

REGULAR MEETING OF THE PLANNING BOARD OF THE BOROUGH OF KENILWORTH HELD ON THURSDAY EVENING, NOVEMBER 12, 2020. CHAIRMAN RICH PICERNO PRESIDED.

The meeting began with an affirmation of the Open Public Meetings Act. The schedule of meetings is on file in the Borough Clerks' office, was posted on the bulletin board, and has been mailed to the Local Source, and the Star Ledger.

Pledge of Allegiance was led by Chairman Picerno.

ROLL CALL

Mr. Picerno, Mr. David, Mr. Grimaldi, Mr. Mazzeo, Mr. Pantina, Mr. Calello, Mr. Scuderi, Mr. Herbolario, Mr. Zacharczyk. Mr. McMahon was excused. Also present were Planning Board Attorney Mr. Lou Rago and Christian Cueto, Borough Engineer. Mr. O'Brien was present via speaker phone.

Mr. Picerno advised that our Planner, Kevin O'Brien is talking to us via telephone, he can hear everything please speak clearly.

Mr. Picerno said we are going to go out of order on the agenda and we are going to hear Application #5-20, Danielle & Suzanne Crincoli, 45 North 10th Street first and Application #383, 636 Boulevard second.

He asked that all parties associated with these two applications to please quarantine themselves outside and to social distance.

Approval of September 10, 2020 Meeting Minutes

Motion was made by Mr. Grimaldi, seconded by Mr. Scuderi to approve the minutes. All in favor.

Communications: None

Old Business: None

Resolution: Application #2-02
FDV Realty, LLC
207 North 15th Street
Block 33, 2.02

Mr. Rago said the Board heard this matter in September which involved the property on North 15th Street, it was denied, it was for a sub-division creating 2 undersized lots and the applicant wanted to put 2. They wanted to put a two-family house on each lot. The Board denied it and this resolution is memorializing that finding. He said a yes vote to deny the application and then a vote to approve the memorialization. We already denied it, so we are just approving the memorialization of the resolution.

Motion was made by Mr. Grimaldi, seconded by Mr. Pantina, to approve a Resolution denying Application #2-02, FDV Realty, LLC, 207 North 15th Street, Block 33, 2.02. Roll Call: Mr. Picerno voted yes, Mr. David voted yes, Mr. Grimaldi voted yes, Mr. Pantina voted yes, Mr. Mazzeo voted yes, Mr. Calello voted yes, Mr. Scuderi voted yes .

New Business: **Application #5-20**
 Danielle & Suzanne Crincoli
 45 North 10th Street
 Block 75, Lot 8

Mr. Grimaldi recused himself from this application as he got noticed for this property.

Suzanne Crincoli was sworn in by Mr. Rago.

Mrs. Crincoli said her husband and herself are the applicants and have lived in Kenilworth for about 10 years and they want to stay in town because it is a great place to raise a family. Their current home is a standard cape as are many in town, they want to expand and get some more square footage. She said their architect can speak to any of the particulars.

Frank Troia was sworn in by Mr. Rago.

Frank Troia said he graduated from New Jersey Institute of New Jersey with a degree in Bachelor of Architecture and he works for Plan Architecture and has been there since 2014. He is a Project Architect and is currently licensed and in good standing in the State of New Jersey

Mr. Troia said the applicants have lived in this house for about 10 years and they want to stay there because they like the area. He said when we designed this house, we knew we were dealing with a couple of pre-existing conditions like the side yard setbacks and having an undersized lot. You can see on the right side of the sheet we added a two-story addition to the rear to comply with the setbacks on the left side. On the right side, since it was so minimally over the set-back we decided to just align the right walls because it was more economical and made more esthetic sense. We are also here because we are requesting to add a front covered portico to the existing dwelling, this is requiring us to ask for a front yard variance. What we are proposing is a modest front stoop with steps that are covered. On the next sheet I will walk you through the existing floor plans. He will start at the bottom left of the sheet where you enter into the house. He said right now there is an existing stoop, it is not very large, it is only about 3 ft. at the top and then you have the steps. When you enter into the house it is a typical center hall cape with the living room, dining room on both sides of the stairs and the kitchen in the rear along with the bedroom. There is a one car garage that is attached to the house but there is no direct access from the garage into the house. The second floor is typical of a cape, there are two bedrooms up there now that are dormered out for head height, the bedrooms are fairly small in size and they do not have a lot of closet space when you count the roof coming up in the back that limits your head height. On the existing dwelling you can see where the front porch is, you can see the dormer along the top, this is the existing house we are working with. The next sheet is what we are proposing which is a covered front porch, for only 5 ft. which is pretty standard in size, enough room to get up there and receive a person or package and to have a nice little landing to enter your house. We are proposing to shift the stairs so they are off to the left, to the right will be a nice size dining room where the family entertains a lot and has a lot of people over, that will connect to the kitchen through a pantry and butler's pantry and into the kitchen you will have an open floor plan that goes across the whole rear of the house where you can see through to the great room, off of that we are proposing a covered rear terrace, none of which was described requires a variance outside of the front portico. You can see on the plans where we are stepping the new addition in to comply with the setbacks on the left side and on the right side you can see where we align the existing walls. On the second floor, for the most part the house is staying and remaining the same

REGULAR MEETING OF THE PLANNING BOARD OF THE BOROUGH OF KENILWORTH HELD ON THURSDAY EVENING, NOVEMBER 12, 2020. CHAIRMAN RICH PICERNO PRESIDED.

bedroom count, we are not adding bedrooms, all we are doing is removing a bedroom from the first floor and we are adding it to the second floor with a nice master suite as well as making the existing two bedrooms in the front slightly larger with more closet space and more adaptable for modern living today, not 40 years ago. We are proposing to renovate the bathroom and add a laundry room to the second floor, and we will have the master suite which will have its own private bathroom, walk in closet and a rear terrace that is over the terrace below. The next sheet is the proposed front elevation, we are proposing to extend the house out to meet the existing first floor and also we are introducing two bay windows on the front for esthetic details as well as a gabled roof in the proposed roof line. We are matching all these pitches with the front covered portico and for the steps we will propose a brick veneer along the bottom with siding along the rest of the house. On the next sheet is the proposed right-side elevation, we are also showing a dash line which represents the existing outline of this elevation. You can see exactly where the existing house starts and where we are proposing to add the addition. You can also see that we are going up in height, but we are compliant with the municipal building height. Next is the left-side elevation and again you can see where the existing house was and you can see the line of where we are adding back, this is the portion where we started to step the addition back to comply with the setbacks. You can see the covered terrace and the walk out terrace from the master suite. Then you see the rear elevation, again we introduced gables to add some relief to the façade, so it is not a flat façade, again we are using lap siding, trim and a brick veneer on the base of the house. Next are some conceptual photo rendering of the house, the front view is a little more detailed than the elevations were, a little more picturesque. You can see what we are proposing is modest, it fits in well with the surrounding neighborhood. For the most part we tried to comply as best we can with all the town regulations. Now we have a view from the front right and you can see where the bump-outs are over the garage and over the other windows and you can see the front porch, it really doesn't jut out that much because we disguised it with another roof that runs across in-between the bays. Next is the rear of the house with the terrace which show a couple of more views of the front and you can see where we did the bump outs and you can see it is a very minimal visual projection for the front portico where we are trying to not make it look like we are really encroaching on the front yard setback so it does not appear to be a detriment to the surrounding neighborhood. The last slide shows a few other homes in the immediate area that have a similar addition to what we are proposing. He cannot testify for sure that they are all within or over their set-backs but when he looked at it via Google maps you can see that for the most part all the houses on the street are in line so he can only assume that if they are in line with our house and they are proposing a similar front portico that they were over their set-backs. We are conformed with the surrounding context of the existing neighborhood.

Mr. Picerno thanked Mr. Grimaldi for putting the plans up on the screen. He said to Mr. Troia that there is nothing better than someone who is prepared. Your plan and presentation makes his job and the Boards job a lot easier, that does not mean you are approved, it means he likes what he sees. He asked that on the left hand side of the dwelling you have made sure that you gave us the proper set-back by pushing it back and you achieved the set-back, on the right hand side you said you were a little bit over but you stayed streamlined to conform? He asked what are you over by? Mr. Troia said about 2 inches. Mr. Picerno said so in order to keep a streamline with the house, you didn't have that ugly bump back, you just kept it.

Nick Pantina said it is a pretty good design.....unintelligible.....too far from mike. Mr. Troia said we are 20 something feet.....he forgets the exact, but it is on the title sheet. The existing stoop did encroach on the front set-back but per the ordinance that is allowed once we had the roof over it.

REGULAR MEETING OF THE PLANNING BOARD OF THE BOROUGH OF KENILWORTH HELD ON THURSDAY EVENING, NOVEMBER 12, 2020. CHAIRMAN RICH PICERNO PRESIDED.

Mr. Mazzeo said you did not talk about the other bulk variance as far as coverage. Mr. Troia said if we can please go back to the first sheet on the top right. He ran through the zoning chart which showed a column with all the existing and the proposed. The only variance that they are creating here is the front yard, the others are existing non-conforming setbacks. As far as the coverages go, what we are proposing does comply by a good amount. As far as building coverage goes, we are 42% where 50% is required and max lot coverage where 55 ½ is required and we are 75% required and for FAR we are .59 where .75 is required so we are well under all the coverages in regards to coverages and it is only the front set-back that we are creating a variance.

Mr. David said the existing dwelling from a front yard set-back is showing a 25.33.....is the new façade,it looks like that is going to be a 23 ft. so then the porch is going to extend from 23 into the set-back.....or is he misreading that? Mr. Troia said it must be misread and he asked Mr. Grimaldi to please zoom in on the proposed site plan. They are maintained by the existing front wall on the first floor. Mr. David asked if he knew how far the stoop currently extends into the set-back? Mr. Troia said the stoop itself is 3 ft. and then the 3 steps, 12" per step so another 3 feet. Mr. David asked if the front façade is staying exactly the same? Mr. Troia said you can see the existing was 25.33 ft. set-back to the house and we are proposing the 5 ft. stoop where it is covered, we are not counting the steps because that's not covered. Mr. David said what confused him was the 23 ft. for the overhang.

Mr. O'Brien and Mr. Cueto were sworn in by Mr. Rago.

Mr. Cueto asked if MR. Troia was in receipt of his letter dated November 5th? He said on page 2, items 3&4, the applicant is proposing to increase the impervious coverage by approximately by 900 sq. ft. and that will create more run-off for the site. Does the applicant have any issues with putting some sort of pitch for a drainage system? Mr. Troia said we will either have an engineer get involved, depending on what the town requires, or we will design a seepage pit ourselves and we will account for the addition and the existing house. Mr. Cueto asked if that would include soil logs and Mr. Troia said yes. Mr. Cueto asked on #4, the applicant will do a grading permit for any run-off? Mr. Troia said yes.

Mr. O'Brien said his only comment is he did not hear the applicant talk about the appearance of this portico compared to the other front porches on the street, he does not know if the Board wants to hear that kind of testimony or not but that might be helpful in evaluating the variance. Mr. Troia showed existing dwelling on the street. The existing properties that they showed have the same similar style, they have a gable and a shed roof that kind of runs across in between bays, they have white azek trim, they have two columns, one on each side flanking the stairs and they all seem to be in the same similar size as the one we are proposing, nothing extravagant, just enough to have a nice receiving area. The number of steps vary because each site varies. The next sheet shows that in accordance to what is existing, you can see we have a similar gable, white azek trim to decorate it, azek wrap columns on both sides and again a 5 ft porch with steps and railings on both sides, white railings to match whatever we are going to do in the rear as well. In our opinion it does match the existing homes.

Mr. Picerno asked if the roof line is a shingled roof like the main house or is it a standing seam? Mr. Troia said it is going to be a shingled roof. We might look into it once we get into further development and make it a standing seam but at least at the minimum it would be shingled, not flat UPDN roofing or anything industrial looking.

REGULAR MEETING OF THE PLANNING BOARD OF THE BOROUGH OF KENILWORTH HELD ON THURSDAY EVENING, NOVEMBER 12, 2020. CHAIRMAN RICH PICERNO PRESIDED.

Motion was made by Mr. Scuderi, seconded by Mr. David to open the hearing on Application #5-20. All in favor.

No one wished to speak.

Motion was made by Mr. Scuderi, seconded by Mr. Calello to close the hearing on Application #5-20. All in favor.

Mr. Picerno said we have a house here that is tastefully done. The house looks to him like it is conforming to everything that is going on at their block. He thinks it is very pleasing to the eye. We can't even say put a plant here.....he thinks they covered it. That is his opinion.

Mr. Scuderi said he drove the street prior to coming here tonight and it does meet some of the other houses on the block. He said it conforms very well with the area.

Mr. Mazzeo said it would be one thing if he took the whole front and bumped it out 5 ft. with a porch across the front.....he thinks the way he buried the portico in there it is very unassuming and he thinks the variance is a non-issue in his eyes.

Mr. Rago said if the Board does approve, it would have our normal conditions and he would reference our planners and engineers reports.

Motion was made by Mr. Pantina, seconded Mr. Mazzeo to approve Application #5-20, Danielle & SuZanne Crincoli, 45 North 10th Street, Kenilworth Block 75, Lot 8 with the conditions set forth that Mr. Rago just said regarding the Planners report and the engineers report. Roll Call: Mr. Picerno voted yes, Mr. David voted yes, Mr. Pantina voted yes, Mr. Mazzeo voted yes, Mr. Calello voted yes, Mr. Scuderi voted yes, Mr. Herbolario voted yes, Mr. Zacharczyk voted yes.

New Business: Application #383
 636 Boulevard, LLC
 636 Boulevard
 Block 86, Lot 11

Mr. Garry Goodman, Esq. appeared on behalf of the applicant 636 Boulevard, LLC. The principal is Bwani Singh who is the owner of this company. This is an application regarding the former Sunoco station at 636 Boulevard. Mr. Singh has purchased the station and wishes to operate it in the same manner as it was operated before, as a two-pump gas station with repair bays. The history of this purchase, when he went to contract, we were supposed to purchase a functioning gas station, however Sunoco, through their attorney in Texas, insisted, due to the way the New Jersey DEP operated, they wanted to remove the tanks and therefore make sure there would be no environmental ramifications coming back towards Sunoco. The contract was modified to allow the tanks to be removed which have been removed and Mr. Singh is now before you for what we believe is site plan approval to install new tanks and operate it as a two pump gas station with repair bays in the same manner that Sunoco operated only this gas station will be operated under the independent name of Express Fuel. Mr. Singh operates a number of gas stations like this in Manville, Hillside, Somerville and this would simply be an extension of that group. Obviously, the station is in some degree of disrepair in the sense that it does need to be cleaned up. Mr. Singh is preparing to paint it and resurface the parking area and put in the arborvitaes along the rear area. Also,

REGULAR MEETING OF THE PLANNING BOARD OF THE BOROUGH OF KENILWORTH HELD ON THURSDAY EVENING, NOVEMBER 12, 2020. CHAIRMAN RICH PICERNO PRESIDED.

pursuant to the Engineers report mandate that he will make sure that they are taken care of for the year at least. There will be no lighting in the back, he received a call from one of the neighbors in the rear and told her about the plantings as well as the fact that there would be rear lighting as there has not been rear lighting. In reading the memorandum of Mr. O'Brien, he makes mention of what he calls some variances on parking, tandem parking and the lack of 11 spaces, we are 1 short. He pointed out that there is nothing changed from the Sunoco site, the only difference here is that we are codifying the way the parking will look. When Sunoco operated it, he believes if not Sunoco there was a gas station there for 60 years and Sunoco was simply the last operator there. Tonight, we have Ed Dec, their engineer, who will walk through the site plan and also we have Mr. Singh, the operator who will confirm that which he has told you with regard to what this application is about. There were questions as to the hours, it was pointed out by Mr. O'Brien in his memo that between 11PM and 6AM there will be no operation and with regard to employees, Mr. Singh plans to have 1 employee on site with two 8 hour shifts but only one employee pumping gas and one mechanic in the repair area. The way cars will work is the tandem cars parking would be for automobiles that are going to be worked on and employees. The idea that cars would have to be constantly jockeyed about, it would only be for an 8 hour employee or a car that needs to be moved into the bay.

Mr. Rago said he has read the application and looked at the plans and reports and his gut feeling is that there are more moving parts here to this application than may meet the eye. He said he knows this gas station is, from what he understands, a permitted conditional use in the zone, he understands that certain conditions have not or cannot be met. The reports indicate that those deficiencies are pre-existing which in the Land Use world has a specific meaning, pre-existing use. He does not know when the station was constructed, what the zone was, when it was constructed if it was truly pre-existing non-conforming use which may have impact. When the zone changed, how long it has been vacant. What he wants to suggest is that during your testimony you cover that because he is not sure sitting here now since we are a land use board we wear a planning board hat and we also wear a zoning board hat and there is different criteria depending on how we are sitting and what we are sitting on whether it's a use variance, whether it's a D1,2 or 3 or whether it's strictly a site plan with dimensionals. That will probably unfold itself, so what he wants to suggest since, if we were hearing this clearly as a Board of Adjustment with a D variance the Class I member who is the Mayor or the Mayor's designee, he does not know if either is here tonight, he knows the Mayor is not and the Class III member, Mr. DeMondo, if he is here, as of now do not participate in this application because if it is a Use Variance, by law Class I and Class III do not participate in this. He said if you are here please do not participate, you can take notes, whatever you want to do but just don't engage. That Planning Board Secretary said neither the Mayor or her designee or the council representative for the Planning Board Louis DeMondo are here tonight. Mr. Raga said then we do not have to go any further. Part of what he is going to be listening to is what Board you should be in front of, it is this Board but what hat we will be wearing and that depends on a number of technical things he needs to hear.

Mr. Goodman said in response to a number of things that Mr. Rago said, his discussions with Mr. O'Brien focused on the issue of whether the use had been abandoned. It has only been a matter of couple of months since Sunoco was in operation and at the same time within a couple of weeks of Sunoco taking out the tanks, Mr. Singh had an application in to put in new tanks. We were in contract for the purchase of the Sunoco station as Sunoco was in operation. As he indicated before, the initial contract was for a kind of a seamless transition where they took their brand, utilized their pumps and their tanks and simply went to an unbranded gasoline. It was only subsequent to the actual signing of the contract that there was a modification on the part of the Sunoco people and their insistence that they remove their tanks. He would submit that there has never been an abandonment of the gas station use. Therefore, we stand here tonight simply looking for site plan approval to continue the use that has not been abandoned.

REGULAR MEETING OF THE PLANNING BOARD OF THE BOROUGH OF KENILWORTH HELD ON THURSDAY EVENING, NOVEMBER 12, 2020. CHAIRMAN RICH PICERNO PRESIDED.

Kevin O'Brien said he considered the abandonment question as part of his review of the application as both the Zoning Officer and Planning Board and he did not mention it in either of his reports because he did not consider any abandonment to occur because, as Counsel points out the intent was always to maintain the gas station. Mr. Rago said that is only part of what he raised but he said he appreciated that.

Mr. Ed Dec was sworn in by Mr. Rago.

Mr. Dec said he has appeared before this Board many times as a licensed engineer and a licensed professional land surveyor and his license is intact.

Mr. Goodman said Mr. Dec has been retained by Mr. Singh to draw up the site plan for the gas station and he asked Mr. Dec to explain to the Board the pre-existing conditions and how the gas station plays out.

Mr. Dec said on the screen is Sheet 2 of 3 and is the existing condition plan and it is an actual representation of the site prior to the pumps being removed, he left the location of the pumps in that area and the centerpiece is now out but the remainder of the broken concrete is still there. The tanks were in the marked area and have been removed, there is stone there now. The entrance ways are designated and shown by the solid black line, there are two exits and two entrances on Michigan Avenue and two Kenilworth Boulevard. The parking as it was, in a haphazard way, but what he did was show what could be if there were cars on the site and that was pretty much the way it was arranged just from observing the gas station when it was in use. The existing structure has a small office in the front right-hand corner of the building and the remainder of the building has two automobile repairs bays. The pumps are where they were but they had no canopy. There are lights existing one in the upper northeast part of the property, it is a stanchion type light that is directed toward this area of the property, none of the light is projected towards the rear of the property line or the rear of the building. There is another light in the righthand southeast corner and that is projected toward the building itself. The third light is in the southwest corner and that is projected toward the building and the parking area.....not the parking area but the pump area. The four entrance ways, there is no designation as to the turning movements coming in and out of the site. The two on Michigan Avenue are quite large, the two on the Boulevard are a little bit smaller, the dimensions are shown on the plans. The building is a one-story masonry. In the back there is an existing 6 ft. high vinyl fence and a wood fence that belongs to both property owners behind us. A guide rail protects the building to our west and also a guide rail as you come into the property along the bottom. There are a couple of trees in the back which will remain, three of them. On the southeast corner a pilon sign stanchion, the sign was removed and also another type of pole stanchion which had two digital LED type signs which displayed the cost of the different fuels for sale. Mr. Dec pointed to two signs, plain placard type signs, not illuminated internally just a sign for Sunoco.

Mr. Dec said he will address some of the comments made by both the Board Planner and the Board Engineer on the proposed condition plan. The plans shown are what they proposed as far as what is going to be done to the site and how we can also address landscaping and parking. The pumps will be replaced in the exact same location as what was there prior to them being removed. It will also have a canopy 24 x 36 which covers the existing concrete area and that is the intent of what the canopy is supposed to do, is to provide a shelter for both the cars and for the people working the pumps. There is also a small little kiosk that is going to be placed in the middle between the two pumps which is 4 x 8. Also will be illuminated from under projecting light down, not in any horizontal direction, just vertically down. The tanks that were there were three 8,000 gallon tanks and are now being replaced by two 12,000 gallon tanks. The total amount of volume is the same, it is just in a different configuration, 8,000 and 4,000 in

REGULAR MEETING OF THE PLANNING BOARD OF THE BOROUGH OF KENILWORTH HELD ON THURSDAY EVENING, NOVEMBER 12, 2020. CHAIRMAN RICH PICERNO PRESIDED.

each tank, one will have regular and high test and the other is also regular and diesel, that is the replacement. On the existing plan there is a trash enclosure area in the back of the building and that will remain, we are not proposing any dumpsters. The private pick-up, someone will come in at a designated hour, morning or late at night and pick-up trash at whatever the interval determined by the amount of trash that accumulates and it would be on a regular basis, whether it be twice or three times a week. The lighting will be re-utilized at the three corners. The signs will be re-utilized as they were prior to the removal of the signs. The square footage of the signs will remain the same. He showed a picture, to be submitted as evidence of what those signs look like so that would not change, they are taken down now and those signs will be replaced. The entire site will be refurbished/repainted, making it look new by scraping off the old paint and putting new paint. There was a boarder feature along the top of the building that has the Sunoco blue painting, the applicant is proposing to utilize that same area for his signage. All signs will meet the standards of the Municipality as far as the amount of signs on the building and the square footage of the signs, the amount of signs on the property and the square foot of the signs, we do not intend to do anything that would not meet the current municipal code for sign location and sizes. Mr. Dec gave picture of the site to the Board Members so they can see what he was speaking about as far as what the signs look like. Mr. Rago said mark that A1, he asked if the rendering was prepared by him and Mr. Dec said yes. He said it is a previous rendition. A1 was passed around to all planning board members.

Mr. Dec asked that the displays of the design of pumps and canopy from the manufacturer be shown. He said as you can see, the configuration of how the pumps will be connected to the tanks and there are details on how they will be protected under ground and that is like the protection on either side of the tank that is placed. The next picture showed how the tanks will be placed underground and the access points in the pavement are shown. The next picture shows the plan view of the canopy, it doesn't really have much information on it other than the size of it which is 36 x 24. The next picture showed the view of what that canopy would look like from a pedestrian view, he believes it is 14' 6 and the canopy is 3 ft. tall. Mr. Dec said 14 ft. from the ground to the bottom of the canopy, again the lights will be inside of the canopy itself and we are not proposing any kind of, other than the painting of the canopy is, the finish of the canopy, they are not intending to put any kind of.....Mr. Grimaldi said no branding and Mr. Dec said no branding.

Mr. Dec said when it comes to the tanks and all the installation procedures that are done, Mr. Singh will be required to receive permits from the NJDEP for clean air and there are probably about 4 or 5 different categories that have to be met, he will be required to do that.

Mr. Dec started with the Board Engineers letter dated November 5th. Under Site Plan #2, it says site plan federal and state permits guidelines in accordance with all those which we intend to do and if there are further questions, Mr. Singh can address those. Ten parking spaces are proposed, 11 are required, we would be looking for that deficit as a variance in the number of parking required, however as Mr. Goodman said there is going to be only one pump operator and one mechanic. Other than people visiting the site, to drop cars off or maybe to speak to someone, the intent for the use of those stalls we do not feel are going to be there and we feel that we have more than enough sufficient parking with 10 spaces. On Sheet 3, the way we have the parking laid out is pretty much similar to what was there before, we had head on parking against the building on the east side of the building. The engineer pointed out that the stall is 8' with a 5' ft. access path for one stall they have to be handicapped accessible so it has to be 11 ft. or a total of 16 so we would just extend that dashed area closer toward the Boulevard, it would be an unoccupied area so he would be able to fit that in there. It would be a matter of an additional 3 ft. so we would be able to make that work. We have parking tandem, as also pointed out in the engineer's review letter, that tandem is not allowed in the parking configuration in the Borough ordinance. However that is

REGULAR MEETING OF THE PLANNING BOARD OF THE BOROUGH OF KENILWORTH HELD ON THURSDAY EVENING, NOVEMBER 12, 2020. CHAIRMAN RICH PICERNO PRESIDED.

not going to be used for pedestrian parking, it is going to be used for employee parking and for cars that are waiting to be worked on and waiting for parts that aren't there yet, it is not used for pedestrian traffic use, it will be for employees and the cars that are temporarily on site to be worked on. The refuge area is existing and they will utilize that area and will have access to it at different hours of the day that would be coordinated with the owner of the property to make sure there is nothing blocking it but it would not be a dumpster where we have to have a truck that comes back to empty, it will be all trash receptacles enclosed in that area. The ADA, he just talked about that with comment #5. The sidewalk area along the front and the side, the Boulevard is a County road and he believes they will, although we have not received a response back from them as far as curb and sidewalk but the curb and sidewalk would have to be replaced. That is something that we are already considering that would have to be done. North Michigan is also a County road so we would be required to make whatever improvements the County is requiring, unless of course there is something the County doesn't but the Town requires then we would certainly be willing to make the replacements per the County and also per the municipal requirements, we have no issue with that. He said that would take care of #6 & #7. And we will provide the note on #6 as required in the review letter. As stated in the review letter, grading and storm management, nothing is changing, no further impervious coverage, everything is going to stay the same, grading is going to stay the same. There will be new pavement but that will be of the same grade. The intent of the applicant is to make this a very nice new looking location as opposed to what is there presently. The Fire Official, the applicant has told him and will testify to that, that he will receive all the necessary required permits from both the State and from the local authorities as far as fire and construction department for the improvements. Landscaping and lighting he briefly went over that earlier, we are proposing 20 arborvitaes to act as a natural type of fence or barrier but also as more of a sound barrier for the people that live directly behind the site. There is quite a good distance between the paved area and the property line so we do provide a pretty decent buffer along that area in the rear.

Mr. Picerno asked Mr. Dec to go back to the planting, he missed that part, #13. Mr. Dec said as far as the landscaping lighting in number 13, we are proposing the 20 arborvitaes along the rear and that will act as a screen or natural fence and also a sound barrier. We have a fairly decent separation between the pavement and the rear property lines so we are providing both the screening with the arborvitaes sound buffer, distance separation and also the adjoining property owners 6 ft. high vinyl fence. Also there is no lighting in the case, we feel they are going to not be impacted by any of the proposed use of the site.

Mr. Cueto said he wrote this letter before he spoke with Mr. Goodman regarding his comments regarding #2 for the Federal and State approvals, Mr. Goodman told him they did remove the tanks this year and he did confirm with Ellen today that they did and Mr. Dec said that any other DEP approvals he will meet. Mr. Cueto recommends that any of those permits be submitted to the Borough upon receipt. He said based on the previous use, 2 garage bays and it looks like a little shop next to it and he is wondering if it is still going to be a shop or an office for the workers. Mr. Dec said there are two bays that go from the front of the building to the back, there is a little storage room there for supplies and parts and the other area will be used as an office. Mr. Cueto said OK. Mr. Cueto asked if they are going to resurface all the asphalt areas? Mr. Dec said that is correct, new pavement will be placed. It is fairly broken up now because of the removal of the pumps and tanks, he is proposing to repave the entire parking lot. Mr. Cueto said the signs that show the cost of the gasoline, they were on a previous light bulk.....that is going to be done again or is it going to be put on the sign? Mr. Dec said because the signs were existing, we intend to utilize the fact that we are going to use the same types of signs, there will be a different name on the sign, where it said Sunoco, it will have the same square footage as the Sunoco sign was or, if it exceeds the Townships square footage, we will make sure that we don't exceed the square footage of that sign. Mr. Picerno asked if the signs and poles have been taken down? Mr. Dec said the poles are

REGULAR MEETING OF THE PLANNING BOARD OF THE BOROUGH OF KENILWORTH HELD ON THURSDAY EVENING, NOVEMBER 12, 2020. CHAIRMAN RICH PICERNO PRESIDED.

there and the signs are down. Mr. Dec said next to the pylon sign where the Sunoco sign was, there were two signs luminated, digital, LED or signs that give you the cost of the price per gallon and he intends to use those. He said also there is a sign along the face of the building along the top of the building, it was colored like the Sunoco blue and yellow, it is going to be painted and there was a sign there, the ordinance reads that you are allowed one sign at the front of the building with a certain square footage and that is what the applicant will do. We are not asking for any new signs or any variances for new signs. If there is a sign that the applicant wants that is different, he would go into the town for a sign permit. If the sign meets all the requirements he would then do that, if not, he would ask for a variance, nothing basically is going to change from what we have now. Mr. Cueto said, just to confirm, there are still two lights on either corner and there is going to be light that comes from under the canopy as well. Mr. Dec said the three lights that the southwest and northeast are going to remain and we have the new canopy which has illumination projecting downward onto the pump area. Mr. Cueto said nothing on the building? Mr. Dec said nothing on the building, there are no internal lights on the building projecting to the outside. Mr. Picerno said just in the pump canopy. Mr. Cueto said #10, utilities, are you proposing any changes to the utilities? Mr. Dec said all the electric, gas and water are remaining the same. Mr. Cueto asked the applicant to submit a cost estimate and Mr. Dec said yes as part of the approval.

Mr. Dec said the review letter from the Board Planner dated November 9, 2020. Mr. Picerno said we have a November 9th for the Zoning Review and a November 10th for the Planning Report. Mr. Dec referred to the Planning Report of November 10th. He said for the purpose of the site design, he thinks these issues as far as the bulk variances go to the attorney. Mr. Dec went to the November 9th report because there are some comments from the Planner about the entrance and exit ways. He said on page 2 under A1, the fuel pumps and lubricating and other devices shall be located at least 25 ft. of the property line, that is certainly obvious on the plan, you can see that these areas meet that criteria, he is not sure what the distance is in the front but he thinks it does meet that, he guesses those pumps are less than 25 ft. from the property line but that is where they were and where they are being replaced, we do not meet that 25 ft. requirement. The canopy is only 8 ft. away. Mr. Rago asked does the canopy, which is a structure create another conditional use deficiency given the fact that it's 6 ft. away. Mr. Dec said not that he interpreted from the ordinance, he does not believe.....it's also in the Planners Report but that is something we could bring up to the Board Planner. He said italicized the pumps are 17 ft. +/- from the property line does not conform but is a pre-existing condition. All fuel, oil, gasoline or similar substances shall be stored underground at least 12 ft. from any and all property lines, that we certainly conform to. Item #3 Mr. Dec stated they have no outside permanent storage, there will be temporary storage if the vehicle is in need of repair, no other storage will be outside other than the trash receptacle, no parts storage, no abandoned car storage, no supply storage, other than temporary parking of vehicles that are being worked on. Mr. Picerno said he wants to make sure there are not tires, tire displays, hubcaps none of that kind of thing going outside. Mr. Dec said that is correct and it is his understanding with the applicant but he thinks it should be placed in the approval resolution. That was what was discussed and what the applicant has expressed to him. Mr. Rago asked if the automobiles will be stored behind the solid screen fence no less than 6 ft. in height? Mr. Dec asked what one was that? Mr. Rago said A3, at the bottom of page of Mr. O'Brien's report. Mr. Dec said all of the accessories will be stored within the building, nothing is proposed other than the trash enclosure which is masonry is going to be outside, there is no storage of any equipment. Mr. Rago said there will be temporary cars parked, will they be parked at night? Mr. Goodman said, as he read it, it said all dismantled automobiles and similar equipment and parts shall be stored behind the solid green fence, if a vehicle is not dismantled but simply waiting to go into the bay, he did not read it as having to be behind the screen. Mr. Rago said if a car is waiting with no fender, one could argue, it is dismantled. Mr. Picerno said this is a mechanic shop, not an autobody shop so a car that doesn't have a fender that came into the shop without the fender, they are not putting a

REGULAR MEETING OF THE PLANNING BOARD OF THE BOROUGH OF KENILWORTH HELD ON THURSDAY EVENING, NOVEMBER 12, 2020. CHAIRMAN RICH PICERNO PRESIDED.

fender on.....so that would be very far and few between. Mr. Goodman said those are good questions that perhaps Mr. Singh, rather than an engineer and a lawyer should be answering. Mr. Dec said under page #4, adequate provision for disposal of trash and refuse left on the premise he discussed that earlier but also all motor waste oil materials will be inside of the structure itself and he believes there are other regulatory types of permits that need to be acquired to have that removed or stored and then removed from the site, for waste oil. #5 off street loading and unloading, other than the need to bring in auto parts for repair and supplies which would probably be from a small type vehicle, there is no reason to have any kind of large tractor trailer coming in and bringing in any kind of equipment or supplies for the use of the operation. Mr. Dec said he is trying to get to the section regarding two entranceways. Mr. Picerno said if you look at line item 4, and pardon his ignorance if he doesn't know who wrote these questions, it seems as though in Kevin's report he states, adequate receptacles shall be provided..... and in italicized it says interior receptacles will be provided.....Rich asked Kevin who answered that? Mr. Goodman said he did and Rich said so you are saying that interior receptacles will be provided for that and Mr. Goodman said yes. Mr. Dec said the location of loading areas, other than selling gasoline and probably cigarettes in the kiosk, there are no other sales in or from the site, particularly from existing structure of the building, that is only for repair of vehicles. Mr. Picerno said only cigarettes? Mr. Dec said whatever is from the kiosk itself. Mr. Picerno said usually it's cigarettes, oil, washer fluid.....is that what is going to happen? Mr. Dec said probably, maybe some washer fluid? Mr. Picerno said that is for Mr. Singh. Mr. Dec said within the station itself, nothing is proposed to be sold from within the station. Mr. Picerno said, Item #7, curbs shall be constructed so as to channelize all traffic to permitted curb cuts. There shall be no more than two curb cuts on any frontage. Mr. Dec said on the entrance way on Michigan Avenue, they exceed the allowable width opening on both of those driveway openings, Mr. Grimaldi said one is 40, one is 34 and Mr. Dec said, and Mr. O'Brien can correct him if he is wrong, he believes the allowable opening is 24 ft.? We would reduce the size of both openings on Michigan Avenue. Mr. Picerno said you just answered about one thousand of his questions, so you are going to reduce the size of this one and this one? Mr. Dec said yes and what we would also do which he believes was a concern of Mr. O'Brien and the Board Engineer is the way the egress points are utilized. We will put a No Left Hand Turn on the exit side of those two openings to prevent people from wanting to make a left turn across three lanes of traffic to get to the north bound side of Michigan Avenue. It will still be an ingress egress because we would want people to utilize both openings for the service area but we would restrict the turning movement on both of those locations. The ones on the Boulevard, one he believes is already 24 ft. closest to the intersection. We would like to keep those the way they are, he does not know what the County is going to say but if the Board feels that they have to be reduced in size, we would agree to that but we would like to keep them the way they are. Mr. Picerno said this curb cut really concerns him, 50/60 years ago when it was a Sunoco and we were a little bit more of a horse and carriage town, it did not have an impact as it does now. Coming off that intersection on North Michigan and the Boulevard, that is a congested area, would it be anywhere in your plan that you can conceive to say that you would eliminate that opening right there and have 3 means of entry and egress and utilize this space for more of a grassy area? On our busy times coming into this gateway, it is congested like crazy and people are flying through that area when people are trying to get across that street to the post office and dunkin donuts. Mr. Dec said you are absolutely right when you say that was put in 50/60 years ago and it probably worked very well then. The problem with closing that ingress point is that then they would, if travelling east to west direction and they wanted to go to the gas station, they would have to go in through that second opening and looking in an easterly direction once they finish their transaction then the only way out would be on North Michigan Avenue, go through the traffic light again and make a right. Mr. Picerno said he understands that, knowing this property very well and a couple of properties down, he remembers when there was another applicant before us with a property not too far away from this one that we were concerned about coming out of his autobody shop, crossing the mini mall without going out and around

REGULAR MEETING OF THE PLANNING BOARD OF THE BOROUGH OF KENILWORTH HELD ON THURSDAY EVENING, NOVEMBER 12, 2020. CHAIRMAN RICH PICERNO PRESIDED.

and he did say no problem, that is not going to happen but on any given Sunday, that is an accident waiting to happen. You see the influx of the people we now have in our town and we also have a whole litany of new things that are about to happen and he can't express enough how dangerous that drive is. He did not discuss this with our Board Members but he would like some feedback on that, we can talk about it later but when you come out of here, look how close that intersection is, they are cutting right into that turn lane and also it is a double solid line and you really should not be doing that, you should be going out, getting around but that is just whipping around. Mr. Grimaldi said he agrees that it should be egress only, he would actually rather see the other one on North Michigan be closed, the one closest to it but that one he thinks for ingress it is good, for egress it is horrible. He said maybe it could be reshaped with a barrier island so it is more directive so that it is inconvenient to go out of it. Mr. Picerno said it also can elongate the grassy area and we can have a little bit more pervious. Mr. Pantina said he agrees with what is going on here, he thinks coming up Michigan Avenue northbound especially if you have the left turn arrow, it is easier to go in that driveway when you go in the lot to get gas than to come around and make the turn, egress only, several places in the planning report .he thinks you should show turning movements in getting into the driveways from Michigan and the Boulevard and then that can control how wide the driveways have to be which they obviously have to be smaller because of our ordinance and then they can give further support to make that. He agrees with your comments but he thinks if you close that driveway you will have some.....Mr. Picerno said you are right, you see our concern but if it was a one way out or something like that, that is what we need to explore. Mr. Goodman asked if we were talking about an egress only and an exit only on that side. Mr. Picerno said he believes that is where we are going with it for now, it was just a thought process. Mr. Goodman said his client is OK with that, we make one of the curb cuts an ingress only and the other curb cut an exit only. Mr. Picerno said this is just a conversation right now, we still have to speak with the Board, they may think something else may have to happen here. Mr. Goodman said he is indicating the ability to try and work with you on that issue. Mr. Dec said he addressed lighting on the engineer's review letter, trash areas, storage areas.

Mr. O'Brien said he has no questions as Mr. Dec reviewed both his reports and he is satisfied with the responses.

Mr. Bhiwani Singh was sworn in by Mr. Rago.

Mr. Singh said he is the owner of the gas station site. Mr. Goodman said to Mr. Singh that he has heard testimony with regard to the hours you will operate and he asked Mr. Singh to confirm. Mr. Goodman said it is his understanding that from 11PM to 6AM it is not open. Mr. Singh confirmed he will have one employee at a time pumping gas and one repair man working the garage. Mr. Singh confirmed that there will be no cars in disrepair in the lot, everything will be repaired inside and he is not planning on doing any autobody work. He confirmed that the kiosk will sell cigarettes, windshield washer, oil, they will not have stock, just a few items. He confirmed there will not be tires or hubcaps or other materials on site. Mr. Singh confirmed in the interior of the building will be two repair bays and an office.

Mr. Grimaldi asked if the sales area will be limited to the kiosk and he guesses he may have windshield wiper fluid or things like that but that would be limited to the island? Mr. Goodman said to Mr. Singh, the inventory for windshield wiper fluid, if you have inventory it will be stored inside the building and Mr. Singh said yes, there will not be piles of boxes all over, the only thing in the kiosk will be what can be sold that day. Mr. Singh said he promises the Board Members he will make a nice clean place. Mr. Goodman said Mr. Singh's son can embellish some of the testimony.

Mr. Rajan Singh was sworn in by Mr. Rago.

REGULAR MEETING OF THE PLANNING BOARD OF THE BOROUGH OF KENILWORTH HELD ON THURSDAY EVENING, NOVEMBER 12, 2020. CHAIRMAN RICH PICERNO PRESIDED.

Mr. Singh said he thinks his father got everything right. There will be no tires. He said they run another mechanic shop in Short Hills and Mountainside. He said cars come in one day and the second day they are out, there is no autobody work that will happen there. No tires or anything that will stay outside. He said he actually worked at this Sunoco in 2009 & 2011 and there used to be 60 cans of oil sitting outside and every night he would take them back inside, we are not going to do anything like that, just a couple of oils in the kiosk, one windshield to show people that we have it and everything else will be inside. He said we like to keep everything nice and clean. Mr. Grimaldi asked if there was any thought to have alternate power or generator system? Mr. Singh said no, everything will stay the same. Mr. Rago said your hours of operation would be 6AM to 11PM, 6 days per week? Mr. Singh said 6AM to 11PM Monday thru Friday and 7AM to 10PM on Saturday and Sunday. Mr. Picerno said you are on the busiest street we have in Kenilworth and the one thing he would like not to see, nor would the residents like to see, is that as soon as it gets cold all the deicer comes out, six pallets of salt, that is not what we are looking for, its not how we are going to enter the gateway, two blocks away is our city hall and our library, if this gas station is put up the proper way, it will be part of the community, not like "Oh my God what did we do?" that is why we are asking these questions. Mr. Picerno asked if they owned the property or lease and Mr. Singh said he owns. Mr. Picerno said with respect to the tanks, when Sunoco does a project, they usually have a team of men that come in to do their tanks, they do their underground soil testing and things like that, you said you own other Express Gas Stations, do you hire outside sources or do you use the same criteria that Sunoco or Exxon or somebody else would use. Mr. Singh said the same company that took out the tanks, we hire the same company to install them. He said they have worked with Sunoco for the past 25 years and doing everything professionally per the DEP code and the State. Mr. Zacharczyk asked if on Michigan Avenue they would both be egress/ingress? Mr. Singh said they can just work with the Township as to what they like. Mr. Herbolario asked what are the hours for the shop? Mr. Singh said the mechanic shop will be open 7AM to 6PM but that is only Monday to Friday, Sunday it is closed and Saturday is less hours. Mr. Singh said his son will be the mechanic.

Mr. Picerno said you talked about the parking being primarily used to stage automobiles that are going to be eventually worked on, the requirement is 11 but you have only 10 spaces and you will probably only have 2 spots for the employees, one for the pump guy and one for the mechanic and the rest will be all storage. He asked if they looked at any other means to achieve the 11th space? Mr. Picerno said he had some suggestion's. Mr. Dec said if you have another idea, he would be glad to hear it, he tried to maxing it out as best he could and still leave areas for the cars to maneuver in and out fairly easily. Mr. Picerno said in the upper right-hand corner you have a 40 ft. opening that you said you are going to reduce down to 24 so that is 16 ft. right there. If you were to take that 16 ft. and take a look at that and maybe tandem a car in here, another one there, you would have a 13 ft. space, you get those two cars, send them over there and you just picked up your 11th spot. Mr. Dec said if the Board has no objection to that then he has no objection. Mr. Picerno said the thing is you are closing that driveway so it is not going to impact. Mr. Dec said that is why he did not have it there because the driveway was still open but now if it is reduced in size he can utilize that area. Mr. Pantina said what he mentioned before when you close that driveway or narrow that driveway you really need to show turning movement on there, coming off Michigan you are going to put that no left turn restriction on either way so you don't have to worry about crossing three lanes. He said especially your fuel refills are going to coming in every half hour so the worse case scenario coming in and putting the template right on there and also with the ingress and egress option coming out because if you have the turning movement especially with the way you have the parking, the parking perpendicular to the building on the east side of the building you can park it in the back you have to make sure you can get vehicles coming in and safely maneuver while you park, plus you will have someone backing out of the garage. He said the turning movement templates are going to help

REGULAR MEETING OF THE PLANNING BOARD OF THE BOROUGH OF KENILWORTH HELD ON THURSDAY EVENING, NOVEMBER 12, 2020. CHAIRMAN RICH PICERNO PRESIDED.

you decide where these spots will be, especially if you are going to put one up in the upper corner. Mr. Dec said, as the Board Chairman said, that area over there should fit two cars side by side, again that would be on the premise that all the other spaces are occupied. Mr. Picerno said it helps you meet your criteria, if you are closing the curb, you are picking up all that space. Mr. Dec said he does not think that will be an impediment to the traffic circulation but he can show that. Mr. Picerno said where the curbs are going to be cut in order to accommodate your drop curbs, you would also have to take that to the next joint or whatever is already damaged and not leave that, in other words the space between the 40 and the 34, he doesn't know what that is, at this point that should just be removed for the sake of its probably less expensive to just remove that, do you curb cut, drop it and come back up and get it done there in one pour. Mr. Dec said in the engineer review letter it's to be replaced if and as directed and they understand that. Mr. Grimaldi said if we are directed to resize these, we are directed to replace them. Mr. Dec said, if there is a good piece we will try and leave it but if it doesn't fall in the right spot or doesn't match vertically or horizontally then we would remove and that would be something the board engineer would have an input on. Mr. Grimaldi asked what was the box and Mr. Dec said it is some sort electric box, he said it might even be something that is no longer in use. Mr. Picerno said in respect to the curb cut, 26 ft. curb on the Boulevard, you would then leave that at 26 ft. and not reduce it to 24? Mr. Dec said he would like to leave it as it is, again if we are directed, if the curb is damaged it would have to be replaced. He said dealing with the County and getting County permits, he knows one of their major recommendations or criteria is the curbs be replaced. Mr. Picerno said on page 3 of 3 of the plan he noticed in the landscaping area with the beautiful trees in the back, yes that buffs the fence in all that but in the front on Kenilworth Boulevard between the two curb cuts, it just says grass area, are you proposing or can you do something else there then just grass in order to brighten up that corner in order to give it a little bit more curb appeal. Mr. Dec said that would be in the town's right of way, and certainly upon the recommendation of the board can be looked at and addressed. He noticed right across the street in the mini mall, they did at one time have a beautiful flower bed going in there and it just eased the eyeline at that major intersection. Mr. David said now it's a weed bed, once it changed hands. Mr. Picerno said Mr. David just brought up a great point and gentlemen, Mr. Singh and Mr. Singh, what we are all trying to do, not only for us on the Board but for our town and for you as well, we have a beautiful town here and it is only going to get better so you are in our gateway, you are right there in our face so what you do is going to put the postage stamp on everything else that happens in our town so we need to make sure that it looks right. He said he knows people say it's just a gas station but there are a lot of beautiful gas stations out there, the right color paint, the right landscaping and he wishes you well with it but we need to make sure this is all followed the right way. With respect to the existing 36 depressed curb on the left side up the Boulevard, are you anticipating reducing that or keeping that the same? Mr. Dec said keeping it the same. Mr. Picerno said the trash receptacle in the back.....the concrete pad in the back is going to be used for household garbage, you lunch.....things like that, it will not have brakes and stuff sticking out the back. Mr. Singh said he loves Kenilworth, he lived in Roselle Park for 10 years and now he lives in Cranford, he loves this town because his family grows here. He bought this property because when his sons came in 2009 they worked in gas stations day and night. He likes this location and he promises you that he will make it whatever the township likes and he will make it nice. That is why he doesn't change anything but whatever you say we will do. Mr. Picerno said he would like to make some suggestions, he sees that the trees and the landscaping is maintained for one year, one year really doesn't cut it. You seem like someone who knows and wants to keep a beautiful place but he doesn't want to say if we pass this the condition is that you have to do this for 20 years, that doesn't make sense. He would like to increase that because most people come in here and say that they are going to do this for a year, it never gets done, then we have to come back, we need to put something in place that this corner always looks right. Mr. Singh said he is going to, he promised. Mr. Singh said they have a landscaping company that they work with for the other business, it is a small company that comes in. Mr. Goodman said before Mr. Singh even

REGULAR MEETING OF THE PLANNING BOARD OF THE BOROUGH OF KENILWORTH HELD ON THURSDAY EVENING, NOVEMBER 12, 2020. CHAIRMAN RICH PICERNO PRESIDED.

owned the property and he saw that it wasn't being kept in good condition by Sunoco and they did receive a phone call that the property was in disrepair, Mr. Singh of his own volition went over and cleaned it prior to actually owning it. Mr. Picerno said something really nice can be put on that patch of grass. He said it is too barren at the face, curb appeal is everything. Mr. Goodman said to Mr. Picerno that he hit upon it, this is not a tenant, this is an owner of the property. There is evidence of pride of ownership that he thinks will be manifested in the way that you see how he keeps the property. Mr. Rago said the landscaping plan may be reviewed by our planner and engineer just to make sure it meets everyone's approval. Mr. Goodman said they certainly consent to that. Mr. Grimaldi said you keep saying if we are reducing or adjusting the curb cuts, he said he thinks it is within our place to request these things to be done and either they work it out with planner and engineer or are we asking them to come back? Mr. Picerno said it is his position that he would love to have those two to 24 and then let's review this. Mr. David said to add to the comment about coming back, for him, he does not feel like he is seeing enough visual, if you go back to the case that we just heard, we got to see before and after the house, he would like to see what the site is going to look like visually when it is completed. They own other gas stations, they can show pictures of what they own in other towns. He said he does not know how easy it is to render up.....what is the building going to look like.....what are the canopies going to look like.....what are the signs going to look like, all of that should be in front of us before we approve this application. He said for him, if he were to vote tonight, he would oppose this application. Mr. Rago asked if you would want to see revised photographic rendering, all gas stations do it. Would you want to see revised plans showing the in and the out on the Boulevard? Mr. David said yes with arrow lines. Mr. Grimaldi said also a movement circulation diagram and even if we make this an ingress only, we also understand that if you have a tractor trailer dropping off gas at 2 in the morning he may decide to go out that way but its 2 in the morning.....because maybe that maybe where his only circulation is going to be allowed. Mr. Mazzeo said he agrees 100%, he doesn't think they should be designing this on the fly and trying to imagine what it is going to look like, no disrespect to the Singh's, he is sure their intentions are in the right place, but as a Board he doesn't think we should act on a very brief description that it is going to look nice, like in the previous application a rendering of what the house will look like. He said this is Michigan Avenue and Boulevard, at the least we need an elevation or some evidence of other buildings that they worked on, that they keep a nice establishment. We have looked at office buildings and asked for renderings, we have been involved with shades of color and here we are seeing nothing just black and white. He thinks we need to see more and from an engineering prospective he said we need to see more, he understands its 24 ft. max cuts on the curb, how is that going to work? There is a concern, they should put a little more time into that, showing us how that is going to work and satisfy is and our professionals and then he would be happy to have this work but he does not think we have enough information.

Mr. Picerno said to Mr. Rago, this is a pre-existing condition.....you don't know because that is the question we already asked. Mr. Rago said we need a little more background on that. Mr. Picerno we just came up with some very valid points that are not presented on the site plan which could be. He said we have an intersection that is the main intersection of our town and we would like to take a look at something that is a little bit more pleasing to the eye without us designing it, these are some suggestions that we had. He said he knows that you guys said yes to that and we appreciate that but it seems as though, he is sure you want to get started but he thinks from what he is hearing now we are going to need some more.

Mr. Goodman said he is trying to understand, you want for example, the color he is planning on painting the building, you want to know, in the front area, that he is going to plant some flowers, you want to know what flowers he is planning on??? He said it is a site plan for a gas station that does already exist, right now it is not in very good shape and his plan is to new tanks, new megadump, clean-up the exterior and

REGULAR MEETING OF THE PLANNING BOARD OF THE BOROUGH OF KENILWORTH HELD ON THURSDAY EVENING, NOVEMBER 12, 2020. CHAIRMAN RICH PICERNO PRESIDED.

basically turn this back into a functioning gas station, instead of Sunoco it will be called Express Fuel. He said if items that you seem to be concerned with basically are more akin he thinks with a conditional use where you are viewing this as a D3 application that you are reserving the right to turn it down because you don't want it here and it is our belief that the gas station is here and we simply want to put it in shape to function, we are not really asking for anything that is other than a pre-existing condition. The fact that Mr. O'Brien points out that there are parking issues, well it appears that you Mr. Chairman have resolved potentially the parking issue by coming up with an extra place for the space. He said given all that if we really don't need to give any proofs for why we need the 11th space if in fact we have come with the 11th space, the issues seem to be what is it going to look like? You know what it looks like now, we are not adding any square footage to this building, the only thing we are adding which we spoke with Mr. O'Brien when it appeared that we had to come here for site plan, we decided we would upgrade it with the canopy so the canopy was simply an add on because if we have to be here, we wanted to fully renovate the site and make it look as attractive as possible. With the canopy, the lighting remains the same, the signage remains the same, the building right now has peeling paint and is in a dilapidated condition, the testimony tonight is that we plan on repairing the masonry and turning the gas station into a newly painted location, if the issue is what color, he believes that Mr. Singh had indicated that he was going to paint it with the existing brick. Mr. Goodman said we have been, and he thinks Mr. O'Brien will confirm this, we have been at this issue for 4 months. Mr. Singh has purchased this gas station and has been carrying it for these many months. As we know, business is tough in this COVID environment, we really need to get started, the Board has asked very good questions but for us to come back and simply tell you that we plan on doing what you said, we are going to plant a flower in the front, we are going paint this thing using the grey color scheme that he indicated, we are going to come before your sign ordinance and make sure the Express Fuel sign complies with whatever size the ordinance requires. It is important from a standpoint of this applicant, who has been carrying this site for several months to be able to move forward the best he can. There is a lot of work, a lot of money must be expended in order to get new tanks in. He hears what the Board is saying regarding the appearance, but he strongly urges you reconsider having us come back to simply tell you that we plan on painting it this color, planting flowers.... Mr. David said, with all due respect, it's repetitive at this point.... Mr. Picerno asked to let Mr. Goodman finish. Mr. Goodman said they are willing to work with you on the ingress and egress and do whatever you think is best with regard to the access, we need the four openings, we are willing to make one an entrance and one an exit and we are trying to do our best to comply with your wishes. Mr. David said he feel that he was clear on what he was looking for to get at least one other board member if not two express similar concerns. We are not looking for you to tell us what you are going to do, we want to see what you are going to do and that is what he is looking for. He said you come back, and we are going to see exactly what the colors are, what the planters are, what the canopies are, all that should be done. He said when shell replaced ARCO down at the parkway, they came in with a full rendering of what that gas station was going to look like when it was done, that was a clear change of one company to another. His position is, there might be a hardship but once those tanks came out of the ground the use was abandoned, that is his position. He sees that there is a hardship there, if there was supposed to be an agreement between Sunoco and the current owner, he gets that and sympathizes with that but the bottom line is, for him, the tanks were removed and use was abandoned. Mr. Goodman asked if there was a legal ruling on that? Mr. Rago said to Mr. Goodman, he thinks you are assuming too much. He said he has presented a number of gas stations applications to boards and he always has, he has done a lot of Exxon work, and he always has Exxon come in with what it is going to look like, it may not be exact but it is 95%. If they have a gas station down the road and it will be the same, he asks for a picture to show the board. He said especially at this location, what the Board wants to see, right now we are looking at lines, it is an important site, the board wants to put something there that is nice, a gas station but they want to see if they vote yes they want to see what it is going to look like. Otherwise if it is approved and someone comes up to Mr. David in town and asks

REGULAR MEETING OF THE PLANNING BOARD OF THE BOROUGH OF KENILWORTH HELD ON THURSDAY EVENING, NOVEMBER 12, 2020. CHAIRMAN RICH PICERNO PRESIDED.

what it is going to look like.....and he would have to say I don't know. He said the Board wants to see....you have other stations.....is it going to be similar to one of your other stations, the color? Do a nice photo, not a little snapshot, maybe Mr. Dec can help you, bring it in and say it is going to look like this just so the Board is comfortable with the scheme. The same with the landscape. Mr. Grimaldi said yes we would like to see the paint but if you tell us you are going to paint it gray you paint it gray but we are looking at a drawing that you are showing us, Mr. Dec testified that the entire lot is going to get repaved but we are looking at a drawing that says existing asphalt. So, the proof in front of us don't match the statements that are getting presented to us. He said something that our Chairman said about a year and a half ago, we have to ask the people presenting to us to be 90%, don't come in here at 60% and telling us what they are going to do, we need to be closer to 90% so that when Mr. Rago is getting the list of conditions, the list is only this long.....not 3 pages long. He said so when we are presented with existing asphalt and you are telling us, no you must repave the whole thing, we are happy you are going to repave the whole thing. If you think we are being nitpicky, we can nit-pick and we can get there but that is not our intention, we want this to open, we want it to open soon. Part of the area that Mr. Picerno is talking about is the grass area, this also used to be a NJ Transit bus stop, has anyone investigated that they are going to do anything with that, is that going to be a bus stop again? He said the picture that you handed out had a concrete pad there. He said we are just asking for a few things that we can say...this is what is filed with us, its on record and we have someone signing off on it. Whatever you are going to do over here that you can work out with Kevin and Chris is great. He said right now it is a lot of hypothetical. In addition to that we would like to see what color paint it is, a picture would be fine, you don't have to do a full rendering, a picture. He said engineering wise there are things that we are asking Ed, and we highly respect your engineer, he has appeared before us a lot, but there is a lot of hypothetical right now, we are just asking for some of it to be back on paper so that we can understand it.

Mr. Goodman said.....carry the application until next meeting in order to get the information you are requesting. Mr. Rago asked Mr. Dec if he can turn around a revised plan in 2 or 3 weeks with enough time to give Kevin and Christian enough time to take a look at it? It would have to be into us by November 30th, the meeting is the 10th. Mr. Dec is said no he can't. Mr. Picerno asked the Vice Chair what can we do, whether this is going to be a gas station or not and he does not know the answer to that. Mr. David said he thinks Mr. Goodman asked for a legal ruling a short while ago. Mr. Rago said it was an existing gas station. Mr. David said it was an existing gas station. Mr. Rago said it hasn't changed uses or anything, they want to come in and make it a better gas station. Mr. Rago said he thinks the Board is saying that is fine but let's put some meat on the bones, lets see what you want to do rather than just talking about it. Mr. Goodman said we went through this issue with Mr. O'Brien, does he have an opinion on the issue of abandonment which he heard your vice chairman say that it is an abandoned gas station.

Mr. O'Brien said abandonment is a legal question and it refers to two things, the physical abandonment of a use and the intent to abandon a use. From what he has seen from this application this does not meet that legal definition of abandonment. He refers, of course, to our wise counsel. Mr. Rago said abandonment, as Kevin said, in the sense of what we are talking about, abandoning the use. You have to match the facts with the intent. Based on what he is seeing here, he does not believe, since it was only vacant for a few months, moving the tanks to him, taking them out and putting them in to him would exhibit an intent to keep it as a gas station. He does not think based upon what he has seen or heard here, he would agree with Kevin, he does not think its abandonment in the classic sense. If he wanted to put a gymnasium then he might say the intent is clear but they want to continue to do what they are doing. He said it has been a gas station, it wants to be a gas station, the question is what's it going to look like. The site has to be tweaked to make it conform a little bit more with where the Board is going with this. Mr. Grimaldi said he thinks everyone on the Board understands that the tanks are going to go back

REGULAR MEETING OF THE PLANNING BOARD OF THE BOROUGH OF KENILWORTH HELD ON THURSDAY EVENING, NOVEMBER 12, 2020. CHAIRMAN RICH PICERNO PRESIDED.

where they were, the pumps are going to go where they were.....taking their concern about getting going, is there an ability for us to say you can start that legal process to do that while you are addressing our concerns on functionality because that is going to take some doing to get that process going. Can we say that we will approve the reinstallation of these things? We may not have to approve that, he may just have to file a permit for that, can they take that and run? Mr. Rago said bifurcation assumes that we are a Zoning Board and we are separating a use variance from a site plan meaning someone comes in and gets a use variance first and then deal with the site plan. He said if we approve this tonight, and we have done this on occasion, if we approve any application and someone has a real need and a hardship to get going there have been times when we have said OK.....while I'm preparing the resolution, and it normally comes up in a small situation like a deck in, contractor is ready to go, nothing is going to happen, while he is doing the resolution, the applicant may get the nod and the approval to start at their own risk, subject to the Board. He said for something like this, this is not a backed pie yes, we are still dealing with a lot of open things. If there are permits, they can start on, assuming certain things, if they want to do it at their own risk, knock yourself out. He said moving things around on the site right now is a little premature. Mr. Goodman said picking up on what the gentleman said, is it possible to get permission to do what would be taking place underground, which is weather sensitive and trying to get the tanks in place doesn't really affect at all what the gas station is going to look like, if we can go ahead, at our own risk, and get the tanks in place, then when we come back to you with architectural renderings and the upgraded site plan we will have at least been able to maximize the use of our time. Mr. Rago asked Mr. O'Brien if he heard the question and he said no. The question from Gary Goodman was, they want to get a jump on something at their own risk while we are considering the application. He wanted to know if it would be acceptable to at least do the underground tank work. Mr. Rago said, his view is that if it doesn't require you as the Zoning Officer to sign off on anything from a municipal standpoint, if it was strictly the state and/or the County, his gut would be they could do that but if it requires municipal approval, you might be going out on a limb to do that, that is up to you in terms of what you think your authority is on the tanks. Mr. O'Brien said that would require municipal approval because it is a structure and it needs a zoning permit to be approved for it to be installed and that would have to come prior to the construction permit and electric and all the rest of it. He said if the Board were to decide that they were OK with the tank replacement and allowed the applicant to proceed with that aspect and only that aspect, if there was a Board resolution on that then that would direct the zoning and building department to move that along. Mr. Picerno said earlier he was thinking along Mr. Grimaldi's line until he heard that part of the story, when we sign off on a plan, we sign off on the plan presented in front of us as well, he does not want to go down that pike later on. By the time all that gets in place, you are in your 3 week margin. He asked Mr. Dec how long will it would take you to get, not what we are asking but what we are suggesting. He said you heard this going back and forth, you have Mr. Singh and his son standing there trying to get this thing off the ground, you heard Mr. David and others, including myself, who agree that we need more than what we are seeing, he does not want to use the word incomplete, everything is to the imagination, if you said to me another Sunoco station was going in there, he could picture that but he can't picture an Express. Mr. David said it is getting closer and closer to the holidays, is it possible that we hold a special meeting, you were starting to say to Mr. Dec.....how much time do you need.....if you need an extra week like the 17th can we have a special meeting? Mr. Picerno said if Mr. Dec can conform to Mr. David's request then we can do December 17th. Mr. Dec appreciates the fact of having a special meeting because he would not be able to make the regular meeting. He asked what needs to be done here? He can show turning patterns on his plans, he can change existing and proposed but he thinks the important part and this part is going to take a little longer is to show you a good representation of what it is going to look like and that will take a little more time. We will have to get some sort of rendering or better pictures, something that is going to be able to address all your concerns, particularly landscaping in the front. He appreciates the special meeting is offered, by then. Mr. David asked Mr. Dec what date would work for

REGULAR MEETING OF THE PLANNING BOARD OF THE BOROUGH OF KENILWORTH HELD ON THURSDAY EVENING, NOVEMBER 12, 2020. CHAIRMAN RICH PICERNO PRESIDED.

him and he replied somewhere around the 17th. Mr. Grimaldi said we should give him a laundry list of what we are looking to be included? Mr. Picerno said does the 17th work and Mr. Dec said yes. Kevin and Christian need one week to review before the date. Mr. Goodman asked if the issue of the tax is a dead issue? Mr. Picerno said he thinks so, he is not saying that because we didn't rule on it at this point, he can't speak for everyone but he can only pick up the vibe of what he is hearing, because it would be putting the cart before the horse. He said have all your submittals and plans and things ready to go, we can see if the building department and everyone can expedite on our side, he would say that would not be a good idea. Mr. Good said so we are being continued for December 17th, is that what we agreed to? Mr. David asked if we would have a quorum and asked for a head count. Mr. Picerno took a head count and said it looks like we are all good. Mr. Grimaldi asked..... we are looking for definitions, we will start on the ground first and work out way up, we are asking egress and ingress. Mr. Singh showed pictures of his gas stations in Manville, Mountainside. Mr. Picerno said, with respect, if that is on the plan and that was before us, this would have been smooth sailing. Mr. Picerno said this Board is trying to help you, we are going to set some parameters in order to guide this along a little bit, even though we are not supposed to be doing that, we have discussed some things, we don't have a problem putting them down.

Mr. Grimaldi said we have discussed definitions of the egress and ingress, how they are going to revise them and possible limit them. The statements they made today as far as repaving the entire lot, that should be illustrated on the drawings. They are going to paint the entire building, some type of definition, he said those pictures would probably be suitable but it's up to the Boards desire if they want a full architectural rendering or not. Curb cuts on the egress and ingress. A rendered site plan with landscaping definitions in the front. The front should definitely be low because of visual. Mr. Picerno said and the revision of the parking showing the 11th space. Mr. Grimaldi said that comes with the curb cut, then they could put it in the northeast corner. Mr. Picerno said in our discussions we talked about on North Michigan Avenue 2 24 ft. curb cuts so they can accommodate more parking on the other side, whatever they can do in the Boulevard ingress and egress would be arrows and in addition to that the landscaping in the front area. Mr. Grimaldi said definitions of the signage, they should have a sign package including all the signs, one sheet. He said he understands he is talking about utilizing the existing pilon pole for the signs, he said the pilon pole is probably older than most of us in this room. The other one with the prices on it, an indication of what it is and the traffic movement. Mr. Pantina said the County may have something to say on the driveway width and they may have something really big to say about planning anything in the right of way. Mr. Herbolario said the Kenilworth ordinance has hours of operations for gas stations at 6AM to 10PM, they have till 11PM. Mr. David said they would have to comply. Mr. Picerno said they would have to comply with the ordinance that is set forth in our Borough and that is an easy fix. He thanked Mr. Herbolario for telling him that.

Mr. O'Brien said with the December 17th date, that would be contingent on the new plans being submitted on or about December 3, 2020.

Mr. Goodman asked if this was a carry or a re-notice, Mr. Picerno said carried. Mr. Rago said it would be carried and Kathi will put something in the paper, no further notice, assuming we are all on board with December 17th at 7PM in this room. Mr. Picerno said we need someone make the motion to carry this until the 17th.

Motion was made by Mr. David, seconded by Scuderi to carry Application #383, 636 Boulevard, LLC, 636 Boulevard, Block 86, Lot 11. Roll Call: Mr. Picerno voted yes, Mr. David voted yes, Mr. Grimaldi voted yes, Mr. Pantina voted yes, Mr. Mazzeo voted yes, Mr. Calello voted yes, Mr. Scuderi voted yes, Mr. Herbolario voted yes, Mr. Zaharcheck voted yes.

REGULAR MEETING OF THE PLANNING BOARD OF THE BOROUGH OF KENILWORTH HELD ON THURSDAY EVENING, NOVEMBER 12, 2020. CHAIRMAN RICH PICERNO PRESIDED.

COMMENTS FOR THE GOOD OF THE BOARD

Mr. David wished everyone a Happy Thanksgiving. Mr. Picerno echoed the same and said Happy and Healthy.

OPEN MEETING TO THE PUBLIC

Motion made by Mr. David, seconded by Mr. Pantina to open the meeting to the public.
All in favor.

Mr. Herbert said the ordinance for the time for gas stations is in Section 108-1. He said the site has been a continuous problem. He said it's a safety issue in town, on North Michigan Avenue on the far end of the Sunoco station there is a tree on their property that drops berries and covers the sidewalk and makes it very slippery and it's wrapped around our power lines. He told the Board to take a close look at that.

Motion made by Mr. David, seconded by Mr. Mazzeo to close the meeting to the public.
All in favor.

ADJOURNMENT

Motion to adjourn was made by Mr. David, seconded by Mr. Mazzeo. All in favor.

Respectfully submitted by:
Kathleen Moschitta
Recording Secretary