware of the businesses, and chicken is only one of the offerings of the facility.

Mrs. Janucik also had a question regarding the necessity of the business as set forth under Conditional Uses in the Zoning Ordinance.

Mr. Jeitner deferred her question to the Professional Planner.

Ed Kreshefski, 146 North 9th Avenue - asked about handicapped parking and where it will be located.

Mr. Jeitner stated that there will be two handicapped parking spaces, which is the number required based on the total of 48 spaces, which are located at the front of the building. They have been relocated per comments from the Borough Engineer.

Dean Shepard, P.O. Box 222 - asked if this was an average-sized lot for this dual use. He also asked if most of their locations were situated on highways, and how many are in small towns on one acre. He noted that this use will create a significant increase in traffic over Chester House.

Mr. Jeitner stated that the lot is 1.17 acres and they average from one to two acres in size. He also stated that they are not necessarily located on highways or main arteries. He deferred traffic comments to the Traffic Engineer.

Rich Martin, 710 South Main Street - stated that at the last meeting, the Engineer testified that there would be 2 to 3 loads per week, and now it seems it will be 3 to 4 loads per week and 250,000 gallons per month.

Attorney Corsini stated that this is an inappropriate question since there is no record of the testimony from February.

Wes Taylor, 260 North 6th Avenue - asked about flood water getting into the storage tanks, and asked about reduced lighting at night. He also asked if they would consider dimming the lights at night.

Mr. Jeitner stated that the tanks will be designed appropriately and will meet DEP requirements as well as any flood requirements. He noted that it will also be reviewed by the Borough Engineer. With regard to the lighting, he stated that the lighting is designed to prevent glare and with safety in mind since they will be open 24 hours. He also stated that it will be subject to review by the Borough Engineer. He stated that he will make the suggestion of dimming the lights, but also mentioned the 24-hour operation and safety.

Mr. Taylor also asked about trucks coming in to deliver product and asked if there was a consideration for receiving deliveries early morning or late at night.

Mr. Jeitner stated that there is a need aspect, however, the goal is to not have trucks making deliveries during peak times.

Mr. Taylor also asked if there are additional emergency shut-offs at the pumps.

Mr. Jeitner stated that there will be.

Gerard Santos, 710 South Main Street - asked how many shifts will be run for fuel attendants. He suggested that he did not believe they would be able to pump 250,000 gallons per month with only two attendants per shift.

Mr. Jeitner stated he believes there will be three shifts, with a minimum of two attendants per shift.

John Gluch, 710 South Main Street - asked if the storm management requirements of three inches per hour will be met.

Mr. Wyciskala stated that they will be satisfying all the requirements.

Mr. Gluch also questioned the calculation of 250,000 gallons per month, which equals 3 million gallons per year or 27 loads per month, which is almost a load per day. He stated that could mean as much as 830 cars just for gasoline, not counting the convenience store traffic. He stated there could be 1,600 cars a day going in and out, and right now you have zero.

When no one else had questions for Mr. Jeitner, Chairman Kelman closed the public portion and requested that Mr. Wyciskala call his next witness.

Mr. Wyciskala requested a five-minute break.

Chairman Kelman agreed to a five-minute break, which began at approximately 8:55 p.m.

Chairman Kelman called the meeting back to order at 9:02 p.m.

Mr. Wyciskala called Matt Seckler, who was sworn in by Attorney Corsini.

Matt Seckler, P.E., Traffic Engineer, he stated he is the Senior Project Manager at Stonefield Engineering and Design in Rutherford, New Jersey, and provided his curriculum vitae, which was accepted by the Board.

Mr. Seckler stated his office prepared the Traffic Impact Study dated October 25, 2016. He referred to Exhibit A-1 and stated that both North Main Street and Brooks Boulevard have speed limits of 25 miles per hour, and that North Main Street is considered a minor arterial roadway which connects State highways to other local roadways. He stated that Brooks Boulevard is considered a collector roadway that connects minor streets to arterial roadways. He noted that this is a mixed residential and commercial area. He also gave a history of the intersection before and after the construction of the Walmart shopping center. He explained the long cycle of the light, which is 110 seconds, and he mentioned the change to a single lane under the overpass onto South Main Street. He stated that he is aware of Somerset County's plan to eliminate the congestion at the intersection. He stated that he met with Somerset County three times: August 22, 2016, January 30, 2017, and February 27, 2017 to discuss the access driveways.

Mr. Seckler also stated that he conducted turning movement counts at the intersection on October 6, 2016 from 7 a.m. to 9 a.m. and from 4 p.m. to 7 p.m. He found that peak hour is 7:15 to 8:15 a.m. and 4:30 to 5:30 p.m. He also explained that they used DOT guidelines to project a 2% increase in traffic 2 years into the future, assuming there is not additional development and utilized the Trip Generation Manual. He reminded everyone that generally this type of business is placed on a busy intersection because it

increases customer base. He also stated that the majority of the future customers of Royal Farms are already commuting along this route. They used a formula to calculate that approximately 31 new cars would come into the area during peak hours in the morning and 36 new cars in the evening. He stated that almost 2,200 cars utilize that intersection in the morning, and 31 to 36 new cars will only create a 1-2% increase in traffic. He concluded that the Royal Farms will not create a significant negative impact.

Mr. Seckler noted on Exhibit A-2 the access design. He stated that the entrances will be angled to prevent left turns into the site. He stated that the driveway has been designed to provide easier truck circulation than the Quick Chek across the street, and he stated there will be a "no truck entry" sign to accommodate cars.

Mr. Seckler also addressed the "stacking" of traffic at the signal, which he stated would be somewhat remedied by the County project. He also explained that most of the people that are utilizing the site will be coming from the Brooks Boulevard extension, and he agreed that if the Engineer would like to place a "do not block driveway" sign, they will be happy to consider that. He also stated that they will work with the Borough after approvals to avoid stacking.

Mr. Seckler also reiterated the trucks utilizing the site.

Mr. Wyciskala asked, in reference to Mr. Gluch's question, if the site and roadway system will be able to handle the volume of one tanker delivery a day.

Mr. Seckler stated that he does not believe it will have any significant impact on the traffic, since it is only a small period of time over 24 hours. He stated if the Board does not want tanker traffic between 7 a.m. and 9 a.m. or 4 p.m. and 6 p.m., the applicant will definitely work with them. He stated that they just need a wide enough window for deliveries if they are running low.

Mr. Seckler stated that customers will come to the site if it is convenient, and therefore, if the parking is difficult or ingress and/or egress is difficult, they will go elsewhere. He stated that they have modeled their facilities to be the most convenient to their customers. He also stated that having 12 fueling stations is the largest in the area, and their goal is to service the customers as quickly and efficiently as possible. He also addressed the questions of loitering or parking, and they would be willing to post signs if it becomes an issue. He stated it is in the applicant's best interest to have parking spaces available for their customers.

Mr. Seckler stated that this use will be drawing existing traffic and will limit the impact toward the roadway network, and Somerset County has looked at this intersection as part of a larger project to improve efficiency.

Mr. Wyciskala noted that Mr. Powers had a question regarding the type of car carrier that has one or two vehicles and if it can be accommodated for diesel.

Mr. Seckler stated that they are willing to make the double-pump island the only location where a trailer could fuel, and they would be willing to use signage for this purpose. He

also stated that the applicant would not have an issue with a “No Tractor Trailer” sign, and he also stated that they cannot get under the underpass, so it is not likely.

Jim Powers also asked if the exit onto Brooks Boulevard will have an extended apron, and will it be enough to keep tractor trailers within the right lane when they exit.

Mr. Seckler stated that they have added to the width of the apron to allow access for trailers. In answer to Mr. Powers’s question, he stated that the average driver would be able to make the turn into the right lane.

Mr. Wyciskala noted that another resident asked a question regarding cars racing out of the exit.

Mr. Seckler stated that they don’t see a lot of cut-through activity because of cars pulling out of parking spaces and fueling areas, however, they would have no issue with signage indicating “no thru traffic”. He also stated that if Title 39 is applicable, the Police could write tickets.

Mr. Wyciskala asked Mr. Seckler, if he has been involved with the design of other stores with gas stations, and if this is a typical design for a store and canopy.

Mr. Seckler stated that a large number of the sites he has designed are at the corners of intersections that, depending on the volume in the area, it would not create a “cut through” situation.

Rudy Nowak asked how many vehicles he anticipates will utilize the facility each day.

Mr. Seckler stated that they have estimated 31 new cars in the morning peak hours and 36 new cars in the evening, but noted that there are also a large number of customers that are not new to the area and are already on Main Street and Brooks Boulevard today. He stated that overall during the morning peak hours they expect 85 cars to enter the site and 106 during the evening peak hours, which is a mix of cars already on the roadway today and new cars. He also stated that this was dependent on the volume during off peak hours.

Mr. Nowak asked about tractor trailers entering from Brooks Boulevard and leaving onto North Main Street.

Mr. Seckler stated that there could be a truck plus six vehicles. He reminded Mr. Nowak that the only tractor trailers would be with soda or fuel, and that would be 2-3 times per week for soda and 3-4 times with fuel, so the odds are unlikely.

Mr. Nowak stated he is concerned about tractor trailers using Brooks Boulevard to reach Route 206 and the proximity to the schools on Brooks Boulevard.

Mr. Seckler stated that there is a sign that restricts trucks over a certain weight on Brooks Boulevard, and they would be in compliance with that signage.

Jim Powers asked about the size of the soda trucks.

Mr. Seckler stated they are referred to as a WB40 for soda and a WB53 for fuel. Mr. Wyciskala stated that the trucks will stage at in the area of the employee parking stalls and go through the front and they will hand truck the soda in. He stated it will be about a 15-minute drop.

Joe Barilla asked where the studies were conducted for the ITE traffic studies that he referenced.

Mr. Seckler stated that they are National number, so there are some in Vermont, New York, New Jersey, Ohio, Kansas. He stated that they advise in the beginning of the report not to get too hung up on locality because it is the volume of usage of the roadway.

Mr. Barilla asked if there is data available from actual Royal Farms stores that have similar roadways.

Mr. Seckler stated that he has not personally done any of those studies and does not know if the applicant has performed any.

Chairman Kelman asked if it is his opinion that the number of parking spots available are sufficient to handle the number of vehicles under peak hours.

Mr. Seckler stated that it is and they usually design them with between 35 and 55 spaces, which typically allows for enough parking for employees and for busiest parking time during the day such as lunch time, when there may be 20 or so spaces used.

When no one else from the Board had additional to questions of this witness, Chairman Kelman opened the public portion for questions to Mr. Seckler.

John Gluch, 710 South Main Street - asked about the radius from which the site will draw cars.

Mr. Seckler stated that it could be up to 90% of the cars already on the roadway, according to the study. He stated that the study shows between 60% and 90% are pass through customers, which they determined to be about 2/3rds of those already on the road. He stated that the other 1/3 would be within one to three miles, since there are other options in the area.

Mr. Gluch stated that people go on gas buddy to find gas stations and they could be coming from 5 to 7 miles away. He asked how he would account for all the people stacked up for gas at Costco. He noted that there will be a traffic jam.

Mr. Seckler stated that he doesn't know how well Royal Farms gas will be priced, however, he rarely sees anything cheaper than Costco. He stated that Costco is a different operation, and people utilize their gas stations while shopping there. He also stated that the majority of the customers are already on the road today, and are within one to three miles from here, because of the other options in the area.

Maureen Taylor, 260 North 6th Avenue - asked about the Trip Generation Handbook, and asked what year they were published and if they could be outdated.

Mr. Seckler noted there were two publications, the Trip Generation Handbook and the Trip Generation Manual, and he believes they were published in 2010. He stated that the publications represent uses of convenience stores and gas stations in the proposed size and in this range. He stated that he has not seen much difference in the square footages in the report and in their application.

Mrs. Taylor asked for an explanation of page 6 of the traffic study which refers to build/no build scenarios in which build is less than no build.

Mr. Seckler stated there are a number of things that comes into play. He noted that a frequent commuter who makes a right from Brooks Boulevard onto North Main Street may stop for gas or food at Royal Farms, would enter and exit through the parking lot and therefore, no longer be waiting at the light. That would make reduce the numbers in the study. He also explained that the traffic light is equipped with a camera and the more cars that are waiting at the light, the more time the signal will allow a green light.

Mrs. Taylor asked how these numbers will be affected by the Road Diet Program, and she also asked about an island be put into the middle of the road which will reduce the width for tractor trailers delivering fuel to be able to turn into the site.

Mr. Seckler stated that the analysis has been provided to the County, however, the County has not yet finalized the signal timing plan. He further stated that when they provided the truck turn templates to the County, they included the Road Diet version of the plan as well so they will be able to study how the tractor trailer will be turning into the roadway. He explained that there will only be one lane in the southbound direction.

Mrs. Taylor asked if there has been an impact study regarding the traffic heading west on Brooks Boulevard toward 206.

Mr. Seckler stated that the majority of the traffic coming into the site are already on the road today, so they look at how much traffic is on Brooks Boulevard vs. North Main Street. He stated that at peak morning hours there are only 178 cars that head westbound, and 224 that head westbound in the evening peak hour. He stated that Main Street has 802 going southbound in the morning and over 1,000 cars going southbound in the evening. He stated he does not foresee a drastic change in volume, and they are projecting 10 new cars heading west in the morning and 11 new cars heading west in the evening.

Mrs. Taylor also noted that the traffic study was done on a Wednesday and did not take into account the auctions at Adesa. She asked how they will accommodate the trucks from Adesa that are diesel.

Mr. Seckler stated that he does not know their auction schedule. He stated that they are willing to have the employees enforce fueling of these types of trucks at the northern two canopies with the double position.

Mrs. Taylor stated that the easiest route to 206 from that location is past two schools and a church and asked how the additional tractor trailer traffic moving past the schools will be accommodated. She stated she is referring to trucks that are not classified as restricted on Brooks and who use low-flow diesel.

Mr. Seckler stated that they will have to discuss restriction with the applicant. He stated if the Board wishes to set forth a condition for restriction, the applicant will consider it.

Mrs. Taylor asked if there has been any study regarding the impact of the traffic on North 1st Avenue, because the exit of the site is almost directly across from North 1st Avenue.

Mr. Seckler stated that they observed during the study how North 1st is a parallel route to North Main Street. He noted that they will be required to provide Somerset County with an "impact fee" to be used for roadway improvements within the area.

Mrs. Taylor also asked to confirm that there is no loading zone for deliveries and that they will be using parking spaces designated for customers.

Mr. Seckler stated that the soda trucks will be coming 2-3 times per week and would basically line up in the southeastern corner in front of the two employee stalls and in front of the trash dispenser and hand-truck the soda into the front door. He stated that the box trucks arriving 2-3 times per day will be using a stall, however, they typically come off-peak. He stated that the people in the store will have to assist in unloading, and Royal Farms does not want their staff dealing with deliveries during busy times.

Mrs. Taylor noted that Manville Schools do not have buses and she asked if there are accommodations for children who walk to school and may walk through the site.

Mr. Seckler stated that there is a sidewalk along the property line across the front and side of the store, therefore, children do not need to enter the parking lot or driveway.

When no one else wished to comment, Chairman Kelman closed the public portion and requested that Mr. Wyciskala call his next witness.

John McDonough, Licensed Professional Planner, was sworn in by Attorney Corsini, gave his curriculum vitae, and his credentials were accepted by the Board.

Mr. McDonough testified that he is familiar with the application and the variances and provided the Board with an overview of his findings noting Exhibit A-7. He noted that A-7 is a three-part exhibit. He stated that the property is currently developed, over 100 years old but with no historical significance, and the owners are ready to move on. He spoke about beautification and "greening" of the property. He also stated that it is an over-sized piece of property with excellent accessibility being at the junction of two main roads, and it is a site that is targeted for significant development in the form of the allowable uses in the Commercial Zone. He reminded everyone that this is a retail site, which is zoned to accommodate vehicles and invite activity. He noted that it is part of the specialized Economic District. He stated that the site is oriented to serve the people on the roads today.

Mr. McDonough discussed the surrounding commercial buildings: Quick Chek, the Post Office, the Police Station, and the railroad. He noted the variance for Conditional Use within the 1,500 foot radius of the church, and he stated that there are some Courts that have struck down those separation standards.

Mr. McDonough referred to the panoramic views of the property and described the existing areas as well as the variance for the 50 foot setback from the Post Office, which he noted will not feel the impact of the lessened setback. He stated this was an ideal location for a setback variance with no impact on the neighboring property. He also commented on the proximity to Popeye's Chicken and noted that variety is the key to any economic zone. He stated that this is an appropriate location for this land use. He noted that there are two additional houses of worship on the other side of the railroad tracks that are within the 1,500 foot radius, however based on the physical barriers, there is no impediment to the intent of the Ordinance.

Mr. McDonough described the Variances:

- Building within the 50-foot setback (C-Variance)
- Fueling station within 1,500 of religious land use
- Multi-Use on one property for retail (permitted) and fueling station (conditionally permitted in the zone)

Mr. Wyciskala noted that it is not clear in the Ordinance that the conditional use for the fueling station is not permitted 1,500 feet from the church. He stated that the applicant is requesting relief out of an abundance of caution.

Mr. Wyciskala also stated that there is conditional use related to the fact that the canopy within the property line setback, however the pump itself is actually 45 feet away.

Mr. McDonough stated that this is a technical variance which states that it should be 37 feet away with the pump, however, just the canopy that is within the setback. He stated that the effective distance is met there, however, he would qualify it as a technical variance. With that said, Mr. McDonough noted that these are the three larger variances, however, there are a number of smaller "C" variances: the size of the parking stalls, the trees at the corners, and the signs.

Mr. McDonough began by explaining the "D" Variance for the two uses on one piece of property. He stated that it really has morphed into one land use, and they run into this a lot. He stated that statistics show that 80% of the fuel sold in the United States has a convenience store connected to it. He related it to the old fashioned general store. He stated that the building itself is as nice as it gets for a convenience store, and will be a signature building in our downtown. He stated that the signs will blend well with the architectural backdrop. He noted that even though the applicant is looking for a quantity of relief, the quality of the relief is an improvement over the existing use.

Mr. McDonough quoted the "Medici" case which sets forth the four elements of proof associated with a use variance: 1) Suitability of the site and physical characteristics. He stated that this piece of property is suitable for this use by virtue of its condition, being 1.1 acres and oversized, which is exactly the criteria used by Royal Farms for the

smaller of the two prototypes. He explained that Royal Farms is a National brand, and they investigate traffic, population, income levels, etc. in making a decision on a site. He also noted that it is located on a main corridor. 2) Purposes of Zoning at the Land Use Law. He stated that the case law states one condition must be met, and he feels at least four or five apply. He stated promotion of the general welfare of having both retail and fuel sales together promotes convenience which is the essence of land use. He further stated that there is the advancement of purpose "g" which provides for a variety of uses in appropriate locations having a service station to the south and to the north, so there is an effective gap to meet the needs of drivers. He also noted the desirable vision environment, and stated that the rendering says it all and will be an upgrade to the property and give the site a fresh look. He stated that retail needs to constantly reinvent itself. He also added purpose "m" or the efficient use of land, which doesn't need a lot of clearing and the combination of uses promotes efficiency. 3) Surrounding Properties - he stated that this development can be granted without substantial detriment to the surrounding properties and will not impede the privacy or use of the surrounding lots. He stated that from an environmental standpoint, it will meet or exceed all NJDEP regulations. He concluded that there will be no substantial detriment. 4) the vision for the corridor and how the use relates to the zone plan - he stated that this does not represent a substantial departure from the zone plan, and the fact that two uses on one property is customary in the industry today. He stated that both uses could be placed here individually without a request for relief other than the fuel within 1,500 feet of the church. He reiterated that there is no substantial departure from the Ordinance. He continued by saying that it going to promote the Master Plan goal for a stable ratable base and create jobs.

Mr. McDonough continued by stating that the rest of the proofs, such as the conditional use within 1,500 feet is justifiable under the D-3 criteria of the statute. He stated there is a less stringent test, and the applicant only needs to prove that the site is appropriate for the use. He noted that the fueling use is considered a permitted use when it is conditionally permitted, but only focused on the impact of the church 350 feet away. He stated that Mr. Seckler testified that this is not going to be a site that is going to conflict from a traffic standpoint or redirect traffic toward the church. He stated that from a legal standpoint, case law states that those standards are antiquated and have been invalidated.

Mr. McDonough also testified regarding the justification of the D3 variance for fuel setback, the 37 feet requirement to 32.3, and stated that the elimination of one pump would eliminate the variance, however, keeping the pump will keep the lines shorter and move cars along more efficiently. He stated this is a traffic safety issue, with very little impact.

Mr. McDonough also testified regarding the C Variances. He stated that the back of the building is 10 feet from the rear property line, rather than 50 feet as required, however, it is justifiable since the benefits of the application as a whole outweigh the detriments. He stated there is no impact on the blank wall behind the building, and the benefit of having the building positioned so far back is that it opens up the interior of the site for circulation. He also noted that the Post Office is situated at the back of the property as well, and is 2.4 feet from the rear property line.

Mr. McDonough reviewed the accessory structure setback for the refuse corral which will be located at 6.5 feet from the property line, with 20 feet required. He stated that it can be concluded that this is a logical location for pickup, and it is out of view of the public eye. He also stated that there is a berm and railroad next to it.

Mr. McDonough also testified regarding the parking variances such as the stall size, which is at 9 x 18 and 9 x 20 rather than 10 x 20. He stated that it is customary to retail where shopping carts are used to have the 10 x 20 spaces. He stated that the applicant is not looking for anything atypical in terms of the relief. He also stated that the two trees within the site triangle will add some green space on the property without impeding the lines of site at that particular intersection. He also testified that the location of the loading in the front yard is inherent to the nature of the use and the parking. He stated it provides for safety, efficiency, and convenience. He also stated that there will be a parking space 2.1 feet from the property line along the front, where 50 is required. He stated that if you consider the rear setback at 50 feet and the front setback at 50 feet, there is virtually no building envelope. He stated that this is an effective solution and will be an improvement over what presently exists, because there is parking up to the property line now, with no green spaces, so it would go toward site betterment. He stated that the parking space in front of the building should be 10 feet from the vestibule, however, because of the weather protection vestibule, relief is needed to have spaces less than 10 feet from the vestibule. He stated that this justifies site betterment from an overall standpoint. He discussed the fact that there is no designated loading area, which is very common in the industry. He stated that a designated space because of the infrequency of the use would be wasteful and inefficient from a planning standpoint. He stated that all the parking variances can be justified by the Board with a C-2 balancing test using the benefits of the application which outweigh the detriments.

Mr. McDonough discussed the signage relief which is mostly related to the four wall signs, where one is permitted. He stated that they are requesting signs for the brand name (for identification and advertising), the tag line underneath, the vantage points, and canopy signs to facilitate safe and efficient dedication of the site from the road. He testified that the two freestanding signs which will comply with height requirements, and which they deem a benefit from a planning standpoint for clear roadside recognition as well as directional signage.

Mr. Wyciskala stated that the freestanding sign is compliant with the exception of square footage. He noted that 160 is the maximum square footage in Exhibit A6, and the sign is 163.3.

Mr. McDonough stated that the price indicators are indicated by law to be prominent for this land use, so that contributes to the overall sign area which is inherent to the nature of the use. He continued to explain that the sign budget on the building and canopy is half of what can be allowed, even though there are four signs rather than one. He stated that they are allowed 250 square feet of signage, and they are proposing 120. He stated that the freestanding sign on the corner will be offset 6.3 feet from Brooks Boulevard, where 15 feet is required. He stated that it fits nicely within the overall layout on the corner and will enhance visibility without competing with any of the other business or obscuring safety in the intersection, so it justifiable under the C-2 balancing test.

Mr. Wyciskala clarified for the record that the applicant is permitted two wall signs, however, they are requesting four.

Mr. McDonough stated that is correct - two are the canopy and two are the wall.

Mr. McDonough stated that there is also design-related relief requested regarding the "foot candle" limit being 0.6 foot candles over the Ordinance maximum. He stated that this relates to the overall lighting on the site, but will promote safe illumination without being overbearing, and it is inherent to the nature of the use.

Mr. McDonough stated that he believes they eliminated the relief related to the Stormwater and the width of the Brooks Boulevard driveway, for which they have technical justification from the Engineer.

Mr. McDonough stated that he quickly reviewed all the information, and he will address any questions. He summed up by saying this is a very good application from a planning standpoint and makes a lot of sense. He stated it fits well on the property, it is a balanced layout, and the variances are not substantial. He stated there is a very good foundation of technical evidence that these variances can be granted without substantial detriment to the neighborhood, zone plan, or Ordinance. He recommends that the variances and application be approved.

Chairman Kelman stated that Mr. McDonough's presentation was excellent, and he asked if the Board members had any questions for Mr. McDonough.

Rudy Nowak asked the Chairman to rule whether his questions were appropriate. He mentioned the variance for the fueling station within 1,500 feet of the church, and asked what the stipulation was for the distance to a school. He asked if Roosevelt School fell within 1,500 feet.

Mr. McDonough stated that he believes schools included in the language of the Ordinance. He answered Mr. Nowak's question that he was informed of three structures within 1,500 feet: Christ the King Church (365 feet away), Emmanuel Baptist Church (1,200 feet away on the other side of the tracks), and Sacred Heart Church (1,200 feet away on the other side of the tracks).

A discussion was held regarding the property lines of the church and the school.

Mr. McDonough stated that if the school falls within the 1,500 feet, the relief requested would be the same, and the applicant is not proposing degradation of level of services at the intersection.

Attorney Corsini stated that the rationale would be the same, and perhaps the school did not make the list, however, it is not a fatal error.

Mr. McDonough stated that if the school is further down on Brooks, it would have a lesser impact. He also stated that the idea of the Ordinance is antiquated because of modern technology and regulations.

Rudy Nowak stated that the railroad tracks adjacent to the site services crude and refined fuel in tankers, and asked if that was a concern.

Attorney Corsini cautioned Mr. Nowak on his point stating it was too much of an extrapolation on that point. He stated there are many scenarios that can be derived, however, he recommended being cautious.

Mr. McDonough stated that the project will meet and exceed fire code regulations, which supersedes the rationale for the 1,500 feet. He stated that it has been established that the project will not cause excessive noise, glare, or traffic. He stated there will be no distraction to students.

Chairman Kelman opened the public portion for questions to Mr. McDonough.

Maureen Taylor, 260 North 6th Avenue - asked what measure will be taken to minimize the contamination of ground water and residents.

Mr. Seckler stated that all environmental regulations will be complied with.

Attorney Corsini stated that the remedies would be in accordance with State and Federal Law.

Mr. Wyciskala noted the safety features and spill monitors that were previously discussed.

Mrs. Taylor asked about a spill at another facility.

Mr. Wyciskala stated he did not have knowledge of the spill.

Attorney Corsini stated that the incident would be hearsay without further evidence.

Mrs. Taylor asked about the inconsistencies of the lighting on the map.

Mr. McDonough stated that it is a design waiver and not a variance. He stated that it has to be reasonable relief. He stated it is subject to a much lower standard. He stated that it is a reasonable level of relief at 1.6 in an area where it will enhance safety at an ingress/egress point, without substantial impact on the adjacent properties.

Attorney Corsini and Chairman Kelman stated that the questions regarding the maps should have been addressed to the Engineer.

Mr. Seckler stated that the relief is reasonable and he does not see any inconsistencies or inaccuracies in the lighting plan.

Mrs. Taylor asked about the 1,500 feet from the school, which was in the Zone 1 of death for explosions. She asked if the LukOil property is zoned as a gas station, and if a variance is needed for that property as well.

Mr. McDonough stated he cannot attest to the legality of that. He stated that he knows it is closed and an inoperable facility, however, he is not aware of the status of the station. He also stated that to the extent that another variance would be required, it is the same rationale in that there will not be any impact from a traffic standpoint, and an impact to the business is not a reason for denial. He reiterated the opportunity for choice of the consumer and benefit to the public. He stated this will be a larger, more spacious site and easier to navigate.

A discussion was held regarding the status of the LukOil station, and Attorney Corsini asked that the Engineer look at it between now and the next meeting.

Mr. McDonough stated that because of the size of Main Street, the 1,500 cannot be avoided. He stated that to imply that this applicant can move down the road would cause the same variance.

Tony Manna, 265 North Main Street - stated he is the owner of the station, and LukOil is still under contract with him. He stated that they had a contamination problem there and are in the process of cleaning it up. He stated that they are waiting to be released by the State.

John Gluch, 710 South Main Street - commented regarding the safety features noted by the experts, and asked about human area. He mentioned the chaos that will be created by the additional traffic.

Mr. McDonough stated that he would not clarify it as chaos, but an organized and well-balanced site plan. He commented that they do the best they can as Planners to design safely and efficiency, however, it is difficult to prevent human error or accidents.

Dean Shepard, P.O. Box 222 - asked why the operation will be open 24 hours. He stated that he owns the property next door to Quick Chek and there are problems overnight.

Mr. McDonough answered his question stating that it is the nature of the use for convenience to be available to the public. He stated that many shift workers work during the night, and it can be a place of refuge to someone who breaks down during the night.

Mr. Shepard stated it was a "two-edged sword" and asked about the noise of deliveries. He stated that at his request, the Board put restrictions on the Quick Chek, however, they do not adhere to it and he lost a lot of tenants because of the noise during deliveries a night. He asked if there was an absolute necessity, and asked if there would be restricted hours for deliveries.

Mr. Wyciskala stated he is not familiar with deliveries at Quick Chek, and he stated that they have box trucks making deliveries. He stated that they are sensitive to dumpster pickups and can regulate those pickups.

Attorney Corsini confirmed with Mr. Wyciskala that the Engineer was standing as the operational witness, and he informed Mr. Shepard.

Mr. Shepard commented to Mr. McDonough that he gave a nice presentation, however, he asked if eliminating the one pump would make the ingress and egress easier.

Mr. McDonough said it would not. He stated that the trucks have a certain turning radius around the pumps, and would use the same exterior circle regardless of the number of pumps.

Mr. McDonough also commented on loitering and said that he doesn't think it will be an issue with the Police Station across the street.

Mr. Wyciskala stated that Royal Farms does not tolerate loitering.

Mr. Shepard asked the length of the building.

Mr. McDonough stated that the building length was 98.5 feet.

Mr. Shepard also asked, from a planning standpoint, if it was taken into consideration that Quick Chek customers will also be exiting onto Brooks Boulevard.

Mr. McDonough stated that the Traffic Engineer testified that this is the optimum design.

Mr. Shepard also commented that North 1st Avenue is already a problem, in that drivers use it to avoid Main Street. He commented that when Main Street becomes one lane, it will become even busier. He asked if that was taken into consideration during planning.

Mr. McDonough stated that traffic volumes are not fatal to an application, and he stated that the Traffic Engineer does not foresee any problems. He stated that the County is doing the right thing with the road project and the lowering of the speed limit, and he feels it will make Main Street safer.

Maria Janucik, 720 East Frech Avenue - asked if the view depicted in the drawing was the view that will be seen on Main Street, and if there was any obstruction to the view. She also asked for the location of the pumps.

Mr. McDonough stated that it was the view from Main Street, there would be no obstruction, and that the pumps will be in front of the main building.

Mr. Wyciskala stated that all the plans are on file with the Borough.

When no one else in the public had questions for the witness, and noted the time was 11:05 p.m., he asked Attorney Corsini to make a statement as to what is still needed for this application.

Attorney Corsini stated that they had discussed cutting off the meeting at 11:00 p.m., and normally they would take comments on the project at this point, however it is late for that. He asked Mr. Wyciskala if he would agree to continue the matter without notice for public comment. He also stated that Engineer Schrek has some questions for the County, so it will give us the opportunity to get that information. He suggested

continuing the matter to the May meeting, and the public can come back to make comment as required under the statute.

Attorney Corsini also suggested that the final application of the evening be carried to the May meeting without re-notice.

Mr. Wyciskala stated that they have no more witnesses to call.

Chairman Kelman stated that the applications will be carried to the May 2nd meeting beginning at 6:30 in this location. He stated that anyone with comments to the Royal Farm application should appear at that time, and the third application on the Agenda will also be heard on May 2nd.

Attorney Corsini reiterated that no further notice will be required for either application. He thanked Royal Farms for their patience.

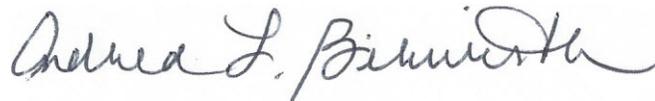
Mr. Wyciskala thanked the Board for allowing them the extra time this evening.

Chairman Kelman requested a motion to adjourn the meeting.

Joe Barilla, seconded by Jim Powers, made a motion to adjourn the meeting.

All present were in favor.

The meeting was adjourned at approximately 11:08 p.m.

A handwritten signature in cursive script, reading "Andrea L. Bierwirth".

ATTEST: Andrea L. Bierwirth, Acting Secretary