The meeting was called to order at 7:36 PM by the Chairman, Mr. John Cholminski, who then led the assembly in the flag salute.

Mr. Cholminski read the Statement of Compliance pursuant to the "Open Public Meetings Act, Chapter 231, PL 1975."

ROLL CALL OF MEMBERS PRESENT: Mr. Christiano, Mr. Lermond, Mr. Zschack, Mr. Oleksy, Mr. Suckey, Mayor Crowley, Mr. Maugeri, Mr. Zydon, Mr. Cholminski

ABSENT: None

ALSO PRESENT: Mr. Steven Schaffer, Esq. Mr. Thomas G. Knutelsky, P.E. Mr. Ken Nelson, P.P. Mr. James Kilduff, Director

APPLICATIONS TO BE HEARD:

PB-03-11-1 Group 5 Development, Amended Preliminary and Amended Final Site Plan, C Variances, Block 70 Lots 7.05 and 7.02.

Carol Hardiman, Certified Shorthand Reporter, was present.

Mr. Cholminski gave an overview of this application. Mr. Cholminski said the preliminary application was approved back in 2008; the approval was for a 200,000sq foot big box store and installation of a bypass road to benefit traffic flow in Franklin. Mr. Cholminski said that application vested the applicant with the right to develop the property subject to the conditions of approval including application for final approval once the details of that application were formulated. Mr. Cholminski said the applicant has now come back for final approval and to modify the preliminary approval. Mr. Cholminski said the Board's function this evening is not to reconsider the original approval. Mr. Cholminski said the Board should concentrate on the changes to the previously approved plan compliance with the preliminary approval. Mr. Cholminski said this application is generally conceptionaly the same as the preliminary application; there are changes such as a reduced store size and new details such as signs that have to be considered.

Mr. Cholminski said there were items to be finalized. Mr. Cholminski said the items to be finalized for the final application were the wall design, the façade and the water tank. Also the Board members must let the applicant and the other Board members know where they have objections so we can all discuss those objections, understand

where the objections are coming from and all be on board with the reasons for the objections.

Mr. Lermond said at the end of this we vote; because it is amended if we vote in favor obviously the amendment goes through, if we vote the other way does it just affect the amendment and the two year extension that we granted stands. Mr. Schaffer asked are you saying the amendment would not be approved. Mr. Lermond said suppose it wasn't. Mr. Schaffer said he supposed the applicant can move for the final for the plan as submitted but he doesn't think the applicant wants to do that. Mr. Lermond said you don't think the applicant has to do that. Mr. Schaffer said I don't know what the applicant intends to do. Mr. Lermond said it was a clarification for what happens. Mr. Cholminski said the first approval had conditions in it; those conditions have not been finalized. Mr. Schaffer said he is going to do an amended preliminary first before he moves onto final is that correct. Mr. Podvey said we are doing them together as one presentation.

Mr. Schaffer said from a legal standpoint as the chair says is to focus on not reopening the proofs that were required for the application that was previously submitted. Mr. Schaffer said we are focusing on amendments, changes and the proofs that are required for that and what is required for the final. Mr. Lermond said understood, I think to refresh us; we will have to go into some of those areas as deep as necessary to satisfy the Board.

Mr. Kilduff said for the benefit of the record; he understands that you're [Mr. Podvey is] going to be requesting a follow up special meeting. Mr. Kilduff said the first date he is going to recommend is Wednesday June 29. The Board discussed June 29 as a special meeting date. Mr. Cholminski said for the record this application in all probability will not be completed this evening, the next meeting for this application will be on June 29 right here at 7:30. Mr. Cholminski said no further notice will be made on that.

Mr. Podvey attorney for the applicant said this all started back in 2008; there was an approval granted for what was then a big box store. Mr. Podvey said the store is now identified as a Wal-Mart; and this application is on behalf of Wal-Mart and Group 5. Mr. Podvey said we are looking for amended preliminary and amended final site plan approval.

Mr. Podvey said we received two letters from the town; one is Mr. Knutelsky's letter of May 10 and Mr. Nelson's letter of May 9. Mr. Podvey said prior to this meeting we had a meeting with a subcommittee of this Board with regards to the retaining wall. Mr. Podvey said as the Chairman indicated it still is an open issue. Mr. Podvey said we have attempted to have our professionals talk to your professionals to work out those areas that we agree on so we can focus tonight and [June] 29^{th on} those areas that we may have some differences.

Mr. Podvey said the variances we are seeking are the same as the ones that were in 08, they are on the application. Mr. Podvey went over the different variances for this application.

Mr. Podvey said in terms of the witnesses being presented tonight; two of them are the same as last time. Mr. Podvey said John Harter, who covered traffic last time will be covering it again tonight. Mr. Podvey said Perry Petrillo who was the architect here last time will also be testifying. Mr. Podvey said our new witness is Grayson Murry from Bohler Engineering who will be covering the changes to the site and all engineering aspects of the site.

Mr. Podvey said as an overview, since being here last time we have obtained and recorded what he would call the Weis easement, which is the easement from the main access road. Mr. Podvey said it goes up to the Weis store onto this site; that has been obtained and recorded. Mr. Podvey said so has the Wurtsboro easement which connects the shopping center right off 23 into this site. Mr. Podvey said we have not obtained the Hardyston School easement. We have prepared a draft and ran it by Mr. Brady but we haven't gone any further. Mr. Schaffer asked Mr. Podvey on those easements that were recorded have [they] been reviewed. Mr. Podvey said yes before they were recorded.

Mr. Podvey said he also received this morning and has dealt with a memo dated June 7 from Mr. Guerin who is the engineer for Hardyston. Mr. Podvey said representatives of Bohler Engineers have spoken to Mr. Guerin and we basically agreed to the two suggestions in there. Mr. Podvey said one of which is to extend the fence on this property as requested and secondly to arrange for preconstruction and construction meetings as required. Mr. Podvey said he understands there are representatives from the Hardyston School Board here tonight. We are prepared and our witnesses are prepared to answer any questions or concerns they might have. The Board had a brief discussion on the memo.

Mr. Podvey said he thinks that although we need to give an overall presentation there are certain issues which he thinks are open. Mr. Podvey said the first is the retaining wall issue. Mr. Podvey said they meet with the subcommittee of this Board last month with regards to trying to resolve that issue, we brought out some samples of what the wall would look like. We had a supplier come out with a truck load of different choices. That is going to be something that will be discussed tonight.

Mr. Podvey said the building façade is another issue that he thinks is somewhat open. Mr. Podvey said the parking, landscaping and phasing which was part of the old resolution is something that is open. Mr. Podvey said we are not going to discuss that tonight.

Mr. Podvey said COAH is another issue which he has discussed with both Mr. Ursin who is the town attorney and Mr. Brady. Mr. Podvey said finally there is signage; there may be alternately some difference with regards to one sign.

Mr. Podvey said in order to save time, we pre-marked all our exhibits and he has an exhibit list which he gave to the court reporter and copies for [the Board]. Mr. Podvey requested that the Board allow their witnesses to make their presentations if you can and hold your questions until we are done. Mr. Podvey explained why he had this request.

Grayson Murray from Bohler Engineering was sworn in at this time. Mr. Murray said he is partner of Bohler Engineering in Warren NJ. Mr. Murray gave his credentials to the Board.

Mr. Murray referred to the list of exhibits that Mr. Podvey handed out. Mr. Murray referred to exhibit A-1, Existing Conditions Aerial Exhibit, prepared by Bohler Engineering dated 05-13-11 and exhibit A-2, Overall Site Plan Exhibit, prepared by Bohler engineering dated 05-13-11. Mr. Murray referred to exhibit A-1, explaining the property location.

Mr. Murray referred to exhibit A-2 which showed the subject property in more detail. Mr. Murray explained the subject property on A-2 which was in a larger scale.

Mr. Murray said this Board had taken action on a prior resolution back in 2008; they had approved a building of 200,777sq feet. Mr. Murray said that plan was submitted to comply with the town ordinance parking requirements which is a ratio of 5 spaces per one thousand square feet. Which had a total of 956 spaces. Mr. Murray said we had revised that plan at the Boards request to reduce parking; we had reduced the ratio to 4.27 spaces per thousand which at the time in concept H referred to in the resolution had a total of 855 spaces. That plan had also reduced impervious namely on the south east corner of the site where there was some additional parking provided.

Mr. Murray said now what is before the Board is the amended site plan and for simplicity he will focus on the areas that have changed, he will draw comparison to what this Board had approved in 2008 so you can make a reasonable judgment based on the changes. Mr. Murray said overall we have reduced the size of the building, the scale of the overall development and therefore the intensity relative to what was improved in 2008.

Mr. Murray said the prior approval was for a 200,777 sq foot building we have reduced the building size to 190,000 sq feet which includes a 6,377 sq foot garden center. The building orientation on the subject property is the same namely the entrance is facing north opposite the parking field. Mr. Murray said overall the building is located in the southern portion of the site consistent with the original plan.

Mr. Murray said this amended plan complies with all setbacks as outlined in the ordinance as did the original plan. Mr. Murray said an important eliminate of this redesign is that we have significantly reduced the building area and for comparative purposes the HC zone allows for a 20 percent building coverage. Mr. Murray said which would yield approximately 357,000 sq feet of building; we are only proposing 190,000 sq feet which is 10.8 percent.

Mr. Murray said on the parking layout we have reduced the stall count. Mr. Murray said concept H which was presented in 2008; this was just a concept that we had estimated about 855 stalls would be required. Mr. Murray said after we got into the design and went through a comprehensive plan preparation the stall count has been reduced from 956 in 2008 to 865 presently which is 91 space reduction. The ratio is 4.39 per spaces per thousand which exceeds what the Board had desired and requested in 2008.

Mr. Murray said we have reduced the impervious coverage from 40 percent which was approved in 2008 to 37.4 percent. Mr. Murray said it might not sound like a lot but because the property is so large. The actual square footage is 47,357 sq feet which is over an acre of reduce impervious. Mr. Murray said you can look at it as we brought back and an acre of green, we have brought back an acre of landscape area in this amended proposal. Mr. Murray explained the way this was accomplished.

Mr. Murray said the fourth key point of comparison is the retaining wall which Mr. Podvey indicated as an open issue. Mr. Murray referred to exhibit A-4 retaining wall perspective exhibit dated May 13, 2011. Mr. Murray said what they accomplished is a reduction in the wall height at scale as part of this design. Mr. Murray said along the western side of the proposed Wal-Mart there is a retaining wall that varies in height up to 30 feet at its highest point. Mr. Murray said we have been able to reduce that wall height by 7 feet from what was approved in 2008. Mr. Murray explained how that was accomplished. Mr. Schaffer said for the record number 38 was not in the condition section it was in the findings which is page 9 of the resolution. Mr. Schaffer said he thinks that is what you are referring to. Mr. Murray explained exhibit A-4 and the wall.

Mr. Murray said the storm water management components of the design are reduced there is less piping, basins have been eliminated or minimized. The excavation for that work is minimized and we have been able to eliminate walls for many of the proposed basins.

Mr. Murray said a sixth issue that is not part of the 2008 approval is the water tank. Mr. Murray said as the Board my recall the development requires a water tank for fire suppression purposes. Mr. Murray referred to exhibit A-2 explaining the location of the water tank. It is a 125,000 gallon tank, through our workshop meetings we know that there is work to do in terms of coordinating with the fire official, fire

department, building department about appropriate fittings and connector design of that tank that satisfies the Borough Fire Department requirements. Mr. Murray said we recognize that; we are willing to do just that. Make it a condition of approval; at this time we don't have that level of detail but we know that the plumbing engineer that designed this with the fire connection engineer have to comply with codes. Not only national and safe codes but the preference with the Borough's fire department.

Mr. Cholminski asked if there was any thought or any logic behind burying that tank rather than having it above ground where you have to heat it and you can see it. Mr. Knutelsky said it would be a cost issue for a large underground vault versus an above ground tank. There was a discussion on the water tank and how the tank would be filled.

Mr. Murray said Public Works Sewer approval was approved September 24, 2009. Mr. Suckey said you haven't gone back for an amendment to water and sewer. Mr. Suckey said you went back for an amendment on using Municipal water for the tank because that wasn't in the original proposal. Mr. Murray said correct.

Mr. Suckey said you are taking Municipal water and using it for fire storage which is ok but you haven't gone back to get their approval on using water for storage. Mr. Suckey said you tied into the sprinkler system that is one thing which went with the original proposal now you are adding a water storage tank for fire protection purposes. Mr. Suckey asked have you went back to the water and sewer to get the approval to use that much water or would you have enough capability on record that we can say that. Mr. Murray said yes, as far as availability we confirmed that there is no moratorium on the water that we need to fill this tank and hold it. Mr. Murray said it has been an ongoing process. Mr. Suckey said you are providing 25 percent of the firefighter capability of water pressure for that building, right. Mr. Murray said I don't know that. There was a discussion on the code requirement.

Mr. Suckey said back in the subcommittee [meeting] prior to the application; we requested a design on the tank and pump, the capabilities, the manufacture and their recommendations and so forth. Mr. Suckey said we never received them. Mr. Suckey said he is still waiting for them today. Mr. Murray said yes, you will receive them. Mr. Suckey said [I need to get them] so I can take them back to the fire department and talk it over with them to make sure they are going to be happy with this. There was a discussion on when the design needs to be submitted, water tank and review by the fire department. Mr. Suckey voiced his concern on the building of this size and what was needed.

Mr. Podvey said he thinks what you want we can get you as long as we are not going to a design; we are going to a brochure. Mr. Podvey said give us a list as to what you would want and we will try and get it before the next meeting. Mr. Suckey said he would provide a list.

Mr. Murray said he would like to walk through access briefly and then move into a variance [summary]. Mr. Murray said they have major access permit review pending with DOT we actually made a lot of progress; Mr. Harter can summarize that for you. Mr. Murray explained where sidewalks would be located. There was a brief discussion on the sidewalks.

Mr. Murray gave an overview summary of the variances with this application. Mr. Cholminski suggested not reviewing variances that were approved back in 2008. There was a discussion on parking stall requirements, wider stall and 15 percent of the surface parking to be landscaped, snow removal and garden center. Mr. Cholminski said I will never see any outside storage there. Mr. Murray said no. Mr. Cholminski said it is on the record.

The Board took a break at 8:57PM. The Board reconvened at 9:02 PM.

Mr. Murray continued with going over the different variances. Mr. Murray referred to the variance for the fence in the front yard it is a six foot fence. Mr. Podvey said this came up at the subcommittee meeting, we were talking about the wall and it was suggested that instead of a board on board at 4 feet to go with this fence at six feet for safety purposes. Mr. Zydon asked if there was a guard rail that is in front of that fence. Mr. Murray said yes. Mr. Suckey asked what color is the fence. Mr. Murray said black vinyl. Mr. Suckey said so it blends in a lot better as far as not seeing it a lot. Mr. Murray said yes.

Mr. Murray referred to exhibit A-5, Steep Slope Disturbance Exhibit, prepared by Bohler Engineering dated 05-13-11. Mr. Murray used the exhibit to show the Board what has changed with the amended application; on the east side of the interconnect or the future extension to Munsonhurst we have eliminated a retaining wall from the 2008 design and approval. We choose to grade the area out which will disturb regulated slope areas. There was a discussion on this area. Mr. Murray used the exhibit to explain the sloping.

Mr. Murray said the last issue is a variance to permit less than two feet of cover for a stormwater [piping]. Mr. Murray said we have this situation at two locations one is consistent with 2008 approval. Mr. Murray referred to exhibit A-2 there is a crossing in the northeast portion of the extension road where we are retaining a very sensitive NJDEP regulated water forest. Mr. Murray explained the yard inlet. Mr. Cholminski asked Mr. Knutelsky if he had any issues with that. Mr. Knutelsky said for the Boards knowledge two foot of coverage is the standard when you're dealing with plastic pipe.

Mr. Knutelsky referred to his report dated May 10, 2011, page 2 section B. Mr. Knutelsky said item 1 for zoning that has been discussed but we will let the planner

discuss that at the next hearing. Mr. Knutelsky referred to item 2 parking and circulation the first item A is more of a statement of fact and an acknowledgement. By our review that the current design properly plans for the access connector road that goes through the entire site as per our conversation.

Mr. Knutelsky said item B the connector road that leads to the southerly ends short of the property; what we try to do while the machinery is out there is get as much of that constructed as possible. We think that can get a little more constructed or at least graded to a point to the southerly property line. Mr. Cholminski said what are you proposing grading to now and paving to now. Mr. Murray said we propose to stop the roadway extension 60 feet to the southern property line. Mr. Murray explained the rationale behind that. There was a discussion on grading and the slope to the connector road. Mr. Murray and Mr. Knutelsky said they can work it out.

Mr. Knutelsky referred to item 2 C and item 2 D, the building area and the parking. He thinks that was discussed, 2 E is more of an indication that more parking stalls may be required by Dunkin Donuts inside. Mr. Knutelsky said he wanted the applicant to incorporate [that] into the parking calculations. Mr. Murray said yes it was. Mr. Schaffer asked [if] that was calculated into the spaces per thousand. Mr. Murray said yes.

Mr. Knutelsky referred to item 2 F, regards to ADA compliance stalls, the applicant is asking for relief on a number of parking stalls. He noticed on the details and he thinks we recommended it originally in the first application that the ADA compliance stalls the one van accessible they were using a lot of pavement. We feel that maybe some additional parking may be added to that location. Mr. Murray said Mr. Knutelsky is correct in that the geometry of the van accessible space is different than ADA. Mr. Murray explained the layout of the parking stalls.

Mr. Knutelsky referred to items 2 G and 2 H, parking. Mr. Knutelsky said the minimum parking size have been ment that is what 2 G indicates. Mr. Knutelsky said item 2 I and 2 J are statement of facts. Mr. Knutelsky referred to item 2 K, truck turning templates of WB-67 vehicles. Looks like it encroaches across a portion of the center line. Can that access drive be modified? Mr. Murray said in response to that issue what we are referring to is the north east connection of the bypass to the connection to the Weis driveway. Mr. Murray said the geometrics there are tractor trailer appropriate in terms of the radii. Mr. Murray explained this. There was a discussion on the truck movements.

Mr. Knutelsky referred to items 2 L and 2 M, the applicant said they would comply and item 2 M is a statement of fact. Mr. Knutelsky said in regard to building layout and design, we will wait for the applicant to discuss that. Mr. Knutelsky said there is an item 3 D the types of screening for the compactors should be noted on the plans, he believes that is a will comply.

Mr. Knutelsky said in regards to lighting and landscaping 4 A the applicant is requesting a design waiver of the interior parking areas. Mr. Cholminski said we are going to wait to have that testimony. Mr. Murray said he thought he was done. Mr. Knutelsky said item 4 B in regard to buffering. Explaining the landscaping Mr. Murray referred to exhibit A-13, tree exhibit. Mr. Knutelsky said he wanted to get one other thing about landscaping on the record; the applicant indicated that they would comply with the disturbance for the tree save areas being stacked in the field prior to site disturbance. Mr. Knutelsky said item 4 E they will comply. Mr. Murray said we agree. Mr. Knutelsky referred to item 4 F should be indication whether there is going to be an irrigation system proposed. Mr. Murray said there is not. Mr. Knutelsky referred to item 4 G final landscaping should be approved by the [Board] Planner.

Mr. Knutelsky said in terms of the lighting; at the property line. Mr. Suckey said that is 4 H right. Mr. Murray said this issue is consistent with the 2008 approval. Mr. Murray identified the areas of the site we are talking about. Mr. Murray used exhibit A-2 and A-1.

Mr. Knutelsky said he would really like to hear testimony as to the southerly property line with the School and what is being done at that location to prevent any type of spillover. Mr. Murray said we have outside shields on those fixtures along the southern property line. Mr. Cholminski asked will there be spillover. Mr. Murray said no. Mr. Cholminski said in the south border there will be no spillover. Mr. Murray said yes.

Mr. Knutelsky referred to item 4 I, in terms of hours of operation. Mr. Knutelsky said specifically for proposed lighting that should be provided on the plans, I know that you said you would comply but he didn't hear what that time frame was. Mr. Murray said he thinks dusk to dawn is what is proposed for security purposes.

Mr. Knutelsky referred to item 4 J, in regards to shoe-box luminaries; the architectural plans has a lantern style lighting that looks relatively attractive on the site and we have these shoe-box lights that are along the road in the parking field. Mr. Knutelsky said we are recommending that an alternative can be used other than a shoe-box light. Mr. Murray said the short answer to that is no. Mr. Murray said in parking lots the shoe-box fixtures are the most effective in illuminating large areas. Mr. Murray explained the lighting system that is used for Wal-Mart. There was a discussion on lighting.

Mayor Crowley said he would like to bring up the fact that the police would like to make sure they can see the parking lot and there are no dark corners in it. Mr. Cholminski said can we follow up with the police department. Mr. Cholminski said for now let's assume that the lights on the building will be illuminated only after closing hours for the employees and no more than 10 percent of the parking lot.

Mr. Knutelsky said item 4 K, they will comply with. Mr. Knutelsky referred to item 6, utilities. Mr. Knutelsky said he believes that items 6 A, B and C have been addressed. Mr. Knutelsky referred to item 6 D, fire department review and the status of the submission that has to be taken care of, they will comply. Mr. Murray said yes. Mr. Knutelsky referred to item 7A and B have recently been addressed. Item 7 C is an indication of wall height. Mr. Knutelsky asked is this testimony finished in regards to walls. There was a discussion on the wall, wall height and trees to be saved. The Board members requested additional site photos of the site so they can see what the wall will look like from different sites.

Mr. Knutelsky referred to item 7 D, we are looking for planting type, let's get specific names on the record. Mr. Knutelsky referred to item 7 E, fences. Can you show exactly where the fences will be placed? Mr. Murray referred to exhibit A-3, explaining where the fences would be located.

Mr. Knutelsky said items 7 F and 7 G, have been appropriately covered in testimony. Mr. Knutelsky referred to item 8 A, stormwater management provisions, have been meet. Mr. Knutelsky said [they] have been reviewed by NJDOT, DEP and our office and we all say it is ok. Mr. Knutelsky referred to item 8 B, [they] will comply. Mr. Knutelsky said items 9 A and B, are statement of fact, item 9 C to be provided in later testimony and items 9 D, E, F, G and H, they will comply.

Mr. Knutelsky referred to item 10, Environmental Impact Statement, item A, the EIS document submitted with this application contains the same general information submitted as part of the original approval. Mr. Knutelsky referred to item 10 B, NJDEP permits. Mr. Knutelsky asked if the DEP permits have been issued or are they pending. Mr. Murray said there is one pending that is relative to the onsite amendments and is still under review. Mr. Knutelsky referred to item 10 C LOI for onsite wetlands is still valid. Mr. Knutelsky said section number 11, Traffic impact, we will hear [testimony] from the traffic expert.

Mr. Knutelsky referred item 12, miscellaneous. Mr. Knutelsky referred to 12 A, they already indicated that the limits of disturbance will be staked. They will comply with that. Mr. Knutelsky said items 12 B, C, D, E, F, G and H, will all be complied with. Mr. Murray said he agrees, he just asks Mr. Podvey to confirm item G as far as developer's agreement. Mr. Podvey said yes upon the original resolution. Mr. Knutelsky referred to 12 I, COAH requirements. Mr. Cholminski said we will discuss that at the next meeting. Mr. Knutelsky referred to item 12 J, all the permits for the application. At this time the Board members asked Mr. Murray questions on his testimony. Questions pertained to parking stalls, snow removal, storage of salt on the property, lighting issue, hours of operation and width of the bypass road

OPEN PUBLIC SESSION:

Mr. Lermond made a motion to Open to the Public. Seconded by Mr. Suckey. All were in favor.

Glenn Sumpman, Superintendent of Hardyston School stepped forward. Mr. Sumpman thanked the Board members for looking after the school with their questions and concerns. Mr. Sumpman said Mr. Podvey has offered to meet with us to address [our] concerns.

Chris Mainardi, Wurtsboro Associates, stepped forward. Mr. Mainardi complimented Jerry and his team for all their hard work they have done in their presentation and the town working hard to make sure the project is an asset to the community. Mr. Mainardi explained the rock wall behind his property line and the clearing that was done. Mr. Mainardi asked if there was a possibility that he attend a meeting with the discussion of the wall, obviously that is a concern of ours; it has a substantial presence behind our shopping center. Mr. Mainardi asked about the water runoff to his property.

Mr. Lermond made a motion to Close to the Public. Seconded by Mr. Suckey. All were in favor.

Mr. Cholminski said this meeting will continue on June 29, there will be no further notice in the paper.

ADJOURNMENT:

There being no further business to come before the Board, the meeting was adjourned at 10:38 PM on a motion by Mr. Zschack. Seconded by Mr. Oleksy. All were in favor.

Respectfully Submitted,

Robin Hough Secretary