

Franklin Borough Planning Board
Meeting Minutes for
May 19, 2014

The meeting was called to order at 7:30 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, Mayor Crowley, Mr. Foulds, Mr. Giordano, Mr. Williams, Mr. Zydon, Mr. Cholminski, Mr. Nidelko,

ABSENT: Mr. Friend

ALSO PRESENT: Mr. David Brady, Esq.
Mr. Thomas G. Knutelsky, P.E.
Mr. Ken Nelson, PP, AICP
Mr. James Kilduff, Png. & Comm. Dev. Dir.

Mr. Cholminski informed administrative matters will be taken care of first then proceed to the Completeness hearing. Thereafter, he and Mr. Foulds are stepping down from the Eden Franklin (Walgreens) application.

APPROVAL OF MINUTES:

Mr. Nidelko made a motion to approve the **Franklin Borough Planning Board Meeting Minutes for April 21, 2014**. Seconded by Mr. Foulds.

Upon Roll Call Vote:

AYES: Christiano, Foulds, Giordano, Williams, Zydon, Nidelko

NAYS: None ABSTENTIONS: None

(Motion Approved)

PAYMENT OF BILLS:

Mr. Williams made a motion to approve the **Franklin Borough Planning Board Escrow Report for May 19, 2014**. Seconded by Mr. Zydon.

Upon Roll Call Vote:

AYES: Christiano, Foulds, Williams, Zydon, Cholminski, Nidelko

NAYS: None ABSTENTIONS: Crowley, Giordano

(Motion Approved)

APPLICATIONS FOR COMPLETENESS:

PB-04-14-1 Santé Bus, LLC and Franklin Square Health & Wellness, LLC; Amended Preliminary Site Plan (Phase 2) and Amended Site Plan (Phase 2); Block 701, Lots 6 & 11

Michael Gaus, Esq., attorney for the applicant placed himself on the record.

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Mr. Kilduff said he sent an Administrative Review Letter for the first 12 Checklist items of which a number are outstanding. Mr. Gaus responded. During Mr. Knutelsky's Completeness Review, eight variances were identified whereas payment of three was received. Just before the meeting, Mr. Gaus informed him adjustments were made that could be adjusted. A discussion followed. Therein Mr. Knutelsky recommended the application be deemed incomplete for the variance count and miscellaneous information needed.

Mr. Gaus said seven of the variances Mr. Knutelsky identified dealt with signage to which they interpreted differently. Mr. Kilduff had informed them of the generous sign ordinance. They're convinced and are redesigning it to have no sign variances, and further explained. He said they've essentially overpaid and will submit a revised plan set in time for the June 16th hearing.

Mr. Cholminski inquired of the count. Mr. Kilduff said if correct, he's okay with the count and as Mr. Knutelsky stated, more variances may become apparent during the application's course. Mr. Gaus said they understood.

Mr. Cholminski asked if he's okay administratively. Mr. Kilduff said Checklist Items 4, 5 & 7 deals with notice that can be provided in anticipation of next month; if the Board decides to allow them to Notice assuming they'll complete the application by the next meeting. #9 relates to the list of waivers and variances being requested and needs clarification for changes Mr. Gaus discussed. Regarding Checklist Items 11 & 12, Mr. Gaus previously supplied copies and is unsure if the Board wants them. He thinks parking easements for shared parking that's in place and the previously approved application so the Board has history to refer to and any documents they feel are appropriate would be of interest to the Board.

Mr. Gaus said they see it as a continuing application and had filed multiple copies of everything the Board requested. If they want them to re-file, they can and the only outstanding item is the resolution on file from Phase One's approval.

Mr. Cholminski advised there are new members who may not be familiar with or have document copies previously filed. He said to first see where they stand with the Completeness Report.

- Mr. Knutelsky read from his May 13, 2014 Report **Section B 1, Checklist Item #16: *Delineation of flood plains and wetland areas.*** Similar to the fees, recommended temporary waiver for completeness only with confirmation from the applicant's professionals it will not be modified or affected by the application. Mr. Gaus said it was submitted as part of the Phase 1 Report dated March 8, 2013 on file and didn't resubmit it but will if it's desired. Mr. Knutelsky recommended temporary completeness only with testimony provided during the hearing;

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- **Checklist Item #20:** *Location of existing water courses & natural features including flood plains, wetlands.* Recommended temporary waiver for completeness only with confirmation by the applicant during the public hearing;
- **Checklist Item #24:** *Stormwater Management Plan.* Applicant requested a waiver. The application is considered a major project for disturbing more than one acre of property. Per ordinance, a Stormwater Report is required. He found it incomplete with information provided. He informed the Board they're disturbing existing impervious areas. They're adding new inlets, revising inlets and piping of which he'd like that report. Mr. Gaus said they saw it as Maintenance and are therefore not disturbing over an acre. Mr. Cholminski said it's not for debate and asked if it's being declined. Mr. Gaus said they'll submit something in time for the next meeting. Mr. Cholminski asked, "Prior to the next meeting or completeness." Mr. Gaus said next week and hopefully have completeness and start the public hearing in June. Mr. Knutelsky said he'll review it as part of recommendation at the end;
- **Checklist Item #27:** *Circulation Plan.* The applicant indicated N/A. Curbing and sidewalk proposal along Mitchell Avenue requires cross-sections for protection purposes eventually if the application's approved. Recommended temporary waiver for completeness so the applicant doesn't have to go through providing the cost up front, but will require it as a condition of any approving resolutions and look for it on the back end of the application during construction. Recommended temporary waiver for completeness only;
- **(Checklist Item #28):** *Plans/profiles of water and sewer.* Applicant indicated N/A. As a new building, there will be new water & sewer service required as part of that building. Recommended temporary waiver for completeness only and information provided as condition of any approval similar to Checklist Item #27;
- **Checklist Item #29:** *Location of any proposed off-street parking showing loading docks.* The new proposed building is going to have loading whether it's FedEx or lab deliveries. It wasn't shown on the plan, is incomplete and should be added to the plan. Mr. Gaus said they're not planning a separate loading area and can show a delivery area in front of the building. Mr. Cholminski asked, "for the next meeting" and Mr. Gaus agreed;
- **Checklist Item #.30:** *Location of all proposed signs and exterior lighting including details.* Applicant indicated it's complete, but specific lighting details have not been provided. Specifically light post, foundation details and the whole light apparatus should be shown on the plans as a detail and found the item incomplete. Mr. Gaus said it will be in next week's submission;
- **Checklist Item #31:** *Provision for storage of solid wastes for collection.* Similar to off-street loading, a separate area for recycling and garbage is required. The legend should be shown on the plans. Mr. Gaus said they originally thought they were going to have room inside; they're trying to minimize parking spaces. They'll add it for next week as well;
- **Checklist Item #35:** *(Copy of any protective covenants or deed restrictions).* He said this is the Checklist Item Mr. Kilduff discussed and the applicant will provide it to the Board. The item is incomplete;

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- **Checklist Item #38:** *Environmental Impact Statement.* Applicant requested a waiver due to the fact the site's already developed with impervious coverage and no trees are coming down as part of the application. The EIS is waived and recommended granting that waiver;
- **Checklist Item #43-47:** Typical to other applications, these are Final Site Plan requirements only and recommended temporary waivers. In the letter he indicated waiver, but requested to change it. They typically grant temporary waivers for completeness only with that information added as a condition of any approving resolution if required. He recommended temporary waiver for completeness only and Mr. Gaus accepted.

In summary, temporary waivers for Checklist Item #16's, 20, 27, 28 and 43-47. Full waiver for Checklist Item #38 and the applicant agreed to address Checklist Items #24, 29, 30, 31 & 35. Should the Board find it incomplete, recommended if the applicant provides information to him a minimum of 14 days prior to that hearing finds it's complete with any waivers the Board grants this evening find the application complete at the next hearing. If complete, continue to the public hearing.

Mr. Cholminski addressed his concern over not having documents passed around, cleaned and worked on prior to completeness in time for the hearing, drags on. It highly costs the client in legal fees, professionals and engineers. He recommended their engineer and ours confer and resolve to Mr. Knutelsky's satisfaction as discussed. He said get the application done right, hear it, and finish it. Mr. Cholminski recommended deeming it incomplete, taking time to get it done correctly so when they return for final completeness, it can be heard in one night.

Mr. Gaus said he has a problem it being deemed incomplete tonight. He thinks they're saying the same thing to get it cleaned up and submit a set of plans 21 days in advance of the meeting. If completeness is in good shape they'll notice for the June meeting. The Board could deem them complete and proceed to their presentation. A brief discussion was had.

Mr. Cholminski asked Mr. Kilduff what documentation is missing. Mr. Kilduff said there are at least six prior resolutions and is unsure the Board needs it to when it was a building supply. He thinks the last resolution is the most important, and parking easements if the Board feels it's necessary or need. The resolution covers what's been approved. Mr. Cholminski inquired if they have lots of testimony for the new building and its affect to traffic. Mr. Gaus said there's a traffic report and a traffic engineer will be present. Mr. Cholminski said the question is can we approve for completeness and move to the hearing next month. A discussion followed.

Mr. Knutelsky said for the Board's knowledge, the report will have an amended Completeness Report for next month once all information is provided. As part of Part C of that report, will be the technical report. Mr. Cholminski asked when the

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information is needed by. Mr. Knutelsky said a minimum of 14 days per his letter and to have the report seven days in advance as required by Mr. Kilduff.

Mr. Cholminski requested a motion to deem the application incomplete with the understanding they'll be on next month's agenda for completeness and hearing, providing it was complete.

Mr. Zydon made a motion to deem incomplete application **PB-04-14-1 Santé Bus, LLC and Franklin Square Health & Wellness, LLC; Amended Preliminary and Final Site Plan (Phase 2), Block 701, Lots 6 & 11.** Seconded by Mr. Williams

Upon Roll Call Vote:

AYES: Christiano, Crowley, Foulds, Williams, Zydon, Alt. #1 Nidelko, Cholminski

NAYS: None ABSTENTIONS: Giordano

(Motion Approved)

APPLICATIONS TO BE HEARD:

PB-03-14-1 Eden Franklin LLC (Walgreens); Amended Preliminary Site Plan and Amended Final Site Plan, Block 1401; Lots 12, 13 & 14

Deborah Nicholson, Esq. representing Eden Franklin, LLC stepped forth.

Mr. Cholminski informed he and Mr. Foulds are excused and Mr. Brady will Chair the meeting.

Ms. Nicholson said the application went through six hearings at the Zoning Board and will summarize their findings on record. Ms. Nicholson said they're here for an approved Site Plan and explained why they weren't approved for the drive-thru, the ordinance revision, and their plan now conforming to the conditional use standard. They're here with an approved Site Plan, seek no variances and will demonstrate they meet the conditional use criterion. Ms. Nicholson said Mr. Nelson and Mr. Knutelsky reviewed the criteria, are satisfied, and need drive-thru speaker sound proofs. A sound professional's to testify they meet the criterion, a knowledgeable Walgreens Representative to provide background and answer questions, and their engineer can address possible technical issues.

Ms. Nicholson said she'll brief from Mr. Brady's resolution and for Board knowledge, is part of the pre-existing record. They submitted a traffic study, EIS and Stormwater Management Report of which Mr. Nelson may address the drive-thru issue. She explained the ties with Eden Properties, Walgreens and the Elekes', and said Walgreens lease is drafted and is in effect.

Ms. Nicholson provided the following summary information of what transpired in the Zoning Board and Site Plan approval:

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◆ Location ◆ Size ◆ In-depth Lot Information ◆ Proposed Pharmacy's Offerings, Hours & Employee Counts ◆ Traffic & Ingress/Egress Accessibility ◆ Access Points ◆ Service Levels ◆ Parking ◆ Buffer ◆ Delivery ◆ Trash and Recycling ◆ Lighting ◆ Screening ◆ Signage ◆ Landscape ◆ Sidewalks ◆ Maintenance ◆ Stormwater Management ◆ Traffic & Pedestrian Circulation ◆ EIS ◆ Elevations ◆ Stormwater Design

Ms. Nicholson said in conjunction with the previous approval, all proofs included the drive-thru. There are no changes in paving, façade, or building construction on the plans recorded before the other Board. Tonight they're prepared to address questions regarding the drive-thru and conditional use ordinance through her witnesses.

Mr. Brady explained why the application went to the Zoning Board as opposed to the Planning Board, reasons leading to the eventual vote, subsequent recommendations to the Planning Board, and provided the portions remaining the same. He said the speaker's requirement meaning was difficult and was therefore changed to follow State's standards. Their packet includes the condition section which the applicant should meet. Once those conditions are met it's a permitted use they must show at the property line which abuts two sides. Mr. Brady read decibel information and said they also changed buffering language, traffic and circulation, and further elaborated.

Mr. Brady said from the Board's view tonight, the Site Plan's been approved and building and Site Plan testimony was taken at the Zoning Board of the workings of that plan. Before them is the approved Preliminary and Final Site Plan with the addition of the drive-thru. They're to concentrate whether the applicant meets those standards. They met (a) and (b) not (c) and (d). If they meet (c) and (d) it doesn't mean automatic approval. The Board has the power to inquire if it works with the addition of the drive-thru though not at the level if it wasn't approved.

Ms. Nicholson requested Mr. Knutelsky confirm a finding in his report they satisfied the one acre minimum. Mr. Knutelsky referred to his May 12, 2014 Report:

- **Pg. 3 Item #5 i and ii:** Lot area and building size are in compliance;
- **Item #5 iii:** He said there's other verbiage in Mr. Kilduff's handout and read **Section 2 (c) (i)**. He indicated that provision be a condition of any approval granted as the speaker doesn't exist on-site yet, and prior to CO issuance for the building itself, tests are to be conducted during inspection showing those two items were met at the property line;
- **Item #4 iv:** The fence previously reviewed and testified to, are compliant;
- **(Item v):** Traffic circulation providing one-way circulation is in compliance. One of five items in the conditional use which is the maximum volume doesn't comply as it hasn't been built yet. It's to be part of any approving resolution ensuring it contains the actual sound volume numbers. Four of the five comply and the fifth is pending.

Mr. Brady explained why the 3rd condition [(c)] wasn't approved at the Board of Adjustment. They now have a definitive sound level that can be tested and further

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elaborated. Mr. Brady said testimony is needed prior to approval it's doable and can meet the due date. He's in agreement with Mr. Knutelsky regarding fence compliance. The Zoning Board resolution approving the Site Plan was done in the context of a Site Plan Approval without the drive-thru. If the Board feel the fence needs relocation, be made higher, or more buffering in front of it, are legitimate Board inquiries.

Ms. Nicholson said John Boyce, Northern NJ District Manager is present to help them better understand Walgreens' drive-thru aspect.

Mr. Boyce was sworn in. Ms. Nicholson inquired of his experience and educational training. Mr. Boyce explained he's been with Walgreens for 25 years and provided positions held therein. Ms. Nicholson asked him questions about his position, number of district stores and store volume level. Mr. Boyce responded.

Ms. Nicholson asked of volume level determination; if prescriptions are solely for the drive-thru; if other items are purchasable at the drive-thru; how many prescriptions go through the drive-thru on the average and if they're car trips. Mr. Boyce responded volume is based on several factors like prescription numbers in a demographic area; majority of prescriptions are filled in-house and 10%-15% for the drive-thru; drive-thru is strictly for prescriptions; 10-15% prescription average and in his experience people bring multiple prescriptions dependent on their disease.

Ms. Nicholson asked about seasonal drive-thru usage and time and frequency of use. Mr. Boyce responded wintertime and gave examples; people usually drop their prescriptions off on their way to work and pick up on the return trip home.

Ms. Nicholson asked if the 10%-20% prescriptions through the drive-thru are 20-40 a day. Mr. Boyce agreed. She asked if he's familiar with the drive-thru speaker and if it's used internally. Mr. Boyce said numerous times and due to HIPAA regulations they've re-designed it with a handset for privacy similar to a bank.

Mr. Christiano asked if the speaker used is strictly for voice and if there's music while on hold. Mr. Boyce said it's strictly voice and there's no music.

Mr. Christiano asked Ms. Nicholson if changes were made to the lane regarding the superimposed drive-thru on the plans. Ms. Nicholson said it wasn't superimposed, was submitted as seen, and designed for drive-thru lighting anticipating it would occur. Lighting testimony at the Zoning Board was lighting will provide safe access and travel but not flow off-site which was in the original report. Mr. Christiano asked if there are canopy lights shining onto the drive-in. Ms. Nicholson said it was building mounted-no canopy. Mr. Christiano said he referred to the drive-thru canopy shown on the plan. Ms. Nicholson said there is no drive-thru canopy or lights in the canopy-a building mounted light is shown. Mr. Christiano asked if the lighting scheme was approved in Zoning. It was responded to as yes.

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Mr. Williams asked questions about 100% R_x through the drive-thru; customer drive-thru usage just for R_x pickup and if identification is sought for a doctor calling in an R_x. Mr. Boyce responded 10-15% is drive-thru; it's for pick up/drop off and has an R_x handling procedure. Mr. Williams further asked Mr. Boyce questions about the 24 Hr. opening, random occurrences & drive-thru frequency usage. Mr. Boyce responded.

Mr. Brady said he indicated they went to a handset due to HIPAA regulations. Mr. Boyce agreed. Mr. Brady asked if it's in some places and for the proposed site. Mr. Boyce said all stores were converted and this store will too. There'll be a drive-thru telephone to ask if it's a drug consultation or to verify who the R_x is for. Ms. Nicholson said that's for the pharmacist's use, but the teller/service clerk has the option. Mr. Brady asked if the handset is what the pharmacist uses inside the building. Mr. Boyce agreed. Mr. Brady asked about the outside. Mr. Boyce said no. Mr. Brady queried outside the building it's more. Mr. Boyce said the speaker at the drive-thru is like them talking next to each other.

Mr. Nidelko asked Mr. Boyce if he's saying it's similar to a bank. Mr. Boyce said yes and it's private.

Mr. Williams asked if they'll service one vehicle at a time. Mr. Boyce said they don't stack. If there's a problem with the prescription, they're told to pull over, come in or pull to the parking lot and send a technician to deal with them.

Mr. Christiano asked how many prescriptions they'll fill daily. Mr. Boyce said they're hoping for many but on the average will be 200 R_x which is a low line in pharmacy nowadays. Mr. Brady asked if that's their anticipation for this site. Mr. Boyce agreed. Mr. Williams asked if that's the total number. Mr. Boyce said that's total prescriptions.

Mr. Brady informed if any public members want to question Mr. Boyce they can. They're to provide their name, address and ask questions regarding his testimony. They can make a statement or give their own testimony later.

Mr. Simm, 19 Ginter Street, addressed his concerns of the 24 Hr. drive-thru and wintertime maintenance. Therein Mr. Brady provided advice and Mr. Boyce responded to Mr. Simm's questions.

Sarah Zydon, 346 Rutherford commented on Walgreens being open 24 hours where one can go and also use the drive-thru. Mr. Boyce agreed.

Mr. Williams reserved the right to have Mr. Boyce back if necessary.

Ms. Nicholson presented Norman Dotti of Russell Acoustics, LLC and said his curricula vitae were provided in the application. Mr. Dotti was sworn in.

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Ms. Nicholson requested he provide his educational background & training. Mr. Dotti provided his extensive background and qualifications in acoustics to which the Board accepted his expertise.

Ms. Nicholson questioned his familiarity of Franklin's Ordinance for exterior speaker sound requirements, proposed Walgreens' speakers, and locations. Mr. Dotti said he read the ordinance and thanked Mr. Brady for his contribution. He spoke with the manufacturer and took measurements at the Stirling and Wayne sites having that system in place. Ms. Nicholson asked if in his opinion, under established NJ law, which Franklin's ordinance is based on, can be satisfied based on his review of the plans, manufacturer specifications, and observance of two installations. He agreed and said it wasn't just observations but actually took measurements.

Ms. Nicholson asked how he measures. Mr. Dotti explained the type of measuring equipment used and how he implemented it at the Stirling and Wayne sites. The Stirling site was 8db higher than Wayne's, which is the information he used on how it works. He prefers using the high side and worst case scenario. Therein, he used the plan to demonstrate his finding. It was marked into exhibit as A-1 dated 5/19/14 Sheet 1 of 1 a colorized copy of the proposed approved Site Plan prepared by Dynamic Engineering.

Ms. Nicholson asked what 8db higher meant. Mr. Dotti said the limit is 50 at night. He explained day and night settings and night is top criteria which is what he used. The proposed one has no operation setting; therefore, it's whatever it is and further elaborated why he used the Stirling location. Its sound level was approximately 46-47dba and the limit is 50; so it's under.

Mr. Brady asked if he meant sound levels at the property line. Mr. Dotti said at the back property line, 71' back and further explained affects using a car and didn't use fence or greenery obstruction. He reiterated its 46-47 db and it's under that. Mr. Dotti is in agreement with Mr. Knutelsky to condition approval for an actual test to be done. He explained regulation is a performance standard which is on-going and must continue to meet or otherwise may be shut down.

Ms. Nicholson asked what impact a higher/lower fence, more trees or shrubs along this back property line have on sound level at the property line. Mr. Dotti said assuming it's a normal landscaping fence, it's not going to do anything; it takes 100's of feet. Ms. Nicholson asked why. Mr. Dotti said that's the physics of it. A fence has paths through which sound go through. In landscaping, it takes 100's of feet of dense trees and woods for any appreciable sounds. The numbers they use in design work is 100 meters, that's over 300' of woods, giving you about a 5db reduction-the same reduction of not having a car in front of the speaker will give, and three rows of overlapping arborvitae will not be a sound barrier.

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Ms. Nicholson asked if in his professional opinion, addition of shrubbery or taller fence prevent sound from traveling farther. Mr. Dotti said, "Do nothing for it." Mr. Knutelsky asked if the proposed solid vinyl fence impact sound barrier. Mr. Dotti explained sound is stopped with mass. The fact it's a solid fence, there still are gaps at the bottom-reduction isn't considered for that kind of fence. A state noise barrier may help if tall enough and gave an example. Mr. Dotti said assuming nothing was in the way, not even a car, still met the criteria.

Ms. Nicholson asked how car noise with the motor running impact sound coming from the drive-thru speaker. Mr. Dotti said, "Under state requirements a car, called a patron vehicle, is exempt from the criteria." He said the speaker is approximately 3' off the floor and presented a picture he took at the Wayne drive-thru. Mr. Brady requested he describe and mark it A-2. Mr. Dotti said it's a bank type teller window with an oval at the bottom having a 3" diameter speaker. Mr. Brady asked if he looked at the plans and if it's the same proposed window and speaker. Mr. Dotti said he did, it's on A-1 and was told it's the same speaker system manufactured by E. F. Davis & Associates. It's what's proposed, why he measured, and why he went to Wayne and Stirling.

Mr. Brady requested he respond to Ms. Nicholson's car noise question. Mr. Dotti said unless it's a low car, when someone's talking to the pharmacist, the car blocks the line of sight and sound emitting from the speaker encounters the car. He reiterated his statement regarding 5db sound reduction at the property line.

Mr. Dotti provided explanation of a study he performed at Hardyston School for a 48 hour period on 10/24-25/11. He gave time and sound factors, noise sources, transportation effects and terminology explanations in response to Board questions. Therein he said sound is all around us but tune it out and when people say their neighborhood is quiet, is untrue-it's just un-noticed. The chart he used was entered into evidence as A-3 Decibel Reading Chart passed around for Board review.

Ms. Nicholson asked if speaker sound will be noticed in the neighborhood. Mr. Dotti said its two people carrying a conversation and isn't an unusual sound.

Mayor Crowley asked for the state standard. Mr. Dotti said as Mr. Brady pointed out, 65dba daytime and 55dba nighttime. Mr. Brady asked if his testimony is it will meet their standard. Mr. Dotti agreed and likes to think his work demonstrated it's feasible.

Mr. Christiano asked if it's a push-talk microphone; has volume control; if there's music in the store; and the handset. Mr. Dotti said the one observed at the service window used a telephone; have no volume controls; no music in the store or on hold and; no music when the handset's not used.

Mr. Zydon commented, similar to hanging up a phone-nothing's heard. Mr. Dotti said it cuts off and had them simulate it at the store resulting in no sound. Mr. Nidelko said it's similar to a bank. Mr. Dotti said the bank analogy emulates (the speaker).

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Mr. Giordano asked if it could be said there are two ways to communicate as the picture circulated didn't have a telephone. One, a bank teller type and the other like a telephone. Mr. Dotti said in both instances, the person he worked with inside was talking on a telephone handset to him. The outside's just a speaker.

Ms. Nicholson demonstrated the phones location. Mr. Giordano asked if the handset's inside. Ms. Nicholson agreed. Mr. Giordano questioned being there's two separate systems, could someone abide by different rules than the drive-thru. Mr. Dotti said only one person uses it and can only get an Rx there. Mr. Giordano asked Mr. Boyce to describe people operating it as a pharmacist and front end. Mr. Dotti said only the pharmacist and pharmacist technician. He clarified only certified personnel can work back there and controls are in place for those allowed in the pharmacy. A brief discussion followed.

Mr. Knutelsky said he envisioned a hemisphere as sound is emitted from the 3" speaker and questioned volume within that 71' hemisphere. Mr. Dotti said he didn't just measure straight out but off at 45 degree angles which were consistent and within a fraction of a db. Mr. Knutelsky said he wanted to make that point for the Board. He recommended a test be a condition of any approving resolution and further elaborated. He said the testing point is 71' back. Mr. Brady asked if Mr. Dotti has no argument with Mr. Knutelsky's recommendation to measure and verify once it's installed. Mr. Dotti agreed.

Ms. Nicholson asked if testing is a typical requirement after installation. Mr. Dotti said about half the time for rural and it's their choice. Mr. Brady asked Mr. Knutelsky how it's tested and Mr. Knutelsky explained. He said it would have to be tested and reported to the Board, that condition was met. Mr. Knutelsky further explained what happens during the review process prior to issuing a CO should the application be approved. Mr. Dotti explained how typical testing's done. Mr. Brady asked if 65 (dba) daytime and 50 nighttime are the standard. Mr. Dotti agreed. Ms. Nicholson said there are no further questions for Mr. Boyce.

Mr. Brady informed the public can step forth if they have questions for Mr. Boyce.

Sean Kidd, 3 Evan Street asked Mr. Dotti the following questions to which Mr. Boyce responded: Do environmental factors affect speaker sound; do state standards procedures indicate environmental factors and; if he logged test results.

Lisa Dougherty, 283 Wildcat Road owning property at 26 Auche Drive said her home's directly affected by the drive-thru and asked Mr. Dotti to demonstrate the 71'; where it falls and Walgreens' property line. Mr. Dotti responded. Therein, Mr. Brady requested Engineer Dougherty step forth, was sworn in and asked what the setback is from the rear property line to the drive-thru. Engineer Dougherty said 80' to the side of the building and further elaborated.

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Steve Simm, 19 Ginter Street was sworn in. He commented sound travels differently in dry air than when very foggy and was trying to understand Mr. Boyce's statement of sound not making a difference unless it's a longer distance. While at the Air Force standing next to jets despite plugs, it was loud. Mr. Dotti said he did a study where fog had no significant difference in sound propagation. He gave an example of snow absorption appearing quieter when it's actually vehicular traffic slowing down. He reiterated his previous statement of environmental factors being affected when dealing with thousands of feet distance between the sound source and the receiver; 71 or 81 make no difference.

Mr. Brady advised if the public or Board have no questions, Ms. Nicholson can proceed with her next witness.

Ms. Nicholson said limited issues before the Board and Mr. Knutelsky's Report are concluded. Mr. Knutelsky asked if he should review items needing to be addressed.

Mr. Knutelsky mentioned traffic stops, markings, thermoplastic paint and limit of services being staked in the field. Ms. Nicholson agreed to all. He said a Developer Agreement's needed as work is being done to the municipal ROW. Ms. Nicholson said it was part of the previous one. Mr. Knutelsky said he wanted to ensure it was in current testimony. He reverted to the sidewalk issue discussed at the Zoning Board and said substantial changes were made in the original application. They provided more sidewalk and pedestrian accessibility to the site.

Mr. Knutelsky spoke of and demonstrated on the plan, to add a sidewalk section for the Auch Drive connection in the southeasterly corner of the building. He provided reasons for that addition, demonstrated the route pedestrians would take, and recommended the sidewalk be added at the stop bar. Mr. Brady advised it's subject to Mr. Knutelsky's review and approval.

Mr. Knutelsky further provided explanation why he's requesting the sidewalk addition and gave an example. He doesn't want those type of changes be a De Minimis change, rather prefers to see discussed changes on the revised plans. Should the Board vote approval, they're to provide six sets of plans for appropriate signature destinations.

Mr. Christiano questioned Mr. Knutelsky if the walk will be lit and about snow removal to which Mr. Knutelsky responded. A discussion regarding the sidewalk was had and Mr. Brady provided counsel therein.

Ms. Nicholson said regarding Item #11, the condition needs to be removed because lights are on 24/7. Mr. Knutelsky said he doesn't object because in the original approval, they testified lights are on 24 hours for security and have no cameras.

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Mr. Zydon said per the snow removal ordinance, commercial/residential sidewalks must be cleared 24 hours after a snowstorm and sees no point in bringing it up.

Mr. Williams made a motion to **Open to the Public, PB-03-14-1 Eden Franklin LLC (Walgreens); Amended Preliminary Site Plan and Amended Final Site Plan, Block 1401; Lots 12, 13 & 14.** Seconded by Mr. Christiano. All were in favor.

Mr. Brady informed the public have a chance to come forward, be sworn in and make statements of the applicant.

Lisa Dougherty, 283 Wildcat Road owning property at 26 Auche Drive was sworn in. Ms. Nicholson requested it be limited to the drive-thru issue and what was discussed this evening. Mr. Brady advised the public. Ms. Dougherty addressed her concerns regarding prescription drop off situations thereby leading to car idling, and drive-thru hours in Newton Walgreens. Mr. Boyce responded appropriately and therein Mr. Christiano informed Newton is not open 24 Hours. Ms. Nicholson informed the Board it's a permitted use.

Steve Simm, 19 Ginter Street was sworn in and addressed his drive-thru and sidewalk concerns affecting children's safety. Mr. Simm gave his opinion regarding an Auche Drive area possibly turning into a parking lot. Mr. Knutelsky informed with or without the stem he proposes, the sidewalk runs along Auche Drive to Route 23 and access the store. It could be a condition with addition of no parking signs. A discussion followed and therein, Mr. Brady provided counsel.

Wes Caparotta, 24 Auche Drive was sworn in and addressed his concerns regarding parking congestion, the drive-thru and the extra parking spaces. He also talked about having a potential sick child in the middle of the night, calls the doctor for a prescription recommends Tylenol, and picks it up inside the store not the drive-thru. Mayor Crowley informed he calls in prescriptions for his patients. Mr. Caparotta responded and a brief discussion followed. Mr. Caparotta commented further on the drive-thru, rear lot parking, prescription averages, car and tractor trailer traffic being too tight, and mentioned there are four drug stores within a mile.

Sara Zydon, 346 Rutherford was sworn in and encouraged the Board to base their decision on the expert's fact testimony given this evening. She also mentioned Walgreens have compensated for many things, are willing to help the community, there are others wanting to use Walgreens, and thinks everyone will be happy.

Bob Dabinett, 127 Corkhill Road was sworn in. He questioned the lack of security cameras which would protect citizens in the surrounding community. He hoped Walgreens will consider it.

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Nelson Mathews, 22 Aucho Drive was sworn in and asked Mr. Boyce how many people go through the drive-in between midnight and 2 or 3AM. Mr. Boyce said not many and some nights are more, some nights less.

Betty Allen, 24 Jenkins Road was sworn in. She commented it's a controversial application for many months and doesn't understand their location choice. She said there are four senior citizen complexes, it's time the town father's develop Main Street and about 100 people may walk to (Walgreens). Ms. Allen gave her opinion those residing in the area are short-changed and property owners are the winners.

Mr. Williams made a motion to **Close to the Public, PB-03-14-1 Eden Franklin LLC (Walgreens); Amended Preliminary Site Plan and Amended Final Site Plan, Block 1401; Lots 12, 13 & 14.** Seconded by Mr. Christiano. All were in favor.

Mr. Nelson wanted clarification regarding the landscaping condition, if Ms. Nicholson objects to working with him. Ms. Nicholson said no, it was a condition in the other approval. As it gets built, he could meet onsite with their engineer.

Mr. Brady informed Mr. Zydon he looked at the old approval and proceeded to read a portion regarding snow removal.

Ms. Nicholson said heartfelt public comments were heard but few directed to what's before this Board. Their duty in hearing and voting are application merits for limited application approval of the drive-thru as an amendment to the previously approved Site Plan which is a permitted use. They've ably demonstrated to meet all issues and conditions of the conditional use requirements permitting a drive-thru and have agreed to all reasonable conditions the Board requested in conjunction with this approval. No variances are required and their sound expert demonstrated they can meet ordinance requirements. They can meet and demonstrate to the Board Engineer's satisfaction, the needed proofs and meet all criteria he put on record prior to the CO.

Ms. Nicholson said the applicant satisfied all the ordinance elements. Based on that with the conditions agreed to, Board approval is appropriate because it's an approved use, met engineering and sound criteria; the circulation plan addressed pedestrian connectivity, and conditional uses. She requested the Board grant Site Plan approval with the noted conditions; many carried over from the original Site Plan and those agreed to tonight. Ms. Nicholson thanked the Board.

Mayor Crowley said it's about the drive-thru window. He felt it would be good for the Borough and testimony heard is, it doesn't impact sound or traffic. He urged the Board's approval.

Mr. Christiano said it's a neutral situation whether it's there or not doesn't reduce the prescription amount being filled. It's a convenience item that was there when the Zoning Board approved the plan. It's not expanding the property nor adding lighting.

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It's a neutral issue and doesn't understand any reason to be against it. He asked if drive-thru pharmacy transactions are recorded photographically. Mr. Boyce said absolutely and security cameras oversee the cash register area by the drive-thru.

Mr. Giordano asked if the applicant's engineer employs Pellow as the engineering firm. Ms. Nicholson said no. Mr. Giordano said in the beginning she referred Mr. Knutelsky as the same engineer as the Board engineer. Mr. Knutelsky said he was the same engineer reviewing the original application before the Zoning Board. Mr. Giordano talked about Aucho Drive's parking and its effect as school opens and closes, and having been in the area, has issues with curbing regardless of the expert's testimony. He believes the review at this Board shouldn't have happened. Their being before this Board is beyond fair after being denied at another Board. Mr. Giordano commented rules were changed and in doing so, untrue (statements) were told to other people. He had gone on record inquiring if the vote will affect the Zoning Board decision in any way, was assured it wouldn't-he was lied to. Mr. Giordano believes it shouldn't be before this Board; what happened is a travesty and to not count a yes vote from him.

Mr. Williams referred it to being like a hole in Zoning. Mr. Giordano said he agrees with that. Mr. Williams said Mr. Knutelsky and Mr. Brady fixed it because there was no standard issue and came up with the state standard which (Mr. Dotti) testified to. He said the applicant was approved and to focus on the drive-up window-not other things; the Zoning Board already passed that. Mr. Williams further explained they're within their rights, complied with everything requested including recommendations Mr. Knutelsky made and understands the public's concern.

Mr. Williams made a motion to **approve application PB-03-14-1 Eden Franklin, LLC (Walgreens) Amended Preliminary Site Plan and Amended Final Site Plan; Block 140, Lots 12, 13 & 14** including the drive-up window and any recommendations perceived by our engineer and anything taken into testimony. Seconded by Mr. Zydon.

Mr. Brady said before continuing, he usually reads off conditions he will apply. In Mr. Knutelsky's report we spoke about condition #8 regarding the sidewalk addition being subject to Mr. Knutelsky's detail review and approval. Mr. Knutelsky said to clarify that condition-as he's hearing the Board and public's concerns. If a safe environment cannot be provided for that sidewalk, it will not be added to the plan. He said it's an idea they can get to work but to leave it flexible. Mr. Williams said it could be completed as an As Built. Mr. Knutelsky agreed and said its part of the final site plan conditions.

Mr. Brady said he can condition it for investigation and preliminary design subject to Mr. Knutelsky's approval. In Mr. Knutelsky's Report, Items, 16, 17, 18, & 19 are conditions and he'll bring all conditions from the prior resolution be applied to Site Plan approval. The speaker testing condition ensuring standards are met once built. Mr. Knutelsky said testing and witnessing. Mr. Brady said it will be tested and is to be the same model based on Mr. Dotti's conclusions and, the applicant will work with Mr.

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Nelson regarding additional landscaping or changes and landscaping in the prior resolution carried forward.

Upon Roll Call Vote:

AYES: Christiano, Crowley, Williams, Zydon, Nidelko

NAYS: Giordano ABSTENTIONS:

(Motion Approved)

APPROVAL OF RESOLUTIONS:

ADJOURNED CASES:

OTHER BUSINESS:

DISCUSSION:

CORRESPONDENCE:

OPEN PUBLIC SESSION:

Mayor Crowley made a motion to **Open to the Public**. Seconded by Mr. Williams. All were in favor.

No one from the public stepped forward

Mr. Williams made a motion to **Close to the Public**. Seconded by Mr. Zydon. All were in favor.

ADJOURNMENT:

There being no further business to come before the Board, the meeting was adjourned at 10:07 PM on a motion by Mr. Williams. Seconded by Mr. Zydon. All were in favor.

Respectfully submitted,

Ruth Nunez,
Secretary