

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
October 2, 2013

The meeting was called to order at 7:32 PM by Chairman Richard Kell, who then led the assembly in the flag salute.

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

ROLL CALL OF MEMBERS PRESENT: Mrs. Bonis, Mr. Correal, Mr. Gardell
Mr. Kopcso, Mrs. Murphy, Mrs. Alexander,
Mr. Martinez, Mr. Kell

ABSENT: Mr. Swiss

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

APPROVAL OF MINUTES:

Mrs. Murphy made a motion to approve the **Franklin Borough Zoning Board of Adjustment Meeting Minutes for September 4, 2013**. Seconded by Mr. Correal.

Upon Roll Call Vote:

AYES: Correal, Gardell, Kopcso, Kell, Martinez

NAYS: None ABSTENTIONS: None

APPROVAL OF RESOLUTIONS:

APPLICATIONS FOR COMPLETENESS:

APPLICATIONS TO BE HEARD:

ZB-07-13-1 CM Franklin LLC, Amended Preliminary & Amended Final Site Plan with C & D Variances; Block 606, Lot 31

Robert Gaccione, Esq. of Gaccione & Pomaco was sworn in. He said the applicant seeks Preliminary and Final Site Plan approval to erect two new buildings. Mr. Gaccione advised no perspective tenants were had for the 2011 approval. His client now has perspective users who propose to demolish the existing structure and are seeking D Variance, Bulk Variances and Design Waivers approval. Mr. Gaccione provided his witness names, titles and what they'll present.

Todd Maino, Commercial Developer and managing member of CM Franklin LLC, 42 Colts Glen Lane, Basking Ridge, NJ was sworn in. He responded to Mr. Gaccione's questions regarding vacancy length and approval being sought. Mr. Gaccione asked if he was involved in the 2011 approval, to describe it, and explain why he's seeking a revised approval. Mr. Maino said he was involved in the previous

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
October 2, 2013

approval to rehab for individual tenant usage with a potential drive-thru that never happened. He explained his site idea, his research for small tenant usage, and mentioned he's a 7-11 preferred developer.

Mr. Gaccione asked if Mr. Maino discussed the proposed AutoZone operation with (AutoZone's) representative; to provide proposed hours; and the expected employee count. Mr. Maino replied yes; hours are 8AM-10 PM Monday through Saturday and Sunday 9-8 which could be adjusted depending on revenue and people (influx). He said there will be 3-5 employees per shift and further explained.

Mr. Gaccione asked him to review the available services/products if approved; if all products are stored within the building and; if all services are within the building's confines. Mr. Maino listed the products to be sold and not sold. He responded everything is stored within the building including services.

Mr. Gaccione asked Mr. Maino to review deliveries, truck type and frequency. Mr. Brady asked if it's about STS. Mr. Gaccione responded AutoZone; there is an STS Representative and Architect. Mr. Maino said AutoZone deliveries are once a week via a 65' tractor/trailer; delivery is at off peak during store hours no later than mid-day to early afternoon. Mr. Gaccione asked if they do auto body repair work, auto sales, or work outside the building's confines. Mr. Maino responded no, to all.

Mr. Kell asked if anyone had questions. An audience member requested to speak. Mr. Kell advised at the end of each witness they'll open to the public for questions.

Mr. Gardell made a motion to **Open to the Public Mr. Maino's testimony.** Seconded by Mr. Kopcsó. All were in favor.

Rosemary Leiden, next door property owner asked about proposed lighting next to her. Mr. Gaccione advised his engineer will testify to that. Mr. Kell informed she can inquire when the engineer's testimony is open to the public.

Mrs. Bonis made a motion to **Close to the Public Mr. Maino's testimony.** Seconded by Mr. Gardell. All were in favor.

Ted Haase, STS Drive, Bridgewater, NJ, STS Real Estate Manager was sworn in. Mr. Gaccione asked him to provide expected operation hours, employee count and daily maximum. Mr. Haase replied accordingly. Mr. Gaccione asked him to review products to be sold, if services will be provided within the building, site delivery procedure and how his company handles trash. Mr. Haase responded to all.

Mr. Correal asked about shipping tires to another location needing them. Mr. Haase said they have no wholesale or commercial operations out of the retail stores.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
October 2, 2013

Mr. Kopcso asked about recycled tire pick-up. Mr. Haase said a company picks-up during regular business hours with a 30' box truck. Mr. Correal asked how many times a week. Mr. Haase said dependent on the business level; busier times are every two weeks and slower periods may be once a month.

Mr. Knutelsky asked if vehicles in excess of 15K GVW will be worked on. Mr. Haase said no, they work on passenger cars and light trucks and considers 15K above a light truck. Mr. Knutelsky asked where recycling oils and service process materials go and how they're removed. Mr. Haase said they have approved containers with secondary containment for oil and anti-freeze. They're industry used standard and comply with local, state and federal codes. Mr. Knutelsky asked how much material is stored at a given time before site removal. Mr. Haase said their largest tank is 300 gallons for motor oil. Mr. Knutelsky asked if it's underground. Mr. Haase said above ground within secondary containment within the building.

Mrs. Murphy made a motion to **Open to the Public Mr. Haase's testimony.** Seconded by Mr. Kopcso. All were in favor.

Rosemary Leiden, next door property owner commented on tire removal, dumpster coming every two weeks, and if tires are stored outside and of them being taken away and not stored behind the building. Mr. Haase responded. Mr. Brady queried to Ms. Leiden's identification for the record to the Chairman.

Mr. Correal made a motion to **Close to the Public Mr. Haase's testimony.** Seconded by Mrs. Bonis. All were in favor.

Wayne Corsey, Engineer was sworn in and provided his credentials. Mr. Gaccione asked if he was involved in preparation of the engineering site plan for the proposed buildings. Mr. Corsey agreed. Mr. Gaccione asked him to review the property's location. Mr. presented a colorized landscape plan exhibit. Mr. Brady asked if it's the same as Sheet 6 of 10 in their plans, except its colorized. Mr. Corsey agreed and said it's super-imposed on an existing aerial off the area. The exhibit was marked A1. Mr. Gaccione requested he continue the property's description. Mr. Corsey did and explained pavement parking, the existing billboard, lighting types and placement. Mr. Gaccione asked what zone the site is. Mr. Corsey responded HC allowing retail, restaurant and banking uses.

Mr. Gaccione requested he review the pre-existing bulk violations. Mr. Corsey provided condition comparisons for lot area, lot depth, front yard, side yard, rear yard, impervious coverage, open space and buffers for front, side and rear yards.

Mr. Gaccione asked him to review proposed variances. Mr. Corsey advised of lot depth and comparisons for front, side and rear yards requiring variances. He talked about figures for maximum impervious reduction and front yard, side yard and rear

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
October 2, 2013

yard buffers. Mr. Gaccione asked if the last three buffers are an improvement over the current existing situation. Mr. Corsey agreed.

Mr. Gaccione asked Mr. Corsey to describe the proposed site. On the rendering, Mr. Corsey discussed the existing building being demolished, provided their dimensions, central drive addition and movement, and parking lot circulation. He said 59 spaces are proposed where 55 are required by code. There will be three handicapped parking spaces; two in front of AutoZone and one in front of STS.

Mr. Gaccione asked if there are any other zoning violations connected with the proposed site plan. Mr. Corsey said conditional use standards require a 5 acres and existing is 1.2. He reviewed comparison figures for front and rear yard for STS and side and rear yard for AutoZone and said a landscape buffer is required around the front and side of the property. Mr. Corsey said there are two proposed signs. He said there's a ground mounted monument sign for STS and provided its dimensions and location; and a 25' pylon sign to the left of the driveway in front of the proposed AutoZone property.

Mr. Gaccione asked if there are any other bulk variances. Mr. Corsey reviewed the required and proposed data regarding building, free-standing sign, setback, side width, wall signs and sign area.

Mr. Gaccione asked Mr. Corsey to review proposed ingress/egress and parking. Mr. Corsey explained the central driveway, parking spaces, parking circulation pattern, showed One-Way and Do Not Enter signage placement and why, as well as the added sidewalk along the site's frontage.

Mr. Corsey informed they prepared a truck maneuvering plan and introduced Exhibit A2. Mr. Brady inquired of non-Board packet inclusion to which Mr. Corsey agreed. Mr. Brady requested he identify it. Mr. Corsey said Truck Circulation Plan (SU-30) for a 30' single unit truck; Sheet 1 of 1 dated 9/12/13 is a layout dimension plan with Sheet 4 of the Site Plan set is a super-imposed truck circulation simulation through the site. Mr. Brady asked for its title. Mr. Corsey responded and explained its circulation movement to the loading area whereby smaller trucks like UPS can also circulate through the front of the AutoZone truck, then go out north or south.

Mr. Knutelsky asked if would be a similar garbage pick-up vehicle that backs into the garbage disposal area. Mr. Corsey agreed, said it's a standard front loaded garbage truck and explained its maneuver to the dumpster. Mr. Corsey said two are proposed for the site, gave their location, dimension and are wood or masonry dumpster enclosures.

Mr. Gaccione requested he review the landscape, drainage and lighting plan. Mr. Corsey said in the sites current format, there's one existing inlet connecting to a drainage system along Route 23 going north ultimately to the ditch into the Walkhill

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
October 2, 2013

River. Everything sheet flows to the back of the drainage ditch along the site's rear property line. He discussed what they've done to make that happen and talked about a vegetative strip. He referred back to (A1) and talked about existing tree coverage, overgrowth removal, proposed evergreen screening, landscaping along the parking lot frontage, building façade landscaping and shade tree locations for STS and AutoZone.

Mr. Gaccione requested he review the lighting plan. Mr. Corsey said they have two lighting types and further explained. They also have seven building mounted fixtures and provided their type and buildings' location, of lighting on timers and lights for security.

Mr. Gaccione asked him to review property tree removal and addition. Mr. Corsey explained there's existing overgrowth; trees along the rear property line adjacent to the ditch which is not on their property and won't be removed as part of the application. They'll have evergreen and shade trees to offset vegetation removal.

Mr. Gaccione requested he review parking and if it complies with municipal requirements. Mr. Corsey explained the parking requirements for AutoZone and STS. 55 spaces are required; they have 59 including three handicapped spots that conform to code.

Mr. Gaccione asked how the proposed site and plan compare to forthcoming traffic from the previously approved plan. Mr. Corsey said the previous plan was for a shopping center. Based on that traffic number, there's a higher demand than AutoZone and STS's inherent use and a slight reduction in peak trip traffic. Mr. Gaccione asked if the proposed use is compatible with traffic around the site. Mr. Corsey said yes and on his site visit noticed multiple retail shopping areas along Route 23, which will be another component of area retail shopping and will fit well with the character and other uses.

Mr. Gaccione asked if the NJDOT approval's been obtained through his firms work. Mr. Corsey said yes, as it's a State Highway a major access permit is required and have received NJDOT's approval.

Mr. Gaccione asked if there's any ingress/egress sight distance issues with egress in particular. Mr. Corsey said they have north and south traffic lights and explained north and south sight distances. He said based on engineering standards, a 35MPH speed limit of 305 is required; they have 500.

Mr. Gaccione requested he describe the AutoZone building, emphasizing signage. Mr. Corsey said both buildings are prototypes. He provided their dimensions, entrance, building and signage color schemes, signage types/placement/reduction, and window and door locations.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
October 2, 2013

Mr. Gaccione said his engineers tried to address the (town) engineer's extensive report by following up and submitting additional information and address in direct testimony. He asked for the town engineer's report review preference. A discussion followed. Mr. Gaccione said he'll recall his architect and bring the engineer back to address the letter and the planner is his final witness or as Board recommended. Mr. Kell said if any Board member has a question, at the end of testimony, and the public as well. Mr. Gaccione said he'll only be going back to address the engineer's letter.

Mr. Correal asked if it's a pre-existing ditch and expressed his concerns for houses at the property's rear and water drainage. Mr. Corsey said it's an existing ditch off their property and described its path towards the Walkhill River. He said they have no impacts to it in terms of modification and everything will sheet flow as it does today. Mr. Correal asked if there's any rain storm calculation that can handle the flow without going into the adjacent property. Mr. Corsey said they're doing a Reduction Impervious Surface, did a storm analysis and submitted it to the (town) engineer who agrees they've reduced site storm water run-off. Mr. Correal asked if it's less than what is now. Mr. Corsey agreed. Mr. Knutelsky said to clarify, it's a similar design to the original approval, disturbance is less than an acre and doesn't classify as a major storm water project.

Mr. Gardell asked about 4' and 6' sidewalks. Mr. Corsey said state of designs is when you have parking adjacent to sidewalks adjacent to a parking. Most cars overhang 2'; therefore make 6' sidewalks in the event cars overhang and people have 4' to walk. Sidewalk along the frontage is surrounded by grass on both sides; 4' is the normal standard, but will check with the client. Mr. Gardell commented bigger would be better. Mr. Kell commented, when exiting the property to get to 23 north and south would be easier. Mr. Corsey agreed and said it's a dual exit-no restrictions in turning movements. You can make a left or right into and out of the site. That was part of DOT's review as part of our major access permit which they reviewed and accepted.

Mr. Correal made a motion to **Open to the Public Mr. Corsey's testimony.** Seconded by Mr. Gardell. All were in favor.

Ed Fears, 425 (Rt.23), Shell Station stepped forward. He expressed his concerns over their planting design, their building blocking his, rear property access and tenant concern. Therein Mr. Brady advised questions are being asked as opposed to statements to which Mr. Fears complied. Mr. Corsey explained the buildings' placement is for maximum site circulation and parking for site layout efficiency.

Mr. Brady said Mr. Fears' second question was landscaping. Mr. Corsey said they created a landscape buffer between the existing and proposed building. Trees were added for green space and foliage where none existed as requested by the town's planner. As for Mr. Fears' access concern, Mr. Corsey said there's green space and

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
October 2, 2013

the building isn't on the property line limiting access and there's a visual possibility to get to that space. Mr. Fears could arrange an agreement with the owner.

Mr. Gaccione said his client thought putting landscape was a positive. If the Board grants approval, condition it on removing landscaping from the plan is not objected to by his client. Based on reports received, it was (Mr. Maino's) impression that landscaping would be the community's best interest. Mr. Fears said those are his objections.

Rosemary Leiden questioned the sign, lighting and pole light locations. Mr. Corsey showed their locations and provided their description. Ms. Leiden questioned the lights on during open hours and an hour longer. Mr. Corsey responded. Ms. Leiden also inquired about entrances/exits at the building rear, green space, shrubbery removal and its distance from her property. Mr. Corsey responded.

Mr. Fears said he didn't receive a satisfactory answer about the building's location totally blocking (his). Mr. Gaccione said it was asked, answered and can re-answer if he wants. Mr. Fears said the answer was the way you have it laid out maximizes the use of the property. Mr. Brady said I think what he said was, the efficient use. Mr. Gaccione requested (Mr. Corsey) clarify.

Mr. Corsey advised he said by having buildings face each other you maximize parking space use between the buildings. They have conforming use in terms of parking and parking variance required. If they situate buildings in a different orientation, they'll have the required parking variance with no parking for their tenants and explained drive out access whereby obtaining maximized efficiency.

Mr. Fears commented on putting the STS Building along the drainage ditch in the rear, said the proposed position is good advertising, their building blocks his, the tree blocking his canopy and his tenant's business. Mr. Corsey explained on the exhibit by orienting the building differently, they'll have sheet flow affects. Mr. Fears commented drainage could be handled in different ways but they like sheet flow as its less expensive and everyone knows it floods. Mr. Gaccione objected. Mr. Brady advised, now you're getting into testimony; you have a chance to defer.

Ms. Leiden asked him to re-clarify AutoZone's building shine. Mr. Corsey said they have two building mounted signs for AutoZone; one in the rear which faces her property. Ms. Leiden asked how big it is, if it's atop the building, inquired about the building's side, a (sign) being 25' high and if it's lit. Mr. Corsey responded.

Ms. Leiden inquired compared to the billboard, is that on the highway side of the billboard or behind the billboard? Mr. Corsey said that's why they asked for a variance for the sign's location because it's an existing massive billboard screening their property and further elaborated upon signage visibility.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
October 2, 2013

Ms. Leiden asked questions about the pylon sign distance to the highway, how big and if it will be lit all night. Mr. Corsey responded. Ms. Leiden asked when the lights will go off. Mr. Corsey said after closing. Mr. Brady asked if it's both signs. Mr. Corsey asked (Mr. Maino) if both signs will go off after peak hours. Mr. Maino responded to which Mr. Corsey said illuminated signs.

Paul Opatik, 316 Rutherford Avenue addressed his concerns regarding run-off and blacktop vs. gravel, and requested clarification. Mr. Corsey explained gravel, their stance on providing minimal infiltration and Reduction Impervious Coverage and landscape addition to non-existent spaces thereby reducing run-off. He said what drains in that ditch today, will drain there tomorrow or the future. Mr. Opatik disagreed and commented he's looking at blacktop like the state bank. Mr. Brady advised he's giving testimony he can do later. He's to ask Mr. Corsey questions about design/lights.

Mr. Opatik questioned how many gallons per hour, commented on water onto gravel vs. blacktop, and of Mr. Corsey saying there will be no increase. Mr. Opatik queried it's going to be what's there right now. Mr. Corsey agreed. He said based on design and the town engineer agreeing based on our analysis. Mr. Opatik asked if (Mr. Knutelsky) agrees. Mr. Knutelsky said based upon Storm Water Management Rules, provisions allow treatment of what people call gravel and further elaborated. He said there's a balance, provided a brief explanation to which they use during review and is what was found on-site. Mr. Opatik said OK.

Mr. Correal asked Mr. Knutelsky questions regarding parking lot gravel, what it occupies and if it reduces the building area. Mr. Knutelsky explained its compacted gravel surface taking up certain site percentage, new impervious coverage is less than before and grass and landscaping occupy it. Regarding the building reduction area, Mr. Knutelsky said even with the buildings and the parking lot paved-the actual surfaces, come up to the same number when doing Storm Water calculations.

Mr. Gardell asked about the previous condition when it was being used. Mr. Knutelsky said generally that's what we're looking at. In the previous approval, when doing the Storm Water Management review we went on-site, picked with a shovel to see what is and isn't pervious, and what is and isn't hard packed, led their decision to allow that design go forward on what the review revealed.

Mr. Opatik asked questions about trees behind the property, fencing, dumpster location, pick-up frequency and outside auto repair. Mr. Corsey responded and therein explained lighting.

Mr. Fears asked if there's going to be draining to the ditch or the highway. Mr. Corsey showed where they added two collection yard inlets, its connection, and said a drainage pipe goes along 23 dumping further down. Mr. Fears informed of a culvert, explained his issue with DOT, talked about a ruptured pipe and wondered if

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
October 2, 2013

anyone thought about that. Mr. Brady asked Mr. Corsey if the design criteria took into consideration whether that culvert or drainage pathway passing the Shell Station can handle lawn drains. Mr. Corsey said as in previous testimony there's a Reduction Impervious Surface for the site and further elaborated. A study wasn't done due to that location's current limited flow. Mr. Brady asked about more flow in the designs than there currently is. Mr. Corsey said no and further explained.

Mr. Nelson said (Mr. Corsey) identified the conditional use provisions they complied with and for him to go through all the conditions to be certain there are provisions they're complying with, and asked if the Planner will do that. Mr. Corsey advised Bill Hamilton will review all conditional uses and deviations.

Mr. Nelson said with respect to the overall site design and building placement related to what Mr. Fears discussed, thought testimony is needed why the existing building cannot be retained based on both retailers requirements. Mr. Gaccione said he'll recall Mr. Haase from STS to testify. Mr. Nelson asked if that's for the architect. Mr. Gaccione said he'll start with Mr. Haase.

Mrs. Murphy inquired about lines at the end of each line of parking spaces. Mr. Corsey inquired if she's referring to cross side areas.

Mr. Gardell made a motion to **Close to the Public Mr. Corsey's testimony.** Seconded by Mrs. Bonis. All were in favor.

Mrs. Murphy inquired of a particular object being made of cement. Mr. Corsey said no, to promote good circulation for truck delivery traffic, they put painted islands instead of curbed islands and further explained. Mrs. Murphy queried on lights in a striped (area). Mr. Corsey said lights will be down the center of striping. Mrs. Murphy commented on removing trees. Mr. Corsey said no, because of truck types and fire truck circulation want it open to avoid trucks running over curbs. Mr. Knutelsky commented light poles are on 30" concrete base as a protective measure for the light pole. Mr. Corsey agreed.

Mrs. Bonis asked about snow removal. Mr. Corsey said it's pushed away from the building to an area along the rear property line. Mrs. Bonis asked if it's the employee parking. Mr. Corsey said yes but they'll have to manage it to keep sheet flow drainage and further elaborated. He said it will be the tenant's endeavor to ensure parking lot circulation and sheet flow remain open. They may have to move it off-site if they have excessive snow amounts.

Mr. Knutelsky said he's concerned of it being plowed to the property rear since the entire property sheets back. An ice curb or snow curb is left leaving a big puddle that can get tracked. He's not as concerned about mid-winter heavy rain. Snow removal to the back and the drain ditch may be an option but removal is better.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
October 2, 2013

Mr. Gaccione advised (Mr. Haase) he's been recalled, was previously sworn in and if he recalls the question of using the existing building for the proposed STS. Mr. Brady requested Mr. Haase's identification for the record. Mr. Gaccione complied. Mr. Haase said the building is antiquated in appearance and layout. It's a Truss Roof design and the minimum is between 12 & 13' clearance. They took up the building 16 or 18' variance, and the third issue is they inventory at certain levels higher. They have a rafting system allowing the store go to 18' which is the prototype design and won't operationally function to use the existing building.

Glenn Arbesfeld of SSP Architectural Group, 1011 Route 22, Bridgewater was sworn in and provided his credentials. Mr. Gaccione asked if he examined architectural plans for both buildings. Mr. Arbesfeld said briefly on AutoZone's building and isn't too familiar with the STS Building. Mr. Gaccione requested he generally describe the proposed STS building to which Mr. Arbesfeld did. Mr. Gaccione asked him to provide further exterior building appearance. Mr. Arbesfeld complied and noted he has a Board exhibit. Mr. Gaccione requested he provide a short description for the record and mark it A3 with today's date. Mr. Brady asked if it was the STS Building. Mr. Gaccione agreed.

Mr. Arbesfeld showed the building's front façade, service bays, STS's Showroom portion, right and left elevation, and the facility's rear. Mr. Gaccione asked him to generally describe its interior. Mr. Arbesfeld complied. Mr. Gaccione asked if areas are provided for all interior work done. Mr. Arbesfeld agreed. Mr. Gaccione asked of his brief familiarity with AutoZone's interior. Mr. Arbesfeld said, very brief. Mr. Gaccione asked him to briefly describe AutoZone's exterior. Mr. Arbesfeld did. Mr. Gaccione requested he further describe it using the rendering. Mr. Brady requested to mark it A4. Mr. Arbesfeld described the building's exterior, its triangular canopy and entrance. Mr. Brady asked if it's the side facing Route 23 or the park corner. Mr. Arbesfeld said Route 23. Mr. Gaccione asked him to briefly describe its interior. Mr. Arbesfeld said he's not familiar with AutoZone's interior portion but assumes it's similar in nature with painted concrete masonry walls.

Mrs. Murphy questioned the building's entrance facing the parking lot as stated. Mr. Arbesfeld asked if she's referencing AutoZone or STS. Mrs. Murphy said AutoZone. Mr. Arbesfeld indicated and believes the entrance to be around the corner. Mrs. Murphy said what we're looking at here is what we're going to see if standing on the northbound side. Mr. Gaccione said he doesn't think it's properly depicted. Mr. Arbesfeld thinks it more prototypical. Mr. Gaccione said it's the front of the building facing Route 23 and parking will be around the side and doesn't mean to testify. Mr. Brady acknowledged he's clarifying. Mr. Arbesfeld said it wasn't prepared by his office; it's an artistic rendering for a prototypical location.

Mr. Gaccione said the layout has no parking in the front, the rendering shows parking in front is inaccurate. Mrs. Murphy inquired about visibility. It was said that's what it would look like with grass on Route 23 in the front. Mr. Brady said the

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
October 2, 2013

column in the corner where you have the caddy corner, will be in the corner of Route 23. Mr. Corsey said its AutoZone's building architectural sign. Mr. Arbesfeld showed where the entrance would be based on the floor plan.

Mr. Knutelsky asked for mechanical equipment location. Mr. Arbesfeld said he's not that familiar on AutoZone but for STS, there's a combination of some mechanical equipment that could be located within the facility and gave examples and there may be some rooftop mounted equipment with screens. Mr. Knutelsky said nothing will be ground mounted outside to which Mr. Arbesfeld agreed. Mr. Knutelsky said clarification is needed. Mr. Gaccione said he will put the engineer back on.

Mrs. Murphy made a motion to **Open to the Public Mr. Arbesfeld's testimony.** Seconded by Mr. Correal. All were in favor.

Mr. Fears showed his building's location that will be obscured and said he didn't know whether the products Mr. Arbesfeld has done for STS like Califon's; Mr. Gaccione (objected). Mr. Fears queried Mr. Arbesfeld's firm's familiarity and if they didn't want a Califon scaled down version. He asked if they could have scaled down the building to not obscure his. Mr. Arbesfeld said each STS facility is treated individually; is their standard prototype footprint, and the size they're looking to build.

Mr. Nelson requested clarification of Mr. Fears' building location. Using the Aerial photo (Exhibit A2) Mr. Fears demonstrated his building's location and briefly provided its history. Mr. Nelson asked which building's front façade. It was said AutoZone's façade facing Route 23 has a fair amount of grass and looks like the front of the building is facing the road. Mr. Nelson said he realizes STS's Building will have some front landscaping and one window looking like the end of the building. He indicated in his report he'd like to see more grass along (a certain) side of the building like AutoZone and asked Mr. Arbesfeld to comment.

Mr. Arbesfeld said the façade in question is the elevation labeled Right Elevation-the front façade off Route 23. He explained STS and showroom typical layout provide for windows in certain locations for displays and the rest of the façade is the rear service portion. Mr. Arbesfeld said they've replicated windows in the past with additional brick work and will confer of his client's amenability.

Mr. Gaccione said while he has the engineer up, he'll give Mr. Arbesfeld an opportunity to speak to the STS Representative to see if there's anything that can be done; specifically, to testify regarding that frontage. Mr. Nelson agreed.

Mrs. Bonis made a motion to **Close to the Public Mr. Arbesfeld's testimony.** Seconded by Mr. Kopcso. All were in favor.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
October 2, 2013

Mr. Gaccione reminded Mr. Corsey he remains under oath. Mr. Gaccione requested he describe further detail of AutoZone's building and respond to questions from the town planner and engineer.

Mr. Corsey thinks much of the testimony has gone into building detail. The AutoZone diagram represents aesthetics so the Board understands the Route 23 facing sign. He apologized for parking shown, but is a typical AutoZone façade they're conveying. Mr. Brady asked if that's the look the façade will have facing Route 23. Mr. Corsey agreed and said it's the Route 23 facing portion of the building without the parking. He demonstrated where grass, the pylon sign, the canopy and door entrance locations will be.

Mr. Gaccione asked Mr. Corsey to comment on the following from the engineer's August 30, 2013 Report:

- **Pg. 5, N° 3** To comment further regarding "a" in conjunction with the AutoZone Building. Mr. Corsey provided AutoZone's building and signage color scheme, signage placement, and said it's a split faced masonry building.
- **Pg. 5, Item 3, "d"**. Mr. Corsey said it's his understanding AutoZone will have building mounted mechanicals similar to STS. No proposed surface mounted mechanicals and everything's to be housed within the building or on the rooftop;
- **Pg. 6, Item 4, "d"**. Mr. Corsey explained one light was proposed on AutoZone's west side but was removed to respect adjacent property owners and replaced with a small decorative light for safety. No high building mounted lights like the 60W Metal Halide fixtures;
- **(Pg. 6, Item 4), "f"**. Mr. Corsey said the poles will be black and parking lot poles will be pole mounted fixtures facing oppositely at the top. Building mounted ones will be black and a similar style to ones in the parking lot but building mounted;
- **Pg. 7 (Item 5), "j"** and explain why it's necessary for the sign to stay where it is. Mr. Corsey thinks in their initial submission and subsequent submissions, the STS Monument sign was closer to the driveway and moved it north to gain better visibility turning out of the driveway;
- **If Pg. 7, Item 6, "a"** have been provided. Mr. Corsey said yes, they have two enclosures for the site; one for STS and one for (AutoZone);

Mr. Knutelsky said STS and AutoZone's trash enclosures are differently and finely constructed. He wants assurance the applicant can testify they'll look the same. Due to the building's arrangement, he'd like them to look similar and if it could be provided. Mr. Corsey agreed and said he'll work with both tenants to ensure similar aesthetic dumpster enclosures.

Mr. Knutelsky requested to re-visit **(Item 5), "j"**. Mr. Knutelsky said Mr. Corsey mentioned in recent revisions the monument sign was moved further away from the driveway intersection. Mr. Knutelsky addressed his concern regarding sufficient sight distance beyond the Stop Bar and would still like the sign placed further north. He inquired about looking at 5' beyond the Stop Bar to the center of the intersection

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
October 2, 2013

at the appropriate speed limit (being feasible). Mr. Corsey said they can accommodate and thinks the town engineer is saying the sign is still too close to the exiting drive aisle and has visibility concerns in making turns out of the driveway. He said in the whole landscaped area, they have latitude to shift if further north facilitating his sight visibility and exiting traffic concerns. Mr. Gaccione asked if they can comply with the engineer's request to have the sign moved. Mr. Corsey agreed.

Mr. Knutelsky said he wants testimony on **Pg. 8, Item 7, "d"**. He recommends and thinks they improperly labeled it a drainage easement. Mr. Knutelsky explained he's looking for an access easement for the Borough's availability to get to the rear ditch and swale area for maintenance purposes. It was shown on the plans and would need a deed or easement for access. Mr. Gaccione said he believes it's on the plan and the original plan two years ago. Mr. Brady said it was in the original Resolution. Mr. Gaccione thinks there's no issue with that. Mr. Corsey showed its path on the diagram and said a 25' easement access will be given to the town for maintenance access. Mr. Gaccione said he understands he has to draw the necessary documentation subject to calculation. Mr. Knutelsky said he doesn't think anything's been filed and would be part of any approval granted.

Mr. Knutelsky referred to **Item 8, "a"** recommending 9"x18" curb with 6" reveal for the site and asked if they're Belgian Block. Mr. Corsey said around the perimeter and will comply; and also have to comply with DOT's requirements. Mr. Knutelsky said appropriate concrete bollard details will be added and additional traffic signage has been added. Mr. Corsey agreed. Mr. Knutelsky further said "B" inlet type eco head is normally required. Mr. Corsey said they can use that.

Mr. Knutelsky said regarding **Miscellaneous**, they always get Thermoplastic paint in the parking lot. Mr. Corsey agreed to comply. Mr. Knutelsky said regarding COAH; take care of that with Mr. Nelson. Mr. Nelson agreed.

Mr. Correal inquired about demolition. Mr. Knutelsky said they would need to obtain a demolition permit through the Construction Department.

Mrs. Murphy inquired about an aluminum ramp. Mr. Corsey said it's the delivery entrance to AutoZone. Because it's greater than 8%, require a railing.

Mrs. Murphy made a motion to **Open to the Public Mr. Corsey's testimony**. Seconded by Mrs. Bonis. All were in favor.

Gene Lubowicki thanked volunteers for their time, divulged offices he held and understands the Zoning Board function. He commented on doing something with existing derelict property on Route 23 and understands the Board's position to mitigate what's good for the town and the applicant. Mr. Brady advised questions are being asked of the engineer.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
October 2, 2013

Mr. Lubowicki addressed his concerns regarding the proposed sign being intentionally put up blocking the adjoining property's sign, visibility affects to his billboard, his income stream and applicant's sign relocation. Mr. Corsey responded it wasn't intentional and his bigger obstacle is the existing billboard blocking his building and believes their sign won't block his as Mr. Lubowicki's sign is ground mounted. A discussion regarding which sign was had.

Mr. Corsey further explained their signage rights in developing the property which in the interim may block his and are before the Board regarding signage. Regarding sign relocation, Mr. Corsey explained it was his client's request, placed it in that location and are before the Board based on its merit and there's no intention or malicious effort to block his sign in any way. He provided further rationale, variance relief sought, and relocation may approach the Right of Way. Therein, Mr. Brady provided legal counsel and question rephrasing.

Mr. Nelson asked if it can be lower. Mr. Corsey advised they'd need to establish their client's amenability. Mr. Brady said the answer is can it be lower from the engineering point of view whether the client consents or not. Mr. Gaccione said yes. Mr. Lubowicki commented in addition to moving, shrink; or move up or down. Mr. Brady requested Mr. Corsey be allowed to respond to the first question, then rephrased it to: "Can the characteristics of the sign in terms of height, size and location change from an engineering point of view with all those factors and still serve the needs of his client?" Mr. Corsey said he's there to present it as it currently exists, there's always possibilities, and deferred to his client. Mr. Gaccione requested time for the engineer to consult with the client.

Mr. Brady said let me take it a step further Mr. Gaccione, I'm looking at STS; is a monument. Mr. Gaccione agreed. Mr. Brady said AutoZone, from their business model wants a pylon sign. Mr. Gaccione said yes, absolutely, it is a difference. Mr. Brady said it's something like a Monument sign that would serve both needs; it's a suggestion. Mr. Gaccione thinks there would be a need for two separate and distinct signs. He doesn't think either party based on history of what they do, would be willing to share a sign. Mr. Gaccione requested a three minute recess to discuss sign change with his client.

Mr. Gaccione said the engineer is prepared with alternatives. Mr. Corsey explained the existing billboard's location, dimensions and it's affect to their visibility. He explained their reasoning for signage placement, an option discussed, their concern with doing a ground mounted sign, and visibility affects. He explained their signage choices for AutoZone and STS.

Mr. Brady questioned their having an STS sign flanking one side of the entrance and the AutoZone sign flanking the other side of the entrance. Mr. Corsey said because the sign is 16' wide, they're asking for a 1' Variance that's actually from the top edge of the sign. He explained moving it would encroach the Right of Way and would

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
October 2, 2013

potentially be asking for a zero setback. Mr. Brady said maybe there's a monument sign like the STS sign. Mr. Gaccione said they don't have the authority to agree to a monument sign.

Mr. Gardell commented on the signs being massive and further inquired about the signs. Mr. Corsey said they're here for what they're asking for and the Board have jurisdiction to advice. Their planner will provide proofs to justify the variances and (the Board) can choose to agree, disagree and ask for sign reduction if they see fit and discuss it then. Mr. Gardell said to work with your planner, Mr. Corsey agreed.

Mrs. Murphy inquired about AutoZone's building mounted sign, what will be seen when pulling into the parking lot facing AutoZone and of the north and south walls having no windows. Mr. Corsey said the building mounted sign on the east side faces 23 and a house on the south. When pulling into the parking lot she'll see AutoZone's pylon sign, the storefront and the canopy in the corner directing her to the entry location. He described the north wall's color treatments and said they have no signage. Mr. Corsey explained there are no windows in that area due to storage requirements. Regarding the south wall, Mr. Corsey demonstrated and explained auto part storage in the back to facilitate product stacking.

Mrs. Murphy asked if STS's north side will be a blocked wall. Mr. Corsey agreed and believes it's a brick veneer building with a red metal roof. Mrs. Murphy commented on seeing a big wall when driving 23S. Mr. Corsey demonstrated and explained what will be seen driving 23 north and south.

Mr. Brady said speaking about that building to the south and where the billboard is, does it block the signage on the building on the southerly façade of AutoZone? Mr. Corsey said it looks like the western edge of the billboard sign is to the east of our building so you would see that sign as you approach, there's a building there so there's some restriction visibility. Mr. Gaccione said he thinks there might be a misunderstanding what faces 23 of AutoZone. Mrs. Murphy explained it was previously straightened out. She wanted to know what she'd see upon pulling into the parking lot facing AutoZone; view a big block wall. Mr. Gaccione apologized. Mr. Corsey said you'd see grey brick with an efface; the canopy on the front.

Mr. Knutelsky asked to get clarification on AutoZone's free-standing signage and said there is no proposal now to move the sign north but there's a proposal to raise the sign above the existing billboard and see one over the other. There's no parking variance required and are in excess of four parking stalls. If one is removed in front of AutoZone, you can almost move it 35' to the exact same spot it's now, offset from the property line and gain additional sight distance to the billboard sign.

Mr. Corsey said your engineer's saying the sign is currently located on the northeast corner of the building. We have an existing proposed parking stall and eliminate it because we have four additional spaces that could shift this 35'N and give greater

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
October 2, 2013

separation to the existing billboard sign without having the height. He said it's an option they can explore.

A question was asked what the total distance would be from the billboard to the proposed by moving to that edge. Mr. Knutelsky said by rough scale, it's currently 70' away from the billboard sign as proposed; it would then be roughly 105' from the sign. Mr. Corsey said you gain an additional 35' separation. Mr. Nelson said raising the sign to 30' requires another variance. Mr. Corsey agreed. Mr. Gaccione said the present suggestion may resolve the issue and further elaborated.

An audience member requested to ask a question. Mr. Kell advised they closed to the public and can ask (later).

William Hamilton, Principal, Omland Engineering, 54 Horsehill Road, Cedar Knolls was sworn in and provided his credentials. Mr. Gaccione asked him to generally describe the area surrounding the site. Referring to A1 Mr. Hamilton described the use types seen. Mr. Gaccione asked for the site's zoning and if the zone or site in the surrounding area mainly have conforming sized properties. Mr. Hamilton said it's an HC Zone and the western side of this area have 11 non-conforming lots to the 5 acre minimum and the largest lot is the applicant's that's about twice the size of other lots in that HC Zone area.

Mr. Gaccione asked if he reviewed the Master Plan and to review its considerations affecting the proposal. Mr. Hamilton said he reviewed the 2003 and 2009 Master Plan Re-examination Reports whereby two goals are promoted in their application and read the following excerpt: *"to provide safe vehicular bicycle circulation and to provide adequate parking for various uses"*. He said the engineers' testimony was had-that the site complies with parking standards, sufficiently accommodates both uses, procured DOT Major Access Permit promoting that goal and town's Land Use Plan goal encouraging Route 23 commercial and office uses.

Mr. Gaccione asked Mr. Hamilton if D3 Variance is being sought and to discuss the relief requested. He said they meet 11 of the 14 Zoning Ordinance conditions and are seeking relieve of three. He made references to §161-34 B (1) (a); (b); and (c) which they do not meet and explained what they propose. They also need relieve for two sign locations.

Mr. Gaccione asked him to review special reasons in granting D3 Variance approval. Mr. Hamilton replied they don't need to show the site is suited for the use; they can accommodate problems that may occur in granting deviations. They don't meet lot size but comply with parking standards, are reducing impervious coverage, providing landscaping, show the use is accommodable and request relief from the established setbacks. They significantly provide landscape buffer along the frontage property, further explained, and due to site constraints ask for sign setback relief and the two proposed signs are within that buffer area. They're asking for a 2" rear relief. Mr.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
October 2, 2013

Hamilton said, they may accommodate, but they're trying to push the building as far back as they can; particularly STS to provide separation from Route 23.

Mr. Gaccione asked him to review Bulk Variances and reasons justifying granting relief approval. Mr. Hamilton said they have a C1 relief which is a hardship relief sought due to the property's size. If they complied with property setbacks they wouldn't be able to build because of the 100' front yard setback requirement; rear yard at 50' and the like. They have hardship in terms of building anything on the property. They also have C2 Variances where purpose in the MLUL would be advanced by granting the deviation and benefits would outweigh any detriment.

Mr. Hamilton thinks three particular purposes will be promoted with the application. 1) Promote health, safety and general welfare, a Planning purpose and goal mentioned in the Master Plan; 2) Promote free flow traffic and; 3) Provide desirable visual environment. He said free flow of traffic testimony from the engineer was heard it's a safe and efficient design, have DOT approval and a desirable visual environment. Showed building elevations of modern high quality structures supplemented with landscaping throughout the site-a desirable visual environment.

Mr. Hamilton said a few building setbacks are needed. He compared setbacks with the proposed STS and AutoZone's front, side and rear yard setbacks. He said their requests are due to pre-set standards for a larger lot and are reducing existing coverage as mentioned by Mr. Corsey and further explained. In conjunction with setback variances, they waived from the buffer requirement §161-24 C (7) and further explained.

Mr. Gaccione asked him to review the negative criteria for both C & D Variances. Mr. Hamilton requested to review signage first. Mr. Gaccione agreed. Mr. Hamilton said they have a number of sign variances as heard, will review and discuss why their proposal is appropriate. Regarding the signage number, one is permitted; two free-standing signs are proposed and need a variance. Also, because they have two site uses, two are appropriate for their national tenants. The engineer testified to safety on all signage discussed. They want to provide safe and efficient movement into the site as well as early site identification for Route 23 motorists.

Mr. Gardell asked if he's saying a larger sign is safer. Mr. Hamilton said generally a larger sign is safer, particularly on a roadway with significant traffic. Regarding the AutoZone sign, height and location were discussed, meet Ordinance standards except maximum surface width; comply with area, height and other requirements. Length is due to corporate logo and branding. If they shrink it to 10' it won't be visible to the public for safe and efficient movement.

Mr. Hamilton said they have a monument sign for STS and associated relief. He gave its height, what they're proposing and requested a 3' relief. Regarding width, STS 8x8 standard doesn't work at 6x8 and asked for de minimis relief. He said the

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
October 2, 2013

engineer discussed the 50' sign setback which they can't provide. They provided signs closer to the Right of Way and ask for 1' relief as requested and received in the original application for the same identification reasons. He explained what would happen in moving it back to 15'. In regards to the other variance comment of only service stations having a free-standing sign, he believes it's a pylon sign, asks for a monument sign, and Mr. Corsey testified it's appropriate. They have very good sight distance but request a technical variance since it's a ground sign as opposed to free-standing.

Mr. Hamilton said Mr. Corsey gave sign areas but he'll go through the variances. He reviewed the number of signs being requested per building and their reasons why and therein used Exhibit A3 with regard to the Ordinance. He said neither they nor the town measure letters individually. While the sign exceeds the required maximum, he doesn't believe it excessive or out of character what the architect shows on both buildings.

Mr. Gaccione said before he does, comment on recommendations made to move the pylon sign and parking elimination. Mr. Hamilton thinks they're worthy considerations to talk about. 1) Raising the sign 30' would probably eliminate the billboard conflict and moving the pylon sign an additional 35'N lessens impact and provide visibility to both signs. If client and tenant are amenable to losing a space recognizing it will still meet ordinance standards, is a reasonable plan adjustment.

Mr. Gaccione asked if he's saying the alternative to leave the sign where it is and raise it to 30', move it 35'N and eliminate one parking space leaves 105' between the existing sign on the adjacent property and proposed pylon sign and if he thinks either would be satisfactory from a planning standpoint. Mr. Hamilton agreed.

Mr. Gaccione requested he review the Negative Criteria regarding D3 and Bulk Variances. Mr. Hamilton said in Negative Criteria they need to show variance can be granted without substantial detriment to the public good. They look at what impacts neighbors whom they believe are minimal. He gave an overview of landscape testimony, lights off an hour after closing and Storm Water Management. He mentioned site circulation improvements, highway and access permits and said there will not be substantial impairment to the zone plan and zoning ordinance.

Mr. Hamilton reminded AutoZone and STS are permitted uses. STS is asking for relief from those certain conditions which are fairly minor. Two relate to size of the track regarding setbacks and area of the site. They mentioned the Master Plan which advances certain goals consistent with the Master Plan. In summary, they don't believe there will be any substantial impairment to either the Zoning Ordinance or Master Plan.

Mr. Gaccione asked if in his professional opinion, the proposed uses are appropriate uses for this site. Mr. Hamilton said they're appropriate and consistent with the

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
October 2, 2013

neighborhood and the zoning ordinance. Mr. Gaccione asked if they're consistent with what the area is and its previous use. Mr. Hamilton said it's consistent with the neighborhood and the HC Zone development, fits well with what's existing and consistent with what's been on the site for many years. Mr. Gaccione asked if he reviewed and has comments on the Planning Consultant's Report. Mr. Hamilton said he did review and doesn't believe the architectural treatment issues addressed in testimony; or if Mr. Nelson has any questions, he'll be happy to address.

Mr. Gardell said two sign options were talked about and a third option is the wall mounted just eliminated and putting a monument sign to aesthetically match the other side asked if it's a problem when reviewing the plan. Mr. Hamilton said he'd have to look more carefully but his initial thought is the southern side monument sign adjacent to AutoZone won't have visibility of a larger sign, are competing with the significant billboard at the corner and have a monument sign for STS. In his opinion its better identification and better alternative to have the pylon sign.

Mr. Gardell asked him to go through his renderings to show how approaching the 500' from the driveway in each direction would look. Mr. Hamilton said anything's possible. Mr. Gardell said you have signs on the building and the free-standing sign in the south of the building that will be obstructed but can't visualize by looking at the maps, inquired of doing a 3 ½' above door level rendering.

Mr. Hamilton said they've looked at that carefully, both national tenants are very sensitive to signage, are confident what's proposed is visually acceptable to the tenants, and is site appropriate. He's not saying they couldn't do additional studies; they've looked at it and maybe haven't presented a visual to the Board in that regard. Mr. Gardell commented the building is a huge sign in itself and thinks it's going to be quite visible.

Mr. Nelson said regarding that comment knows corporate policies are very difficult to bend and retailers want the most signage. He was surprised a north side sign on AutoZone's building wasn't proposed. As you're coming 23S the road bends a little, you're almost looking directly at the corner of the building; you almost guess a sign there would be more effective than a pylon sign. Mr. Hamilton said they felt the pylon sign would give them visibility because of good sight distance coming in a southerly direction. He further elaborated of its strategic location, what was suggested, and their rationale of two signs per building.

Mr. Nelson said the pylon sign is needed for traffic coming north, or is the billboard blocking that pylon sign. Mr. Hamilton said it was a consideration of theirs and is why they felt until you got closer to the site, the pylon sign wasn't going to be as effective as it would be going 23S. That's why that building sign became important to AutoZone because the back of the billboard was blocking the building and a portion of that pylon sign.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
October 2, 2013

Mr. Nelson said he has two variance related questions and isn't sure if another variance is involved for two principal uses on one site. The ordinance is a little vague. He considers the site development with companion retail uses and doesn't think a variance is needed and (Mr. Hamilton) didn't testify to that. Mr. Hamilton said that's their exact interpretation.

Mr. Nelson asked if Mr. Hamilton considered the prevailing setbacks in the area in terms of justifying setbacks for the two buildings from Route 23. Mr. Hamilton said they did. He explained AutoZone's northern and southern development which they are not impacting. They feel STS's setback is appropriate in terms of setbacks along that part of 23 and feel they're consistent with the general pattern.

Mr. Knutelsky asked why a 6'x8' monument sign wouldn't work for STS. Mr. Hamilton presented Exhibit A-5, a rendering depicting two free-standing signs included in the Board's packet. They want the logo out there for both and with (STS) it's important to have changeable lines for sales and the like. It's their country wide standard and said another option was discussed but doesn't know if 6' would work and still be effective. Regarding the four changeable lines, Mr. Brady inquired if they're LED or a computer generated message. Mr. Hamilton said no.

Mr. Gardell asked if they've built any STS or AutoZone's in NJ or AutoZone's recently built in the area. Mr. Hamilton said there are many but defers to the STS Representative who can advise where stores are. Mr. Gaccione asked Mr. Haase to suggest where closest recent stores have been built. Mr. Haase informed of the Sparta and Newton locations built within the last 20-25 years. Mr. Gardell asked if any have been built within the last 20 years; if any in Northern New Jersey and; if any recently built within the last year so he may take a ride. Mr. Haase responded accordingly. Therein Mr. Gaccione requested Mr. Haase research the internet.

Mrs. Murphy inquired of Mr. Nelson's commentary regarding trees and greenery on the northern side could be tightened and moving a northeast tree without eliminating any. Mr. Nelson said he supposes it could be moved back. Mr. Hamilton said they'll be happy to work with Mr. Nelson.

Mr. Nelson said he was unsure what Mr. Fears was talking about in terms of accessing the property rear and how trees may interfere with that. Mrs. Murphy said she didn't know they were interfering with access but thinks he was concerned with the view. At this time a discussion was had wherein Right of Way was mentioned and counsel was provided by Mr. Brady. Mr. Gaccione had no objection to eliminating said tree.

Mrs. Murphy made a motion to **Open to the Public Mr. Hamilton's testimony.** Seconded by Mr. Correal. All were in favor.

No one from the public stepped forward.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
October 2, 2013

Mr. Correal Murphy made a motion to **Close to the Public Mr. Hamilton's testimony**. Seconded by Mrs. Murphy.

Mr. Gaccione requested time to speak to his client prior to summation. Mr. Brady advised the Chairman the floor hasn't been open to the public for comment. Mr. Gaccione said he'll speak after closing to the public. Mr. Nelson said there was an open question regarding the façade facing Route 23 for the STS building and whether something can be done to make it more attractive. Mr. Gaccione recalled and said is one of the items he'll discuss with his client.

Mr. Kopcsó made a motion to **Open to the Public any comments or concerns they have**. Seconded by Mr. Correal. All were in favor.

Mr. Brady advised Gene Lubowicki he'll have to be sworn in as he wasn't sworn in and just asked questions. Mr. Lubowicki expressed his appreciation to the Board and for the applicant turning a derelict property into something potentially valuable to the town. He expressed his opinion regarding tax bills received for the billboard and thanked the town for their consideration.

Ed Fears, Shell Station owner was sworn in. He expressed his concerns the project adversely will harm his property, current/future income ability, and is not against people developing their property. He further commented on the project's square footage and of it obscuring his. He's seen scaled down models which can be done and said they're just trying to maximize what they can get approved; request numerous variances and (the project) hurts him and his brothers.

Robert Heater was sworn in and expressed his thoughts on the ditch he thought belonged to the town that cleaned if for years. He also addressed his concerns regarding snow/rain affects to the ditch, its history and the respective surrounding area. Mr. Heater questioned the five acre requirement for one business and commented on the applicant wanting two buildings on $\frac{1}{10}$ th the property and commented on paving. Mrs. Murphy thanked him for the history. Mr. Heater said the town can't even clean the ditch anymore; it's 6" deep now. Mrs. Murphy asked if anybody back there called. Mr. Heater said they don't come back there anymore and has lots of complaints back there.

Mr. Kilduff, Planning Comm. Dev. Dir. and Franklin Borough Administrator, was sworn in. He wanted to inform the Board of his dealing with many discussions of the applicant's signage and has had multiple discussions over the years with the wall sign variance issue. He read §161-24 S (4) (a) (1) and expressed his opinion over its verbiage whose intent was to allow up to two wall signs; one per building. If a conservative viewpoint is taken, you get the idea you're talking about street frontage. He reiterated his opinion on ordinance limits and its intent which is for Board determination. In re, caused the applicant to request a variance and delay in the application coming forth. Mr. Kilduff said signage is extremely important for

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
October 2, 2013

developers and has had more sign and signage discussions than anything else. The applicant was previously approved for two signs and has put much time and effort into their signage which is a big issue for them.

Mr. Kilduff explained AutoZone's problematic issue with the billboard, his discussion with Ms. Leiden on raising the billboard and its issues, inquiries from AutoZone sign companies/representatives, and of signage discussions. He said what's presented this evening are results of many months they view are a needed sign package to move forth and for the Board to weigh and consider. He thinks the engineer's parking space suggestion is a good compromise solution.

Randy Knight, Shell Station Lessee/Operator owner was sworn in. Mr. Knight addressed his concerns regarding rain, drainage and grading. He talked about the experts comment on no negative impact and building re-arrangement not clarified. He expressed everyone has the right to develop their property yet not hurt on-going business and property owners. It will impact him. He commented on the applicant's stance of their property use and applying for variances to circumvent guidelines. He further discussed his knowledge of the previous approval and of his interaction with the applicant. Mr. Knight re-iterated the potential competitive impact to his business and questioned should he leave, STS operation may block business influx.

Mr. Correal asked if Mr. Knight sees any improvement when shops cluster like in Wayne and if the tree's taken away, access will be had. Mr. Knight said it's not really the tree but the building blocking so much. A discussion followed. Mr. Knight addressed his issue regarding drainage.

Mr. Gardell made a motion to **Close to the Public any concerns they may have.** Seconded by Mrs. Bonis. All were in favor.

Mr. Gaccione said he's prepared to proceed with his summation and requested a brief recess to review with his client regarding conditions the Board is looking for. Mr. Kell advised he'll continue with other business till then.

PAYMENT OF BILLS:

Mr. Gardell made a motion to approve the **Franklin Borough Zoning Board Escrow Report for October 2, 2013.** Seconded by Mrs. Bonis

Upon Roll Call Vote:

AYES: Correal, Bonis, Gardell, Kopcso, Murphy, Alexander, Kell

NAYS: None ABSTENTIONS: None

ADJOURNED CASES:

OTHER BUSINESS:

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
October 2, 2013

DISCUSSION:

Mr. Kilduff informed Board Members of the annual professional performance evaluations and eventual feedback provided. He requested they fill and return them within the next two weeks. The information will be collated and reviewed by the Professional Evaluation Review Committee. Mrs. Bonis and Chairman Kell volunteered for the committee.

Mr. Kilduff discussed the 2014 and 2015 Re-organization Meeting dates which will be approved at the 2014 Re-organization Meeting. He said they typically meet on Wednesdays and the January 2, 2014 Re-organization and Regular meeting are on Thursday. All other dates are on Wednesday.

Mr. Kopsco recommended reviewing the July 4th date now as opposed to later as it falls on a Friday (in 2014). Mr. Kilduff said it's the Wednesday preceding that explained meeting the room get tied up with others and will review it as they get closer. A brief discussion followed. Mr. Kilduff asked to leave it as it is for the time being and address that if need be when they get closer. He requested the evaluation review forms be dropped off to Ms. Nunez.

CORRESPONDENCE:

OPEN PUBLIC SESSION:

Mr. Kopsco made a motion to **Open to the Public**. Seconded by Mrs. Alexander. All were in favor.

No one from the public stepped forward.

Mr. Correal made a motion to **Close to the Public**. Seconded by Mrs. Murphy. All were in favor.

A brief break followed.

ZB-07-13-1 CM Franklin, LLC, Amended Preliminary & Amended Final Site Plan with C & D Variances; Block 606, Lot 31

Mr. Gaccione requested to recall the architect to address building appearance changes as it was one of the Board concerns which he'll probably suggest it be subject to the Town Planner's approval.

Mr. Brady advised Mr. Arbesfeld he remains under oath. Mr. Gaccione asked if he recalled questions regarding the building appearance raised by Mrs. Murphy and other Board members. Mr. Arbesfeld said yes. Mr. Gaccione asked if he discussed potential building appearance changes with his client, and beginning with STS, what his client will do to improve the façade facing Route 23.

Mr. Arbesfeld said that façade is labeled Right Elevation showing one window into the Showroom Area and the remainder's a solid wall and further explained. They're

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
October 2, 2013

looking to go with a "Faux Window" along the façade and described three faux window placements and how they'll mimic exterior appearance yet interiorly be solid for STS facility usage. Mr. Gaccione asked if he had any improvement suggestions regarding AutoZone's interior wall facing the parking lot. Mr. Arbesfeld said it will be a similar approach but its grade will be a standard opaque panel giving a window system appearance yet maintain the solid interior wall AutoZone needs.

In his summation, Mr. Gaccione said they've gone through testimony of all witnesses and citizens, came up with Faux Windows to improve AutoZone and STS's appearance, and competition concerns are understandable. If approval is given, it will bring customers to the area which could help the gas station. The businesses don't pump gas and will likely bring a customer who would go to the gas station. Mr. Gaccione further talked about testimony had, competition concern, drainage, signage, tree issue, building location and setback. Mr. Gaccione said close to two years ago, The Board had an approval where similar variances were obtained. He expressed his preference for two votes thereby providing explanations and proofs. He thanked the Board for their time and consideration.

Mr. Brady said Mr. Gaccione indicated we have previous approval theoretically with keeping the old building; putting the second building with more speculative in nature. There are no identified plans to some degree. Some of these issues are similar to the one that we dealt before-but here we have a new use and have a conditional use. We heard all the conditions and if you will meet them.

Mr. Brady provided counsel on D1 and D3 Variances, condition and impact compliance, voting, referenced a previous application, testimony heard, town planner and engineer reports, property permitted usage, variance granting, negative impacts and of economic land use for the Board to weigh and consider. At this time the Board briefly deliberated. Chairman Kell requested a motion to approve the D. Variance.

Mrs. Murphy made the motion to **approve the D Variance**. Seconded by Mrs. Bonis

Upon Roll Call Vote:

AYES: Correal, Bonis, Murphy, Alexander, Kell

NAYS: Gardell, Kopcso ABSTENTIONS: None

Chairman Kell said he needs a motion to approve bulk variances talked about. Mr. Brady provided counsel regarding the Bulk Variances with conditions.

Mrs. Bonis made a motion to **accept Bulk Variances with conditions**. Seconded by Mr. Correal

Mr. Brady provided the following conditions from his notes: Auto work is done in the building; no storage outside the building; GVW limit; 6" curb was mentioned by Mr.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
October 2, 2013

Gardell which was discussed and Mr. Knutelsky said 5 is preferred; Mr. Brady questioned the employee parking area as testimony or requirement. Mr. Knutelsky said parking is the furthest from the store entrance and typical. Mr. Brady agreed and said to make it a conditions is strong; Mr. Brady continued with the following conditions: snow removal, trash enclosures similarity; STS monument sign moved subject to Mr. Knutelsky's report; 25' access easement granted to the Borough; 9X18" with 6" reveal with DOT requirement; Type B inlet and ECO; thermoplastic paint and; COAH with Mr. Nelson.

Mr. Kilduff said we have an applicable Developer's Fee Ordinance. Mr. Brady said he'll add to comply with Developer's Agreement; parking stall removal; move sign 35'N subject to Mr. Knutelsky's approval; change landscaping/tree subject to Mr. Nelson's approval and faux windows to STS/AutoZone.

Mr. Nelson said he doesn't know if the outdoor storage restriction would apply to sale product display to which no discussion was had. Mr. Brady said they didn't and that would not be storage it would be display. Mr. Correal asked if that discussion was had before where a quick discussion followed and determined it wasn't storage.

Upon Roll Call Vote:

AYES: Correal, Bonis, Kopcso, Murphy, Alexander, Kell

NAYS: Gardell ABSTENTIONS: None

ADJOURNMENT: There being no further business Mrs. Murphy made a motion to adjourn the meeting of the Franklin Borough Zoning Board of Adjustment. Seconded by Mrs. Bonis. All were in favor. Meeting was adjourned at 11:19 PM.

Respectfully Submitted,



Ruth Nunez
Secretary