

Meeting called to order by Vice Chairman Ms. Waterbury @ 7:30 pm

All saluted the flag & the Presiding Officers Statement was read.

Roll Call:

Present: Waterbury, Burden, DeNofa, Derasadourian, Teller, Gardella, Martinelly,
Carroll, Eddy
Absent: Bell, Siciliano
Donato - Attorney
Cranmer - Engineer

Ms. Donato gave the Oath of Office to Mr. Eddy, Class IV, Alternate #2

Minutes:

A motion was made by Mr. DeNofa, seconded by Mr. Teller to adopt & memorialize the minutes from the March 16, 2011 as amended. All approved. Abstained; Burden, Teller

Correspondence:

- Letter of resignation from Mr. Bell, he will be moving out of town

Planning Board Business:

- Mr. Burden appointed Mr. Eddy to the Class IV, Alt #2 position
Mr. Bell will be appointed to Class II Borough Official - President of First Aid
his term runs concurrent with his position on the First Aid Squad (1 year term)
Ms. Derasadourian will be appointed to the Class IV position which runs with the terms of the Environmental Commission
- **Appointment of Chairman for remainder of 2011:**
A motion was made by Mr. Teller, seconded by Ms. Derasadourian nominating Ms. Waterbury as Chairman for remainder of 2011, with no further nominations.
Roll Call:
Affirmative: Burden, DeNofa, Derasadourian, Teller, Gardella, Martinelly,
Carroll, Eddy
Negative: None
Abstained: Waterbury
- **Appointment of Vice Chairman for remainder of 2011:**
Hold until August 17, 2011 meeting

Re examination Report - Update:

Ms. Waterbury reported that the committee has been reviewing the Ordinances and there are any inconsistencies. They have been discussing the energy sustainability element to be added to the Master Plan. They have been discussing preparing an outline as to what needs to be done for a Master Plan and for verification of funding.

Ms. Donato reminded Ms. Waterbury as to whether or not the changes require a notice. Ms. Waterbury said that they are not proposing any changes at this time to the Master Plan. Ms. Donato was referring to the changes to the Ordinance and the adoption of a re examination report which would avoid having to renote to any Ordinance change or a change to the zone district boundary or classification. The Statute says that you have to give except if the changes are recommended as part of a Re examination of the Master Plan. Ms Waterbury said that changes to the Ordinance was proposed and then they checked to see if there were any inconsistencies with the Master Plan, a full Re examination is going to take time. Ms. Donato said as long as there is a comfort level on the part of Mr. Barger that the Ordinance changes will not require notice, if he thinks they require notice then they will have to be noticed.

Ms. Waterbury said that the Re examination is going to take a long time, and she feels that some of the changes were changes that they wanted to put into effect sooner rather than later. Ms. Donato said that she was under the impression that the board would do a brief re examination, if Mr. Barger feels that you are going to need notice you can always revisit this issue and prepare a Re examination Report. Ms. Waterbury said that she will contact Ms. Donato and discuss this prior to the next Master Plan meeting on August 11, 2011, 1:00 pm. (Frank Clark Room).

Mr. Burden advised that the Green Team will be reaching the classification of a Sustainable Community within the next 60-90 days; the Shade Tree Commission is working on the Community Forestry Management Plan and is expected to go to Council within 2 months. Will they have any impact on what is being done here?

Mr. Cranmer said yes, that they will be included in the Sustainability Element which will address all of the new technologies related to renewable sources of energy. Having a Sustainable Element of the Master Plan we may qualify for grant opportunities that otherwise we would have not.

Mr. Cranmer said that a quick Re exam Report which would allow us to cover all of the Ordinances, and then do a more comprehensive look and have a new Master Plan in the near future. All of the new information will be needed from the respective agencies to be included in the review of the Master Plan.

Mr. Cranmer said that the initial intent was to do a quick and non-comprehensive Re examination Report, as the committee went through the Master Plan they notices certain things that needed looking at right a way so he feels that the Re examine will be between simplistic and a little bit more comprehensive in order to layout all of the issues that need to be considered as part of a Master Plan upgrade.

Review of Solar Panel Ordinance - hold until the end of meeting

A motion was made by Mr. Burden, seconded by Mr. Teller to open the meeting to the public, for items not on the agenda. All approved.

Ms. Jill Gwydir, E.C. had questions on the Solar Panel Ordinance but was advised that the issue will be discussed later in the meeting.

A motion was made by Mr. Teller, seconded by Mr. Carroll to close the meeting to the public. All approved.

Unfinished Business: Hold until end of meeting.

New Business:

M/M Mathew McDonald:

412 Sycamore Ave
Bl: 28, Lot: 18

Certificate of Appropriateness

wooden fence

Mr. Matt McDonald, 412 Sycamore Ave was sworn, explained that they are proposing to install new fencing on his property. The rear portion of the portion will have 100' of 6' board on board cedar fence. He presented a photo of the board on board marked as **A-1** into evidence. On the western portion he will be installing 175' of 4' wooden 3 rail and post with a green mesh on the backside, photo presented marked as **A-2** into evidence. On the southern portion of the property there will be 81' of the same 4' 3 rail and post fence with the green mesh, and a gate. Mr. McDonald advised that no trees will have to be removed in order to install the fences.

Mr. McDonald stated that to the rear of his property they have the business parking lot from the Sotheby's Real Estate, and they have 2 small children to protect them from the parking area. They also have new neighbors at 420 Sycamore Ave and they feel that this would be a good time to put some type of enclosure around their property. They are proposing the wood fence in order to be consistent with the historic district. The fence will not be painted but it will be maintained, the mesh will not be seen but it will not allow a child or animal to come through the rails. He explained that there is currently a fence on the eastern portion of his property that will allow him total protection.

M/M Walter Huresky:

319 Sycamore Ave
Bl: 41, Lot: 27

Certificate of Appropriateness

new fences

Mr. Walter Huresky & Ms Emily Huresky, 319 Sycamore Ave, were both sworn.

Mr. Huresky presented a copy of his survey showing the two sections of fencing that they are proposing a 5' cedar board on board, with a scalloped design fence. The fence is for the protection of the two small children from Sycamore Ave. Mr. Huresky presented a copy of what the fence would look like, the exhibit shows vinyl but it will be wood. At the highest point of the fence it will be 5' with a 6" dip in the center of the section. They will be installing 2 gates, the driveway gate will be 40" or a single gate, but the 2nd gate on the Sycamore Ave side will be a double gate 8' wide, which would not hinder any emergency services entering his property. Mr. Burden pointed out with the existing landscaping out on Sycamore Ave; the fence will not even be seen.

A motion was made by Mr. Teller, seconded by Mr. Burden to open the meeting to the public. All approved.

No comments/questions.

A motion was made by Mr. Burden, seconded by Mr. Carroll to close the meeting to the public. All approved.

A motion was made by Ms. Derasadourian, seconded by Mr. Carroll to approve the request for a Certificate of Appropriateness for M/M Walter Huresky for new fences in the Historic District.

Roll Call:

Affirmative: Waterbury, Burden, DeNofa, Derasadourian, Teller, Gardella, Martinelly
Carroll, Eddy

Negative: None

New Business:

Cutwins, LLC:

456 Broad St
Bl: 13, Lots: 12

Completeness/Pre/Final Site Plan

Ms. Donato announced that she has reviewed the service in this matter and finds it to be adequate and that the board has jurisdiction to hear this application.

Mr. William Feinberg, Esq represented the application.

Mr. David Cranmer, Engineer announced that this application has been deemed **complete on 4/29/2011**. He explained that this application previously was before the Planning Board of December 2009 and the preliminary review indicated that a F.A.R. variance was necessary, and would be sent to the Zoning Board, the application realized that the F.A.R. was necessary and the F.A.R. met the 0.40 which is permitted. The application is now back before the Planning Board for Preliminary/final site plan approval. His review letter was originally sent to the Zoning Board including the Floor Area Ratio which is no longer applicable.

Mr. Feinberg gave a brief description of the property located at 456 Board St. The property contained an abandoned gas station on an undersized lot. The application is proposing to demolish the gas station and build a 1 story furniture store. The site will have new landscaping, parking and all the amenities. This store is not a Raymore & Flannigan type store; it is a gloried showroom containing upscale furniture. The customers will select the furniture from the showroom and the furniture will be shipped from a warehouse. There will be very few deliveries to this location 1-3 times a year, delivered by a small cargo van. The use of property, as it exists now, is under used and the town is deriving no benefits from a vacant gas station. If the board is inclined to grant this application it will be a plus for the town and the public.

Mr. Richard Becker, 50% owner of the property, 456 Broad St application submitted as Cutwins LLC was sworn. Mr. Becker described the site as an abandoned gas station for approximately 10 years, and they have received a "No Further Action Letter" on the property. He testified that they are planning on building a 1 story building for an upscale furniture store showroom. The furniture will not be shipped out of the showroom but from another location. Furniture will be shipped in "seasonally" or 3-4 times a year, by a small cargo van truck most likely the deliveries will be made after the store closes.

Mr. Feinberg asked Mr. Becker to describe the operation of an "upscale furniture". Mr. Becker explained that it would be more expensive in price, with 2 employees, with an operation of 5-6 days a week, 10:00 am to 7:00 pm. They are not proposing a loading zone on the site. The trash will only be what is generated from the employees in the store and will be privately hauled away as necessary.

Mr. Feinberg asked Mr. Becker to describe the proposed parking areas. Mr. Becker testified that they are proposing parking in the front from a tenant preference and visibility preference, as well as a request from the adjacent neighbor (Monmouth Stereo) not to have his building obstructed from traffic traveling north on Rt. 35.

Mr. Cranmer asked the applicant to disclose the other members of the Cutwins LLC. Mr. Becker advised that there is one other member Mr. David Ross, Westport Conn. Mr. Carroll asked if Cutwins is a brand of furniture? Mr. Becker said no, it's the name of the Limited Liability that they formed. Mr. Becker advised that he is building the store for a specific tenant, which he has built for in the past.

Ms. Derasadourian asked if the No Further Action Letter is available? Mr. Cranmer advised that he has a copy, and it is dated April 1, 2008 issued by Donald Kramer. Mr. Cranmer advised that they are still monitoring wells on the property. Mr. Becker advised that the tanks have been removed from the site and the monitoring wells are still on the site but they are not active.

Mr. Burden asked Mr. Becker how many customers are anticipated to come to the site each day? Mr. Becker advised that he is not the tenant, but his understanding that it could be 15-25 per day. Mr. Cranmer asked if the tenant will be giving testimony tonight? Mr. Becker said no.

Mr. Burden asked if this business will need a decorator's referral to have access or will the general public will be able to come to the store? Mr. Becker said that it will be open to the general public.

Ms. Derasadourian asked Mr. Becker, you own the property and would build the building and then lease it to a tenant, so technically it wouldn't have to be a "high scale" furniture store, you would have the right to rent to any tenant? Mr. Becker said that is correct. Ms. Derasadourian has concerns with the number of parking spaces that are being proposed vs. a different type of tenant with only 12 parking spaces. She asked if this would be a long term lease? Mr. Becker said that he is building the space for this tenant. Ms. Waterbury said that the parking requirement for a furniture store has a low client generation and parking requirement.

Mr. Burden asked if the furniture will be unloaded directly into the store? Mr. Becker said yes, the store will be designed for that with double front doors, there will be double doors on Thomas Ave, but he did not know what they would be used for.

Ms. Donato asked Mr. Cranmer if he asked the furniture parking requirements when he calculated the parking on this site? Mr. Cranmer said yes, 1 parking space for 400 sq. ft. of gross floor area, and retail for the B1 zone is 1 space per 150 sq. ft. Ms. Donato explained that any change of use from a furniture store to a general retail store would require another approval, and if there is no other space on this site for parking, the applicant should be forewarned that there would be a significant parking variance that would be attached to the site plan.

Mr. Becker testified that the access into the site would be located on an easement coming in from the adjacent property (Monmouth Stereo). Ms. Donato advised that she required notice of this application to that lot as well. Ms. Martinelly asked if that is a recorded deeded easement access? Ms. Donato said that she has not seen the document; she asked Mr. Cranmer if he has seen it? Mr. Cranmer said that he has seen the survey which refers to a recorded easement which is recorded in the Monmouth County Clerks Office, but he has not seen the actual recorded document, what is indicated on the survey is that it is an easement for "access for ingress/egress and maintenance of the light pole". Ms. Donato asked if that was a completeness requirement? Mr. Cranmer said that he has included that in his review letter.

Ms. Martinelly asked if this property buffers residential? Mr. Cranmer said that the property buffers a flag portion of Lot 11 which comes out to Thomas Ave, and then the next lot is vacant which is owned by Mr. Rassas giving approximately 60' to the first residential lot.

Mr. Burden gave his concerns for northbound traffic making a left into the site with all of the congestion at this present time. He asked if the board could seek a no left turn into the site from the State? Mr. Cranmer said that would be under the jurisdiction of the D.O.T. and he agrees that it is congested but the applicant will be putting in testimony on the traffic. Mr. Cranmer stated that the board would have the jurisdiction to turn out of the site. Ms. Donato agreed with Mr. Cranmer, the restriction of left turn out would be a restriction on private property and not the D.O.T. right of way, and it has been a condition frequently imposed by the Planning Board, but the road itself is the D.O.T. Ms. Donato asked if they could secure a D.O.T. Access Permit? Mr. Cranmer said they would not need one, and testimony would be given by their experts with regard to those issues.

A motion was made by Mr. Teller, seconded by Ms. Derasadourian to open the meeting to the public for questions of Mr. Becker only. All approved.

Mr. Steward Minus, 35 Thomas Ave, owner of Lot 16, he asked who the tenant will be in order to know what type of business will be going in and out? Mr. Becker said that it is a furniture store and did not want to disclose the tenant name.

A motion was made by Mr. Burden, seconded by Mr. Teller to close the meeting to the public. All approved

Mr. Steven Kawalek, 764 Ave C, Bayonne, NJ, Kawalek & Kawalek Architects, gave his professional background & was sworn. Ms. Waterbury asked Mr. Kawalek if he has done work in Monmouth County? He stated not that often but he has done work throughout New Jersey, he was accepted as an expert witness as an Architect & Planner (by license)

Mr. Kawalek described the property as an existing, undersized & irregular lot located at Broad Street & Thomas Ave. Currently there is an abandoned gas station which has been remediated; and they are proposing a 1 story, 20' high, 5,000 sq. ft in area building for a retail furniture store, with 12 parking spaces, including 1 handicapped parking space. He explained that they are proposing ingress from Broad Street through an existing access easement from the neighboring property to the north. There will be 1 way traffic throughout the site and egress out to Thomas Ave via a reconstructed curb cut. Landscaping is proposed around the perimeter of the site, building mounted lighting and signage is shown on the plan as well as a ground mounted sign toward entrance to the site.

Mr. Feinberg asked if there is an existing curb cut? Mr. Kawalek stated that there are existing curb cuts, there is a large curb cut which previously served the gas station, an existing curb cut is at the neighboring property to the north. If this application is

approved the curb cut on Thomas Ave will be reconstructed “as is” and the curb cut on the southern end of the property will be eliminated and replaced with new curbing, the curb cut to the northern edge of the property will be modified and reconfigured so the neighbor curb cut and the proposed curb cut becomes 1 and allows for ingress to the site essentially toward the northern edge of the subject property.

Mr. Feinberg asked Mr. Kawalek to describe the variances that the applicant is seeking:

- Exiting condition for lot size under sized 12,000 sq. ft. where 20,000 sq. ft. required, frontage non conforming no change to continue
- Rear yard set back: proposing 0’ where 15’ required (western property line)
- Lot coverage: proposing 83% where 65% allowed, but less than existing
- Parking requirements: front yard parking with 1 less space as required providing 12 parking spaces
- Waivers being required: landscaping buffers, landscaping in parking areas

Mr. Kawalek testified that perimeter landscaping already exists, they are providing an additional tree on the northwestern property line. East of the proposed parking area, between the parking area and the sidewalk is a landscaped area of approximately 5’ and they are proposing additional trees in this area.

Review of Engineers Report dated 6/29/2011:

2.0: Site Layout & Traffic Circulation & 4.0: Landscaping & Lighting:

Mr. Kawalek testified that all of these items he feels are technical and will be able to comply with all of Mr. Cranmer’s requests. Mr. Kawalek stated that he will work with Mr. Cranmer to work these items out to his satisfaction.

Mr. Kawalek testified that the biggest issue for the site is undersized vs. what the requirements are for the B1 Zone, they are 40% smaller than the minimum lot size and they cannot change. Both the building coverage and the FAR comply with the Ordinance. He feels that the building is appropriate for the area of the site. If they try to incorporate all of the design considerations that are required they would end up with a 1,000 sq. ft or less building, less than the existing building which is 1,300 sq. ft. If the lot was 20,000 sq. ft. they would comply with all of the requirements.

Mr. Kawalek feels that this is a use that belongs in a retail commercial area, which is in an active intersection & location. The existing building is an eyesore vs. other more upscale outlets. Anything that goes on the site will be improvement as to what is there currently. The new masonry building, with have a glass façade, with a parapet will screen all utilities, no trash enclosure at any time. The building will fit in with the brand element of the occupant, but it will also represent an attraction element to the community and represent an improvement to the site, from both architectural and planning standard the proposed will achieve that. The use will spur economic development and provide new sidewalks, landscaped buffer where none exist, a barrier free route, and all the public amenities that will serve to promote the general welfare of the community.

Mr. Kawalek said that the gas station that was previously on the property doesn't represent an appealing visual environment it's a messier site and it has a constant flow of cars in and out all day and night with idling on the site. There are vehicle repairs on the site moving cars in and out of garages. The proposed use is quieter and a less intensive use and more appealing.

Mr. Kawalek testified that this application could be granted without a substantial detriment to the public good, or a substantial impact on the Master Plan and Zoning Ordinance. There will not be any detriment only improvements to the site, especially to the street scape.

Ms. Waterbury referred to the site plan and the rear yard 0 lot line set back, are you going to disturb the adjacent property to build? Mr. Kawalek said no, they can construct the walls with a zero lot line footing, so the portion that is below grade is completely on the subject property.

Ms. Martinelly asked if the site was designed for the adjacent neighbor, she explained that this board has worked hard to take parking away from the front of buildings and now we are going back to where we were; do you think you will have a problem with the neighbor? Mr. Kawalek said no, the design of both the structure and site are driven by the wishes of the owner and tenant.

Mr. Teller referred to the statement of the architecture and brand of what is being sold in the building, and we do not know what that is, and he asked Ms. Donato if we have the right to ask who the end user will be? Ms. Donato said that you do not have the right to ask who the specific identity of the end user would be, but the applicant has the burden of proof to establish the rights to the variances that are being requested, so the board needs to consider that regardless of who the entity might be. In land use you cannot control quality of a tenant you can only control the use.

Ms. Waterbury said that it is also the operation of the tenant, and we don't really know anything about the tenant, we have had some testimony of the operation of the tenant and we do have some small "boutique type" furniture stores and she is looking for testimony on the deliveries and how they would be made, and if testimony was given it would narrow down the user that would be appropriate or who would be using the site if a furniture store cannot have a larger vehicle which delivers "seasonally". Knowing that it is a retail use that is short of parking in the retail use, by 1 space, and they are generating 1/3 of the amount of parking that a general retail user would have. She is concerned about the parking variance with a use that is a low generator, and is concerned with the variances that are required for the set backs are a function of the building. She feels that they could have a balance and work to achieve some of the other variances needed and to eliminate the parking variance, and provide some additional parking in order to have a broader offering for the building itself, in order for the building to last longer than the one tenant. Without knowing who the tenant will be offers here some concerns that the board is creating a very narrow opportunity for this property. It is an improvement over the gas station and the concept of a lower traffic generating use on the site is not a bad thing for

this intersection. She feels that when she hears the planning testimony for this site, at this time, she has an uncomfortably as to what this particular building will have future use for beside the furniture store. She has concerns on the user using Thomas Ave for deliveries.

Mr. Burden feels that the number of parking spaces for customers would be 1 handicapped, and 2 employees leaving 9 spaces. Ms. Derasadourian has concerns with the testimony given that there will only be 2 employees, especially if there is a sale. Mr. Becker said that he is not familiar with the operations of the user, he is working with the information that he has been provided.

Ms. Martinelly asked how would the board control the change in tenant? Ms. Donato explained that the parking requirements for a furniture store & appliance stores are lenient 1 for 400 sq. ft. up to 4,000 sq. ft.; retail use is 1 for 150 sq. ft. You have a site that is already over covered with 83% where 65% is allowed. The board could stipulate that any use other than an appliance or furniture store must return to the board for revised approvals. Mr. Cranmer explained that if there is a change in use on the property, the Ordinance requires a site plan approval. A change in tenant would not require an appearance before the board. A change in use going from furniture to any other use in the B1 zone would necessitate a site plan approval.

Ms. Donato said that if they come in for a change in use, there is a building and site improvements that cannot accommodate any other use other than what is before the board now or an appliance store. There are operational issues, the question of a loading zone, where cars will be parked etc., is all very operationally oriented, there is a need to evaluate that in order to evaluate whether or not it is reasonable to grant the relief that is being requested.

Ms. Waterbury said that there is no refuse area proposed because it is going to be inside, so for this user that may be acceptable but if there was another where cardboard was involved, from a generic stand point those kinds of issues would be addressed. Besides the use being limited to furniture and appliances it would also be noted that there is no storage here, everything is being shipped from another warehouse. She feels that this is an important thing since that is limiting the number of trips and deliveries to the site; she feels that would be a condition of the resolution further narrowing that aspect of the use.

Ms. Waterbury stated that this site is under in the parking with a narrower definition of furniture store having 4 deliveries a year, those are things that are concerning to her.

Continuation of review of Engineers Report June 29, 2011:

1.6: a & b: Parking in front yard area -

Mr. Kawalek testified that the parking in the front yard is user preference and a preference who will occupy the building. Parking in the rear yard is infeasible since it pushes them into an additional shortage of parking spaces This gives them one circulation aisle and the most parking spaces.

Mr. Cranmer asked if the building can be made smaller to accommodate more parking spaces? Mr. Kawalek said that it is his understanding that they cannot pursue making the building smaller.

Mr. Cranmer asked if they could enter into a cross access easement with the adjacent property (Lot 11) which parallels the western property line, could they enter an arrangement with the owner? Mr. Kawalek said that he understands that they could not come up with an agreement. Their only access would be from the existing curb cut which straddles the property lines as it exists. Mr. Cranmer asked if any attempts made to purchase adjacent property to lessen the variances that are required? Mr. Kawalek said that he did not know.

Mr. Cranmer referred to the impervious coverage variance and asked if they could reduce the impervious coverage and bring it into compliance to the zoning standards? Mr. Kawalek said no as far as surfacing, but they are addressing run off with an under ground retention system.

Mr. Cranmer requested that Mr. Feinberg provide a copy of the Access Easement that the applicant has with the neighbor. Mr. Feinberg said that it has existed from the gas station, and he will do a search of the property.

Mr. Cranmer asked if the landscaping will be enhanced between the parking along Broad Street to mitigate the variance condition? Mr. Kawalek said that it would depend on the sidewalk width, but they would reduce both the sidewalk area and the parking back up area.

Mr. Cranmer asked what type of delivery vehicle will be delivering and would this vehicle be able to negotiate the site without backing onto to Broad St or Thomas Ave for deliveries? Mr. Kawalek said that he thinks it would not be bigger than an econoline van. Ms. Donato feels that this information needs to be provided by the user, the board needs to know the turning radius needed. This is an undersized lot and the variances need to be justified, and she feels that the applicant should evaluate this before the next meeting.

Mr. Cranmer referred to the free standing sign and the design does not scale, what is the set back? Mr. Kawalek said that if they narrow the throat of the ingress, which was previously widened per other conversations, he doesn't see the need for a 24' wide throat at the point of the sign, he would then shift the sign to the west in order to bring it more into compliance. Mr. Kawalek said that the sign is 8' wide. Mr. Cranmer wants to see more detail on the sign; he feels another variance will be needed.

Mr. Cranmer asked Mr. Feinberg if there will be a traffic expert on this application? Mr. Feinberg said that he will provide additional testimony at the next meeting. Mr. Cranmer feels that a cursory traffic impact analysis needs to be done on this site. He feels that the number of trips that might be expected to access the number of trips per day, the size of the vehicles, turning passes, to insure that delivery vehicles can come on the site and exit the site without parking on Thomas Ave or impact traffic on Broad St.

Mr. Cranmer feels that there will be a number of “K” turns necessary to access the most northerly parking stall. A traffic expert might be able to analysis those types of situations and render an opinion as to whether this site in its current design meets all the standards set by ASHTO. Mr. Feinberg will look into this issue.

Mr. Cranmer referred to the access easement and rights conveyed can be an important piece of information needed. Ms. Martinelly asked if Monmouth Stereo own the property? Mr. Cranmer said yes, and the survey has very specific details and he would like to see the documents, which is conveyed and the restrictions set forth. Ms. Donato would like a copy of this document.

Mr. Feinberg stated that he will have all of witnesses available for the August 17, 2011 meeting.

A motion was made by Mr. Teller, seconded by Mr. Carroll to carry the Cutwins, LLC application to the August 17, 2011 meeting without further notice. All approved.

Unfinished Business:

M/M W Dodge:
Bl: 28, Lot: 25

Adoption of Resolution
removal of shed

A motion was made by Mr. Burden, seconded by Mr. DeNofa to adopt & memorialize the resolution of approval to M/M William Dodge for a Certificate of Appropriateness for the removal of a shed in the Historic District.

Roll Call:

Affirmative: Waterbury, Derasadourian, Martinelly, Carroll

Negative: None

Continuation of Planning Board Business:

Review of Solar Panel proposed Ordinance:

Proposed Ordinance prepared by Ms. Donato for the use of solar panels.

Ms. Waterbury explained why the board needed to do this Ordinance, there is a section in the Ordinance which stipulates “any utilitarian devices must be screened from view”, and would not be effective when dealing with solar panels. This section was put in place in 1995 and needs an update. She explained that the Master Plan Committee will be making the recommendation that the Ordinance be expanded beyond solar panels and create a Sustainable Energy Element” to the Master Plan which would include more than solar panels. This would be the first step of the continuing discussion of sustainable energy.

Ms. Waterbury explained that this amendment was prompted by the Zoning Board due to the number of applications being referred to the board due to the requirement of screening of the devices on a roof. Mr. DeNofa asked if this amendment meets the requirements of what the Zoning Board would be need. Ms. Waterbury said that this would not only be for the Zoning Board but for the use of the Zoning Officer, who needed some guidance as it related, since the Ordinance was written before the popular use of solar. She explained that the Zoning Officer did send a letter to the Zoning Board but since it was not a letter of interpretation from an applicant or part of a an application, the board decided to amend the annual report and sent a letter to the Planning Board and Council advising them of the “flood” of applications and that the Ordinance needed to be addressed.

Ms. Waterbury stated that the board had suggested that on residential application and as long as the panels were not perpendicular to the roof and were flat, the panels blended with the existing roof, and they met with all of the electrical codes.

Ms. Donato explained that she has prepared the Ordinance working from Ordinances that she obtained from the Association of New Jersey Environmental Commissions, and compared it to the concerns of the Zoning Board and tried to work the concerns into the model that she prepared.

Ms. Derasadourian referred to 3D: she asked if a homeowner could not comply with the requirement that the panels could not be any higher than 8” the homeowner would have to go to the Zoning Board and obtain a variance? Ms. Waterbury said that is correct.

Mr. Teller asked if the panels will be restricted from the Historic District?

Ms. Waterbury stated that they would have to come to the Planning Board for a Certificate of Appropriateness, but she thinks that there is a state law that stipulates that you are not allowed to pass an Ordinance which would prohibit or...

Ms. Donato said that it does state that they are an inherently beneficial use and the board would have difficulty if the board would to restrict the installation in the Historic District due to the uniformity requirement of the Municipal Land Use Law, unless you create a separate zone for the Historic District, she feels that the board would have fairly potential challenge to the validity of the Ordinance on uniformity grounds. All Zoning Ordinances must be uniform throughout the district.

A motion was made by Mr. Burden, seconded by Mr. DeNofa to open the meeting to the public. All approved.

Ms. Jill Gwydir, Chairman of the Environmental Commission, gave her comments and concerns with the proposed Ordinance. She advised that she has seen Ordinances that allow up to 12” to give homeowners for leeway that do not have southern exposure roofs. Item 3F; make sure that no screening at all is used since the panels would be impacted. Ground mounts are not addressed in this Ordinance. Ms. Waterbury said that ground mounts are going to be addressed at a later date, and more detail would have to be

submitted. Ms. Gwydir referred to a wind component and a solar component in a letter that was forwarded to board members; she would like to see both the solar & wind elements included.

Ms. Waterbury feels that the wind element is going to include some research and the board did not want to delay the process of the solar element, it will be included but not right of way.

Ms. Gwydir stated that the Environmental Commission would not like to see a restriction on roof top configurations that would face the street. Ms. Waterbury said currently they are looking at an 8 panel limit.

Ms. Gwydir stated that they would like to be included in the Master Plan review.

Ms. Donato referred to 3F: Screening, she doesn't feel that it wouldn't be reasonably possible to put a landscaping around the panels, and these systems are considered to be inherently beneficial uses which although there wouldn't be a use variance, but the legislative intent favor the use as opposed to disfavoring. It would be reasonable for a board to say when a roof top system is being installed to require to buffer and landscape. Ms. Donato said that the screening would have to be "reasonably and possible".

Ms. Waterbury feels that the residential roof top landscaping & screening would not apply because its roof top. Ms. Donato suggested taking out "screening & landscaping" on 3F, board members agreed. Mr. Cranmer explained that he has received a site plan application for "ground arrays".

Ms. Donato suggested the following:

- **F:** The design of roof mounted solar energy systems shall, to the extent reasonably feasible, use materials, colors & textures; that will blend the facility into the natural setting and existing environment.
- For installations that are not roof mounted screen and landscaping shall be required in addition to the requirements of paragraph F.
- The provision of Section 94-8.31 Utilitarian Structure, shall not apply to roof mounted solar energy systems.

Ms. Waterbury asked if a ground mounted in a residential yard something that the board should have concerns about? Mr. Cranmer said yes. Ms. Waterbury asked if the homeowner screens them, the Zoning Officer could review the application as accessory structures? Mr. Cranmer said yes.

Ms. Donato said that this Ordinance was a "stop gap" Ordinance, this was not intended to be the model ordinance for everything. This was only to allow the roof mounted systems.

Ms. Waterbury asked, if they meet all the set backs and screening the Zoning Board would not have to look at. Ms. Donato said paragraph C: allows them as an accessory use on the same lot, and meet all of the requirements for accessory structures. Mr. Cranmer agrees that this is a “gap ordinance” for the purpose of roof mounted panels to take the homeowners out of the variance process.

Ms. Donato suggested that if the board wants to include the ground arrays, the board should look at it now, even though ordinances are being amended everyday. Ground arrays must meet the following standards; she reminded the board that all solar energy systems, wind systems and other alternate systems are considered to be inherently beneficial use.

Ms. Donato suggested the following:

- 20’ from the property line
- not permitted in the front yard
- glare is directed away
- not to exceed a height of 15’

Mr. Burden suggested that the requirements that Ms. Donato stated would be a good start.

Ms. Donato suggested that the board could waive any further review providing there are no substantial changes. Ms Donato will make the changes, refer the changes by letter reference to Council and have the first reading in August with the second reading in September.

Mr. Gardella feels that the board should take their time and bring the Ordinance back again next month on ground arrays.

Mr. Carroll has concerns with the 15’ height for ground arrays.

After a discussion it was decided that the board should address the roof mounted solar panels at this, and if a homeowner does anything other than a roof mount they would have to appear before the Zoning Board. Mr. Cranmer feels that the Zoning Board is the best place to treat anything other than a roof mount on a case by case basis, and a notice would be required to all surrounding homeowners.

Ms. Donato suggested the following for in the definitions C: Solar energy systems shall only be permitted as an accessory use on the same lot as the principal use, and shall be roof mounted only.

Ms. Waterbury asked if the board wanted to see a second draft or if they felt comfortable making the recommendation to forward it on to Council?

A motion was made by Ms. Derasadourian, seconded by Mr. Carroll to forward the proposed Ordinance to Council in the form of a letter vs. a resolution for the use of roof mounted solar panels in a residential area, and to waive the 35 day review period.

Roll Call:

Affirmative: Waterbury, Burden, DeNofa, Derasadourian, Teller, Gardella, Martinelly,
Carroll, Eddy

Negative: None

Ms. Donato advised that she will prepare the letter to be forwarded to Council with the same language and she will revise the document.

A motion was made by Mr. Carroll, seconded by Mr. DeNofa to close the meeting to the public. All approved

A motion was made by Ms. Martinelly, seconded by Mr. Teller to adjourn the meeting at 11:00 pm. All approved.