

SPECIAL MEETING OF THE PLANNING BOARD OF THE BOROUGH OF KENILWORTH HELD ON THURSDAY EVENING, DECEMBER 17, 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. Laudati, Mr. Calello, Mr. Herbolario, Mr. McMahon, Mr. Zaharcheck and Mr. Scuderi. Also present were Planning Board Attorney Mr. Lou Rago and Christian Cueto, Borough Engineer and Mr. O'Brien Borough Planner.

Mr. Rago said the following resolution memorializes the Board's decision of last week when we heard Kevin O'Brien testified and we heard comments from the public. This resolution indicates we have heard what we had to hear and are recommending that the preliminary investigation be approved. We are sending it to the Governing Body for consideration and if they agree with us, they will prepare a Redevelopment Plan and adopt a Redevelopment Plan and if they do that then it comes back to us for the plans. We voted to send the report to the Council. We agree that the property meets the criteria of the Redevelopment statutes.

New Business:

Resolution: Redevelopment Study

Motion made by Mr. Grimaldi, seconded by Mr. Laudati to approve the Redevelopment Study resolution. Roll Call: Mr. Picerno voted yes, Mr. David voted yes, Mr. Grimaldi voted yes, Mr. Mazzeo voted yes, Mr. Laudati voted yes, Mr. Calello voted yes, Mr. Herbolario voted yes, Mr. McMahon voted yes.

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

Mr. Gary Goodman appeared on behalf of the applicant, 636 Boulevard LLC and said the last time they were here the Board indicated that they wanted to see what the gas station was going to look like after the owner fixed it up. There were also some questions for Mr. Dec with regard to access.

Mr. Rago said when we were here in November we got partially through the hearing, and he mentioned before and after the meeting and Kevin was on the phone, that we were unsure as to what we were dealing with, was it just preliminary and final site plan approval, was there variances involved, including a use variance under one of the D variance criteria. He has since received an updated report from Chris and Kevin and in Kevin's latest zoning review, revised the 16th, there are apparently three, four or five areas where the gas station does not meet all the conditions. Gas stations are permitted conditional uses in the zone and if they don't meet one or more conditions then it converts into a D3 variance with additional use variances. The important factor to consider is that as we are proceeding now, it is a D3 variance plus preliminary and final and the applicant would need to indicate that the site can work efficiently and Kevin

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can follow up on this later and that the site will still work efficiently and safely even though they can't meet all the conditions.

Mr. Picerno asked why are we seeing this now.....where was it in November? Mr. Rago said in November we did not know. In November Kevin was not here which was a factor because he wasn't a live participant and he mentioned that he had not seen enough to know which church, pew we were working in and we needed to see more. The revised plans were submitted and it was concluded that there were some conditional use deficiencies. Kevin O'Brien said he received the transmittal letter Monday morning and unfortunately his work schedule was very very badMr. Picerno said you got it this past Monday and Kevin said yes. Mr. O'Brien said he did not get to the report until this morning and he apologized to all. He said he set aside last Friday to do this and unfortunately the letter was not here. Mr. Rago said if that is how we are proceeding then with a D3 and we will talk about it more as we go along, that means the Class I and Class III members cannot participate by law because we are wearing our Board of Adjustment hats. He said ultimately this application will need to receive five yes votes out the seven votes whether it's tonight or some other night but he stressed that even though it is a conditional use, it is permitted in the zone but if you don't meet all the conditions you have that slightly extra burden of convincing the Board that the site even though it doesn't meet all the conditions, the site still works safely and well. He said that is where we are right now. He said considering the last-minute crush, that is where we are.

Mr. Goodman said he does not know what has changed from the last meeting to now, he has a memo from Mr. O'Brien and in it he says the status of the above conditions fall into three categories, conforms to ordinance and pre-existing conditions and based on the above conditions relief is not required for conditional use D3 variance and no relief is needed for the conforms to ordinance and pre-existing conditions. Mr. Rago's commented he agrees with that except for the fact that this is not a new use, the use here was never abandoned, it was a continuation of an existing gas station. Yes, it would have conditional use if the gentleman just bought a piece of land and decided he would like to put a gas station there, he would have to come and get a D3 variance but this is a continuation of use that has been there for 67 years. Mr. O'Brien says he only got it, Mr. Dec's memo, and what was in Mr. Dec's memo caused him to rethink the D3 variance. In November when he received a letter dated November 9th he seemed to have an opinion that a D3 wasn't needed and at that time we were waiting to close, and hoping that we could just have a site plan which is the reason Mr. Singh purchased the property. He said now, on December 17th circumstances have changed and we now say that we need a D3 conditional use variance. Again, this is an ongoing property, ongoing gas station, never has the use been abandoned. To deny the continuation of the use, he thinks is a complete miscarriage. He said to the Chairman, if he recalls at the last meeting, the Board was very insistent that they understood the gas station was going to go there but since this was a gateway to your community, you wanted to know what it was going to look like. Mr. Singh spoke, his son spoke and he indicated to them that we have to go back to the drawing board, get an architect, draw a picture and be prepared to talk about colors to show what the signage is going to be and those were the issues that we were trying to address. To come here at this late moment regardless of when Ed Dec's memo got to Mr. O'Brien and now change the whole nature of the application is wrong.

Mr. Picerno asked if Mr. Singh owned the property and Mr. Goodman said yes. Mr. Picerno said to Mr. O'Brien, you received a document on Monday and that triggered what you might call the D3. He asked Mr. O'Brien what affect does that have on us, how do we look at this tonight?

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Mr. Christian Cueto, Board Engineer and Mr. Kevin O'Brien Board Planner were sworn in by Mr. Rago.

Mr. O'Brien said that everyone approaches their workload in different ways. This is a very deadline oriented business in planning and zoning due to the calendar of scheduled hearings. He has always marked his calendar for when new paperwork is expected on an application. We had originally expected the new paperwork on this, he believes on December 3rd two weeks ago but it was delivered to town hall on the following Monday and he received it from Borough Hall when he came in to pick up paperwork on Thursday. Mr. Picerno said, if he remembers correctly, it was the Friday by 4:30 it needed to be in the office. Mr. O'Brien said he believes the word was on or about. Mr. Picerno said that means either sooner or by that day. Mr. O'Brien said he sat down Friday with the paperwork to write his report and that is when he realized that he had the plans but no transmittal letter. He wrote an email to Mr. Goodman, copied the Board officers and staff and said there are two choices either provide us with a transmittal letter, which we require under our regulations, or Christian and himself can go through the plans, bit by bit and spend several hours and try to figure out what is different. The following Monday he received from Mr. Dec via email a transmittal letter explaining what the changes were and to complicate matters further he did not send that to the Board Secretary, he only sent it to me. He thought everyone else had looked at it and thought OK good, I've got this and he can now put it aside and get to it as soon as his calendar opens up which it did not until unfortunately until this morning. He then discovered on Tuesday that no one else had it so he then forwarded it to Mr. Cueto and Ms. Moschitta, officers and staff, so that is the timeline of what happened. In regards to the D3 variance, he listened to the testimony at the last meeting in November, he read the minutes afterwards, he hates to bring this up because it is immaterial and personal..., the Board knows I was recently out of surgery so he wanted to make sure that he understood everything. He conversed with Mr. Rago and as he said at the last meeting he raised the issue that some kind of relief was necessary here but he wasn't sure what so in their conversation he implored me to look at the application again which he did and that is how he came to the conclusions in the report that was distributed today.

Mr. Picerno asked how does this change the impact of what we are going to listen to tonight compared to what we heard last Thursday. Mr. O'Brien said the only material change to the Board is the procedure that Mr. Rago pointed out which is that the zoning board, part of our planning board hears this application and it does require five affirmative votes. He has laid out what the burden of proof is, Mr. Rago has just confirmed that which is that the applicant has got to show that the changes that are proposed to the site can be accommodated on the site without any negative impact around surrounding properties of the community. He does not see that burden of proof as materially different from what is necessary under the site plan originally proposed and the bulk variances, there were a number of bulk variances that were required as well, those are still here. Between the D3 conditional use, a lower burden of proof and a D1 which is a none conforming use in a zone, that's if you put a gas station in the middle of 17th street in a residential area, this is very different from that, it's a much lighter burden. He does not see it as materially different from what you anticipated at your last meeting.

Mr. Picerno said it is somewhat different because if we proceed as a D3 Mr. Goodman and Mr. Singh are somewhat at a disadvantage because the Class I and the Class III don't have a vote and that reduces the amount of votes that are here and he needs five. He said we need to see how many members we have and if there are only five or six members left? He is trying to be fair. Mr. Goodman said he does not want to beat a dead horse but at the last meeting we had the issue of abandonment, We got into an issue of abandonment, he thinks there was a member of the Board who thought the use had been abandoned

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which would trigger the conditional D3 use variance. He believes that the Board voted or took a straw poll, Mr. Rago voiced his opinion, he believes Mr. O'Brien was on the phone and he voiced his opinion and Mr. Chairman you voiced your opinion and it was concluded that there was no abandonment of the use, there was an intent to continue. There was no abandonment by the prior owner as he discussed in the last application. If Sunoco would have left the tanks and the pumps in, he would have just bought the gas station and changed it to Express Fuel. He does not think if that occurred, we would be discussing a conditional use variance. Mr. Picerno said he does not know if that is 100% accurate, only because he thinks if they took the gas tanks out that would be a whole different thing rather than what you are presenting to him today. The other thing he would have to say is that if Mr. O'Brien received information which added to the testimony of the last meeting, then we have to also look at that as part of what's going on.

Mr. O'Brien said he agrees with Mr. Goodman that abandonment is not an issue here, this gas station has not been abandoned in strict conformance with the Municipal Land Use Law. Mr. Picerno said he does not disagree with what you are saying but he created a scenario, so he created one. Mr. O'Brien said neither of his reports has the word abandonment in them anywhere, this is not based on the premise of abandonment at all. Mr. Rago said this is not a section 68 application where you are coming in and saying we have been there for a long time and we want to continue and we want a certification certifying that it hasn't been discontinued, etc. Abandonment to him is not an issue, this is an application just like any other gas station in town, you come in with an application, you want to do certain things, with that Kevin has to look at it and say this is an application, forget about abandonment, but they are doing things to the site that are different, they are improving the site but then he has to see where it falls short in terms of meeting the conditions. He said we have a 9 member regular planning board, when a single land use board works as a zoning board, the class I and Class II come off so that reduces it to 7 members which is the makeup of a zoning board so ultimately whether it's tonight or some other night, 7 regular members or if they are not all eligible to vote they would vote on this with a Class I and Class II not participating. Mr. Picerno asked if we have 7 members that can vote to give Mr. Goodman and his applicant a fair shake? The Planning Board Secretary said there are 7 members present to vote, excluding the Class I and Class III members. They are Mr. Picerno, Mr. David, Mr. Grimaldi, Mr. Mazzeo, Mr. Laudati, Mr. Calello and Mr. Scuderi who Alternate #1. Mr. Rago said abandonment is not in play, this is a new application for an old building.

Mr. Goodman said he said he understands what your point is but he said it is a distinction without a difference. You can rule that it's abandoned and you can't continue or you can rule that you refuse to grant a D3 conditional variance and then it functions to basically cancel the use.....does it not? Mr. Rago said if the applicant came in and said I am going to leave everything exactly the same, throw some paint on the building, maybe Kevin would have a different outlook and the Board would have a different outlook too but this is for an improvement, which is good but for that there are some conditions that you don't comply with that need to be addressed and they can be addressed. Mr. Goodman said if he follows your logic, you are saying if the applicant came in and threw some paint on the building perhaps this would not trigger such an inquiry. The upgrading of the building is done, because he wants to have a good image in Kenilworth and also because Kenilworth wants to see a nice building there. If what you are saying, the logical conclusion is that by complying with your wishes, we have gotten ourselves into a D3 conditional use variance and that obviously was not our intent. As the Chairman asked, this is not a contract where you can just go back to the seller and say.....hey I'm going to need another couple months, this is someone who is continuing to put out money, he is a small business man. He said he thinks the applicant has done everything in his power to try and comply with what you asked. Mr. O'Brien basically says that, he was ill, his time schedule, he understands all those things but nothing has changed between November

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10 and December 17th, this is the same application and at that time you had said that the gas station was good, you wanted to see what it looked like and we are here to tell you what it is going to look like. Ed Dec is here to answer your questions. Mr. Rago recommended to the Board that we proceed tonight, just to be safe and legal with the exclusion of Class I and Class II participating. He knows Mr. Dec provides some plans, the Board would want to see those and he thinks the Board would want to hear from the architect. He said let's proceed and see where we are and maybe Mr. Dec and/or your architect could address the conditions that you don't meet and see where we wind up. Mr. Picerno said if we are going ahead where Class I and Class II are not able to vote or give an opinion, we are typically listening to a D3 application. Mr. Rago said we are. Mr. Picerno asked if that was the road we are going down because if there is no reason why these members can't vote if it goes the other way. Mr. Rago said we are looking at Kevin's memo, recent report which is a product of more digging and more drilling down, tonight we are dealing with a D3 variance with a preliminary and final site plan approval and he thinks there are some basic C variances that have always been there. Mr. Picerno said he values the Class I & Class III's vote and if they are going to be asked not to vote on this application, then we will hear it as a D3. Mr. Rago said we are hearing it as a D3 and they cannot participate.

Mr. Grimaldi asked if that changed what we had to do as far as notification. Mr. O'Brien said Mr. Goodman noticed for the D3 conditional use variance. Mr. Grimaldi said he thinks the Board has shown that we are trying to do everything for this project as we are here for a special meeting. We know he is a small businessman and we are going to work with him. He said we should just proceed in this fashion. Mr. Picerno said he does not have a problem proceeding but he wants to know what he is hearing. Mr. Rago said D3 with site plan approval.

Mr. Ronald Meeks was sworn in by Mr. Rago.

Mr. Meeks said he has a five-year Bachelor of Architecture degree from Syracuse University and is a registered architect in New Jersey, New York, Connecticut and Pennsylvania and all those licenses are current. He is a licensed planner in New Jersey but not tonight. He has over 35 yrs. Experience working for architectural firms, real-estate developers and in the hotel and rent a car industry. Mr. O'Brien said he has worked with Mr. Meeks and he is well known.

Mr. Meeks was retained by 636 Boulevard LLC to consult on an architectural design. Exhibit A1. Mr. Meeks said what you see in the upper right hand corner is the front of the building on the Boulevard and everything there is existing with the exception of the colors and the signage, the red, white and blue are the same as our flag. The building itself is an off white toward the gray spectrum and he gave a color sample to the Board (Exhibit A2/color sample for the body of the building). He said toward the middle of the page are elevations of the building and the canopy from Michigan Avenue, everything on the building is existing, the canopy is new and it also displays the colors that we are looking for. Moving toward the bottom of the page is the canopy on the left and the free-standing sign on the right. Mr. Goodman said that Mr. O'Brien thought the sign was larger than was permitted under the ordinance and he asked Mr. Meeks if he had the dimensions? Mr. Meeks said it is 5 ft. wide by 8'8" tall which is a total of 43.3 sq. ft. Mr. Picerno asked if he knew the town's requirement for that sign? Mr. Meeks said he does not know it off hand. Mr. O'Brien said it's 45 ft. so this conforms. Mr. Goodman said he saw on Mr. O'Brien's memo that it has to have the address somewhere; do you have to have the address on the building or on the sign? Mr. O'Brien said on the façade of the building.

Mr. Grimaldi asked are the poles new and Mr. Meeks said they are new. Mr. Grimaldi asked if the existing will be abandoned and these will take their place? Mr. Meeks said correct. Mr. Grimaldi said originally in

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that corner there was a pole for a lot light and a sign so we are going to take the one sign down and replace it with this and leave the existing? Mr. Meeks said yes. Mr. Grimaldi said he assumes we are going to see that on Mr. Dec's plan? Mr. Dec said yes.

Mr. Picerno said you have some panels on the existing building that are going to be painted and you have different colors going on. If there are rotted pieces on the building, be it metal or wood are they also going to be changed out and replaced. Mr. Meeks said yes they would need to be repaired. Mr. Picerno asked what is the material on the existing building.....is it a metal panel and Mr. Meeks said yes it is metal. Mr. Picerno asked what would be the method to repair that if you are going to repair and not replace? Mr. Meeks said it would be a patch of sorts, he doesn't not know exactly, he has not looked into it that closely yet. Mr. Picerno said there is some damage to that building. He has heard a lot of statements about how beautiful this is going to look and that would be an eyesore if it was not patched and repaired property. We need to talk about having attention on those finer pieces. Mr. Goodman said so noted.

Mr. Grimaldi said we are not getting into the construction documents but he said whatever achievable ADA upgrades to this building will be done to meet the code, correct? Mr. Goodman said correct.

Mr. Ed Dec was still under oath from our previous meeting.

Mr. Dec thanked the Board for providing us the opportunity for a special meeting so close to Christmas. He will go through the Board Engineering letter first and then the Planning letter. Sheet 1 will be addressed by Mr. O'Brien, sheet 2 is the site plan. He will go to the comments that are bold. #2 is the tanks are being removed and further agreement will be provided by any permits to the site. The owner will provide those permits that are required either by state or whatever regulatory agency is in charge of the approvals for that besides the township permits. #3 we are still proposing only 2 employees to be working at the site and upon the Boards recommendation, increase the number of parking, even though they are tandem, we do have 11 spaces now whereas we had 10 which required a variance, now we are eliminating the number of parking space variance no longer needed, we have the 11 that is required. The refuse area in the back presently same location, no proposed changes to the location however the mortar and paint on that masonry structure will be redone and cleaned up. We have a regular opening between the end of the wall adjacent to the building and that will be the access point. Refuse will be picked up by a private hauler on off hours and they will have accessibility to that area where we show parking in front of it there will be no cars there for their time of pick-up. Mr. Picerno said when last you were here we spoke at length about this refuse container but that will be basically for household garbage like lunches and things like that, it won't be the place that houses the rims, the brake pads and things like that? Mr. Dec said that is absolutely correct and they will be kept inside until they are picked up. Mr. Picerno said that if this is approved he would like that to be a condition. Mr. Dec agreed to that. Mr. Dec said that was number 4. He said on #5 we revised that handicapped spot at the front right corner of the building, we made that into a....we didn't increase the number of handicapped stalls but according to ADA regulations we need to provide at least van accessible so that is now shown on the plan. #6 is a typo, it should read the applicant has revised the site plan and reduced the northern most existing driveway along Michigan Avenue which is correct. Upon the Board's recommendation we reduced the size to make it fit the maximum allowable and that enabled us to add that additional parking stall 11 which again eliminated the need for the parking variance. The turning movement have been provided on sheet 3. You can see that he is proposing that the tanker truck, and this is for the truck itself that would service the gas station to fueling their tanks. Car turning radius's are not necessary because they would be able to enter a 24 ft. wide driveway without any obstruction. What you see there is he is proposing that the tanker truck again

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is going to be arranged with the owner of the gas station specific hours that they would be there, they would not be there during mid afternoon, it would be either early hours or very late in the operation. Mr. Picerno said when the tanker truck is delivering gas, because it is going to occupy most of that corner....will other cars be able to come in and get gas or will that be shut down at that point? Mr. Dec said, depending on the time which we would definitely specify as either early morning or late night, the turning radius shows the truck as accessing the site he would have to back up and that was always the intent of what he was proposing was that he wouldn't just be sitting there in front, he would be able to enter the site and then manipulate his way through maybe a few k-turns and back-up into and along side where he needs to connect the hoses so the station could still function but again at those early and late hours they would not be experiencing big volume. Mr. Picerno said he may ask Mr. Singh only because with the truck there, the line of sight will be compromised going down Michigan Avenue and/or coming the other way but we can get to that when Mr. Singh comes up. Mr. Dec said the line of sight won't be affected because those turning patterns show how it would enter the site but then you would be backing up along side those tanks so he would be further back from the intersection and out of the line of sight. Mr. Picerno asked Mr. Grimaldi to point to where the tanks are and he said so the tanks are there so the tanker truck, once it gets into the site he will back-up but he will be parallel to that so Michigan Avenue is parallel to the tanker truck and Mr. Dec said that is correct.....Mr. Picerno said so the line of sight is compromised.....Mr. Dec asked from where? Mr. Picerno said from a car coming in and/or out. Mr. Dec said that he would be further back into the property. Mr. Picerno said that trucks at least 43 ft.? and Mr. Dec said at least 50 ft. Mr. Picerno said without the cab....he said we will take a look at that further. Mr. Dec said he has seen them there a number of times. Mr. Picerno said it would also come down to when we talk to Mr. Singh, how long the truck is there, if it's a 15 minute operation or an hour and half. Mr. Dec said that we have stated last month that we would repave the site, what he would like to be able to do, and he did put notes on the plan themselves that we would like to replace and repave the areas that needed to be and that would be based on the Board and the Engineers recommendation. There are some area's he thinks that would not have to be cut and we can meet that with new pavement. We wouldn't like to have to redo the entire site but again if it is recommended or told that those areas have to be replaced they will be. Mr. Picerno said you have an island, a new pumps, you have all of that disturbance, he said if there is more than 50% of that blacktop being disturbed, he knows this Board is going to be looking for not patches and plots all around, that what is compromised now, he thinks we should talk a look.....Mr. Goodman said that is not an issue, they plan on repaving the whole lot. Mr. Picerno said so that is not part of your report that you are going to repave the whole lot so that's going to be.....Mr. Dec said something that should be in the resolution. Mr. Picerno said certain little things like that we talk about we don't mind as a Board as far as conditions are concerned as long as the plan is already complete. Mr. Dec said #7 is about the paving which we just resolved. #9 He said the grading of the site will not change, the paving will change but the grading will not change. #10 the impervious coverage will not change. #13, no new lighting as far as location intensities, the question rose up in the corner where the post sign is and the existing signs, he would like to clean that up as much as he can. There are two poles there, one for the sign and one for the light, he would like to look into the possibility of having that light affixed to the sign along the side of the sign to act as a projection of the light into the site itself at the same height that the existing light is located. Mr. Picerno said so you want to share that sign with the light that would eliminate another post. Mr. Dec said that would clean up that corner. Mr. O'Brien said the site plan shows it being removed now? Mr. Dec said the light/sign, there is a sign, he thinks there are two signs there at this point. Mr. Grimaldi said there was the digital board and then there was the Sunoco sign and then there was the light pole, he said he thinks the Sunoco sign without the digital board is the one that is probably 67 years old. He said you are trying to take all of them outand Mr. Dec said and replace it with one. Mr. Picerno said so that corner is going to be ripped out, cleaned up, we are not going to see any poles of any kind, you want to put a sign up there and you want

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to try and share the pole to eliminate another footing, another pole, another something else to hit on the way out, especially during snow. Mr. O'Brien asked what kind of light will that be and Mr. Dec said they will use the same intensity andmaybe not the type of light because now of course lights are all changing to LEDs but we would certainly meet the same intensity, it wouldn't be any more of a high intensity than what is there now. Mr. O'Brien asked if it would be a flood light? Mr. Dec said not a flood light, it would be an area light something similar to what you would have.....Mr. O'Brien said he is trying to figure out what your.....right now you have flood lights there but your site plan said it was going to be removed so none of us had comments on it but now you are saying a light is going to go there. He said there is a light there now.....Kevin said but it says it's going to be removed.....Mr. Dec said the sign to be removed.....Mr. O'Brien said existing light/sign.....Mr. Dec said the intent was for the sign to be removed and the light was going to stay on the pole.....Mr. O'Brien said we can't figure out intent from what is written there.....Mr. Dec said he will explain it right now.....we intend to have the sign removed but keep the light.....he would like to remove that pole completely and make it one complete unit. Mr. O'Brien said you have 2 flood lights there now.....what is proposed? Mr. Dec asked where are the flood lights and Mr. O'Brien said there are two flood lights on that pole. Mr. Dec said he thought there was just one. Mr. Grimaldi said he thinks the Board would be happy and he thinks the engineer would be happy with something that complies with a dark sky conditions and only facing down and would be LED similar to the canopy.....but you said there was no new lights.....there are new lights, there are 4 new lights in the canopy. Mr. Dec said he explained that in the last testimony that we have lights. Mr. Picerno said so the canopy stands alone with its lights but we are now talking about this portion of the project. Mr. Dec said what he is trying to do is maintain the same amount of light that is there now, not to increase it or reduce it. Mr. O'Brien asked if it really needs a light there, this intersection is lite up like starlight 17. Mr. Grimaldi said without understanding and he is not suggesting that we are asking for a photometric but without understanding the intensity of the canopy, without that he would say that you need it, with that we will see. Mr. O'Brien said that corner is not dark in any way. Mr. Dec said if the Board's recommendation is that we eliminate it, he has no objection. Mr. Picerno said he has somewhat of a problem with that, if it's on the plan then that's what needs to go in, if it's not on the plan then you can't put it in later. He said the caption says light/sign to be removed so he is anticipating that is all going so if you need a light in there you would need to figure out what you are going to put there and it needs to meet the requirements. Mr. Dec said if he can recommend to the Board that we will look at that whether we need the light or not and he would confer with the Board Engineer to see if that is something that we can eliminate if we can then we will. Mr. Picerno said there has always been a light there. Mr. Grimaldi said it illuminates where you stand when you are waiting for the cross walk. Mr. Picerno said to Chris/Kevin.....there has always been a light there right? So to pull it out.....has it been detrimentis that what you are telling us, that there is a problem with that light now. Mr. O'Brien said it is another drop in the stream of the over lighting of the area. Mr. O'Brien said if Mr. Dec would like to propose something for us, we will certainly look at it. The Boards comments will be helpful so we will know whether you would like to see a light in that area or you are content to let us decide if an additional light is needed or not. Mr. Picerno said he finds it difficult for him as a board member to say whether we need it or not when he does not have that study to take a look at what the candlelight is so if it is there now and it's been working and it's not overbearing to the neighbors and everything else then the light goes back but if it is and OMG that light should have been eliminated 20 years ago, then we get rid of the light. Mr. O'Brien said we did not study that because we thought it was going away. Mr. Grimaldi asked if we can make it a condition upon your recommendation but they will provide you a photometric report so you can base your condition on actual numbers. Mr. O'Brien said we can even go look at it at night. #12, there are no new utilities that are being proposed at the site. #13 The statement is correct we are not proposing any lights be shared with the residential lots behind us. #14 additional landscaping has been added to the Boulevard frontage and that was the area that had existing grass in there already, we are

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trying to intensify that use a little bit more with greenery. There were comments if there was any other location for additional landscaping, he does not see any other than maybe those potable plants that we can place in front of the building itself but he does not know if there is much success with those plants because they seem not to do very well in those types of planters. He said that is the extent of the proposed landscaping that does meet the expressed concern at the last meeting from the Board. Mr. Picerno said we discussed landscaping in the front at the last meeting but Mr. Grimaldi brought up that can we even do or expand on the landscaping and there was an issue, he said there used to be a bus stop there....Mr. Grimaldi said there was a bus stop and the concrete is still there. Mr. Picerno asked if you looked into that at all? Mr. Dec said he does not think the bus stop is still there, the sign is still there. Mr. Picerno said that will all be cleaned up by virtue of the construction and Mr. Dec said yes. Mr. Picerno said we also talked about the curbs being shorter and things like that? Mr. Dec said we took care of the entrance way at the most northerly end of Michigan, we reduced that to the maximum allowable which is 28 ft. Mr. Grimaldi said you are removing 16 ft. of it and leaving a 20 ft. wide. Mr. Dec said he made it 24 ft. so that way they can accommodate the additional stall that was proposed. Mr. Picerno said we talked about eliminating the first one on the Boulevard, the one near the corner. Mr. Dec said no. Mr. Picerno said we talked about it but we did not say it had to be, so you are going to leave it there at 26 ft.? Mr. Dec said yes, they are both oversized, the one on the right isn't but the one to the west is. Mr. Picerno said so the one going down the block, the one next to Quality Carpet, that is 36 ft., are you shortening that and Mr. Dec said no. Mr. Dec said we are asking for a waiver or a variance. Mr. Picerno said in order to give a little bit more greenery into the front of this property, that is why we were talking about shortening up these driveways. Mr. Dec said we talked about greenery but he thought there was some sort of consensus that the existing driveway openings on the Boulevard were acceptable but we have no objection if the Board recommends to widening that area by reducing the width of the westerly driveway. Mr. Picerno said the first driveway on Michigan Avenue coming up from Rt. 22...what is the size of that driveway and Mr. Dec said 24 ft. and the next one will stay at 34 ft. Mr. Picerno said you are not going to touch that nook off the corner at 26 ft.? Mr. Dec said we are leaving that one. The next one.....if that is to be shortened, is there a reason why you wouldn't shorten it? Mr. Dec said we can shorten it, there is no reason from a turning radius point of view because that is just for the cars, we can reduce the size at the curb. Mr. Rago asked what is your best guess as to how you can reduce the width.....it's 36 now?? Just so I can have something on paper. Mr. Dec said we can reduce it 6 ft. to make it 30? Mr. Picerno said in order to reduce it to make it 30, would you just be cutting it out and patching in a 6 ft. spot or would you be removing that curb and make it a continuous flow. Mr. Dec said the curb would have to be replaced with a full face curb for the area that is being removed and the rest would, depending on after it is cut whether or not it is acceptable by the Township Engineer, we would either have to replace the depressed area or just meet it a full face or transition it. Mr. Picerno said so the concrete sidewalk that abuts that, the aprons.....are they getting replaced? Mr. Dec said they were not proposed to be replaced. Mr. Picerno asked how was the condition? Mr. Dec said they are not broken but they have been there for quite a while. Mr. Picerno said so all 4 approaches on the aprons are in good condition and not cracked or broke. Mr. Dec said to say they are not cracked, he would have to a closer inspection. Mr. Laudati asked if the driveway with the 36 ft. that we were talking about, the next to Quality, there are always cars parked by air pump making it hard to get in there, are they still going to be able to park cars along that side. Mr. Dec said they are not supposed to be parked there he said with the new pavement there will be line stripping along the rear and the side of the building for parking and storage so the only time a car will be there is when they are using the air pump. Mr. Grimaldi said the only one that parked there was the owner of the building who is no longer here. Mr. Picerno said so you would consider taking that down to 28 ft.?.....Mr. Dec said 30 ft. Mr. O'Brien said 28 ft. would conform with the ordinance and Mr. Dec said the additional two ft. wouldn't make that much of a difference so we could go to the maximum allowable 28 ft. wide opening. Mr. O'Brien said then there can be additional grass with additional plantings to be placed in that area and Mr. Dec said sure,

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wherever the grass is, we would have additional landscaping. Mr. Grimaldi said if you are going to clean all this up and will end up with one sign on the corner he asked if there could be additional planting bed underneath it? He said low level things so we are not blocking sight lines so it can be a little softer. Mr. Dec said that will work.

Mr. Dec said a lot of the issues he just discussed are in Mr. O'Brien's letter. Mr. Dec said he will go to Planning Report because Zoning Report is more to do with the question of the D3 variance.

Mr. O'Brien said page 2, item #3, item 4 has been addressed. On #5, the southern driveway opening on Michigan Avenue and whether it was really necessary because someone coming south on Michigan would use the first one, the northern one, and anyone who would attempt to make a left from Michigan Avenue into that first driveway would be insane and probably better off making a left at the light and entering from the Boulevard so his question was..... in your opinion is that first driveway or the southern driveway actually needed? Mr. Dec said he thinks it is, he thinks it provides a better circulation pattern, he would suggest making that a right turn only movement. Mr. O'Brien asked if he would consider adding the porkchop curb so that people would not be able to make a left. Mr. O'Brien said a porkchop is a little concrete barrier so people can not make left, they have to make a right. Mr. Picerno asked if he can shrink the 34 ft. driveway and asked Mr. Dec can he go to 22 ft. Mr. Dec said he would like to have that for accessibility to the pump area. Mr. Cueto said it shows on the turning movement that it takes up most of the turn in requires almost the whole width of the driveway. Mr. Picerno asked what are we going to do with that? Mr. Dec said yes except for the recommendations of the Planner and Engineer. Mr. Dec said he would be able to do that and that would be on the review improvement. Mr. O'Brien said Item 6 sheet 1 of 5 is listed on the first sheet but there are only 3 sheets. Mr. Dec said it's 1 of 3. Mr. O'Brien asked if that would be revised in the last submission and Mr. Dec said yes.

Mr. Rjan Singh – Mr. Singh said when the tanker comes in it usually comes in early morning 6 or 7Am or 8PM or 9PM when there are no cars being pumped at that time. It takes 15 minutes or half hour max to load everything. He said the max being delivered is 8500 gallons, he said we can order 5,000, 6000 or whatever the demand is. He said usually its 8500 gallons and that reduces the amount of trucks coming in. Mr. Singh said it goes out very fast, he is a chemical engineer, he said he is an environmental engineer and it takes 35 minutes to fill the tanks. Mr. Picerno asked Mr. Singh if he heard him say that when a truck comes in to put the gas in your tanks, the gas station will not be active and Mr. Singh said it will not be active. Mr. Goodman said to Mr. Singh that there was a question with regard to household garbage in terms of your waste so that is the only thing you are going to be getting rid of on a daily or weekly basis and Mr. Singh said yes, no rims or tires. He said if something has to be disposed they do it by the New Jersey state rules. Mr. Picerno said so you will have no storage of car parts, mechanic parts or tires outside of the building and Mr. Singh said no, nothing outside. Mr. Singh said he wants to keep the station very clean. Mr. Picerno looked at the other gas station in Hillside or Springfield and it wasn't in order. Mr. Singh said in Mountainside they lease the property and we rent the gas station and everything is owned by someone else and we can't control that. Mr. Picerno said you are right in the heartbeat of our town and everything you do, everyone is going to be seen. Mr. Singh said he worked at the gas station. Mr. Picerno said last time we talked about landscaping and someone said something about a year maintenance and he would like to look at a 5 year maintenance. He said you should keep the place looking like the day you moved in.

Mr. O'Brien said regarding the dumpster since only household garbage is going to go in there do you need a dumpster of that size? Mr. Singh said we don't need a dumpster. Mr. O'Brien said so you will have both

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recycle bins and garbage bins and Mr. Singh said yes. Mr. O'Brien asked Mr. Rago to add garbage and recycling will be located within the enclosure.

Mr. Mazzeo said he saw the site in Manville and it definitely looks a lot better than the one in Mountainside. Mr. Singh said that is the site he built last year and is brand new and very clean. Mr. Laudati asked if there would be abandoned cars or cars for sale? Mr. Singh said no. Mr. Grimaldi asked if there will be an air station and Mr. Singh said yes and it will be a new machine.

Mr. Goodman said as we are proceeding with a D3 he is asking the Board to take into account that we have a limited site, there are variances that are required due to the extraordinary and exceptional size of the property. With regard to the negative criteria he is asking the Board to consider the fact that this has been a gas station for 60 odd years and he doesn't think it continuing to be a gas station will negatively impact the surrounding properties or the intent of your zoning. His client has committed to doing what has been asked of him. He has committed to creating a nice esthetically pleasing gas station and he thinks that is a service the community will benefit from. He thanked the Board for accommodating them on Special Meeting.

Mr. Herbolario asked Mr. Dec if the short entrance on the Boulevard where the sign is going to be is it a one way or two way. Mr. Dec said right now there is neither, he said it would probably be much better with one way in and no exit. Mr. Herbolario said after 7PM you are able to make the right turn and if someone is making an exit from that..... Mr. Dec said that is a good point. The easterly exit on the Boulevard should be only ingress. Mr. Laudati said if you are coming to the Boulevard heading to the Parkway you can come into the gas station that way so you are facing the parkway so now if I want to go back into Kenilworth I can come out on Michigan Avenue and make the right.....that is what we are proposing? Mr. Dec said yes and said it makes it safer if you control the flow of the traffic.

OPEN MEETING TO THE PUBLIC

Motion was made by Mr. David, seconded by Mr. Scuderi to open the Meeting to the public. All in favor.

No one wished to speak.

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

Mr. Rago read the conditions. Mr. Rago said this is a D3 preliminary and final site plan with variances. The conditions between the first meeting and this meeting, he said he will ask Kevin to exchange notes in the event the Board approves this to make sure we have it all. The tandem parking will be used for employees only, new pavement for the entire site, no outdoor storage, displays, tires, etc. The width of Michigan Avenue will be reduced to 24 ft. . No autobody work. Replace curbs where needed pursuant to engineer. The eastern access on Boulevard will be one way in. The western access on the Boulevard is both ways. The concrete flatwork apron on the curb to be discussed with engineer. Hours of operation per Borough Ordinance 6AM to 11PM. The curb on the Boulevard closest to Quality will be reduced from 36 ft. to 28 ft. The curbs from Rt. 22 up Michigan Ave. are 24 ft., 34 ft., 26 ft. and 28 ft. Mr. Dec said we would like to keep the most southernly entrance on Michigan Avenue for access of the tanker. A2 was the color sample would be for the body of the building, the sign 5 ft. wide by 8 ½ ft. tall in addition to the other 8 ft. for the height. The original sign on the corner of Michigan pole should come down and planters low level, the original sign post to come down with new signage and lighting to be discussed with the

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engineer. Refuse with household garbage only contained in refuse area and the height around refuse area is 6 ft. Fuel deliveries either early morning or late at night. The site will shut down for fuel deliveries.

Kevin and Chris will review what will happen on the corner of the Boulevard and Michigan in terms of light poles and signage and shielding the lights. The western driveway on the Boulevard to be reduced. Increase landscaping. Right turn only on the driveway on Michigan Avenue with a porkchop. No storage of car parts, tires, no outdoor displays. Maintain landscaping for five years. No abandoned cars or cars for sale. Eastern driveway on Boulevard only ingress. Mr. Rago will ask Kevin to see if he missed anything.

Mr. David asked for a summary of the variances that are required. Mr. O'Brien said its in his last letter. Site plan approval is required, a D3 variance is required because the pumps are less than 25 ft. from the property line. No loading areas are proposed and it is not delineated however a tanker truck is shown on the plan so lets call it a D3 because none is proposed. 6 ft. of planting is required against the residential, 10 ft. is required so that is a D3. The trash area on the north side of the building is not screened from North Michigan Avenue which is also a D3. Based on tonight's testimony, Page 4, Item 11 discusses the lighting and will be cleared up with subsequent submissions so that is not a D3. 17 ft. is provided for the fuel pumps, that's a D3. Bulk requirements/standards, he did not receive an answer on a corner lot has two side yards each of which has a 0 ft. setback except on a residential zone where 5 ft. setback is required, he asked that the chart be revised to show the proposed condition. He also pointed out that the canopy is proposed but it does not seem that the canopy dimensions are included in building cover and they would be required in a revision. Mr. Dec since this is a variance situation, are the canopy dimensions included in that building cover and Mr. Dec said no in the impervious coverage but not in the building coverage. Mr. O'Brien asked if Mr. Dec would know if that exceeds what is allowed or whether that is an additional variance? Mr. O'Brien said tandem parking is a bulk variance, the driveway openings of more than 28 ft. are bulk variances, we have one of those at this point. That is all the relief that is necessary at this point. Mr. Dec said the building coverage allowed 80% and we are at 10.08% and the size of the canopy will not be anywhere near exceeding the allowable.

Motion was made by Mr. Grimaldi, seconded by Mr. Scuderi to approve Application #383 with the conditions stated by Mr. Rago. ROLL CALL: Mr. Picerno voted yes, Mr. David voted no, Mr. Grimaldi voted yes, Mr. Mazzeo voted yes, Mr. Laudati voted no, Mr. Calello voted yes, Mr. Scuderi voted yes.

COMMENTS FOR THE GOOD OF THE BOARD

Mr. David wished everyone on the Board and our Professionals a Merry Christmas and Happy New Year and he hopes everyone has a safe and health year.

Mr. O'Brien said he echoed the Vice Chairs sentiments. He said with the incredible increased number of COVID19 virus he asked if the Board wished to meet via zoon in January and if you wish to meeting via zoon, he suggests the board discuss that.

Mr. Picerno said he discussed with Mayor Karlovitch and it may be a zoon meeting but he is not going to make that decision now. Mr. David said he is going to Florida and won't return until January 2nd. Mr. Picerno said we will get a memo out.

Mr. Picerno wished everyone a Merry Christmas. He said he gets a lot of help from each and every board member especially Mr. David. He said he values him as the Vice Chairman and also as a friend. He thanked Kevin O'Brien, Christian Cueto and Lou Rago because they do an outstanding job and they go above and

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beyond. He said we had a rough year with COVID19 a lot of people were sick including his wife and himself, his cousin passed two days ago, our Council woman lost her daughter and these are scars that don't heal. He said for this holiday say a prayer. He thanked our Board Secretary Kathi who does an outstanding job and is always right there for us, this place don't function without her.

OPEN MEETING TO PUBLIC

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

No one wished to speak.

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

ADJOURNMENT

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

Respectfully submitted by:
Kathleen Moschitta
Recording Secretary