

**Stanhope Land Use Board
January 9, 2018
Reorganization Meeting
Minutes**

CALL MEETING TO ORDER:

The Board Attorney called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE:

STATEMENT:

Adequate notice for this meeting has been provided according to the Open Public Meetings Act, Assembly Bill #1030. Notice for this Reorganization Meeting was forwarded to the New Jersey Herald and Daily Record on January 10, 2017 and was placed on the municipal bulletin board.

In the event the Board has not addressed all the items on its agenda by 11:00 p.m., and it is of the opinion that it cannot complete the agenda in a reasonable period, the Board may exercise its option to continue this meeting at an agreed time and place, within ten (10) days of this meeting.

At this time, please turn off all cell phones.

OATH OF OFFICE:

Attorney Gavan administered the Oath of Office to John Maguire, Joseph Torelli and Thomas Romano.

ROLL CALL:

Nicholas Bielanowski - present
James Benson - present
Raymond Cipollini, Alt #1 – present
Rosemarie Maio - present
Thomas Pershouse - absent

Thomas Romano - present
John Rogalo - present
Joseph Torelli - present
Paula Zelif-Murphy - present
John Maguire - present

Others present: Board Attorney Glenn Gavan, Board Engineer Eric Keller and Board Secretary Ellen Horak

REORGANIZATION

Election of Chairman:

On nomination by Mayor Maio, seconded by Mr. Torelli, John Maguire was elected Land Use Board Chairman for 2018 on the following unanimous roll call vote.

ROLL CALL:

Mr. Bielanowski – yes
Mr. Benson – yes
Mr. Cipollini -yes
Mayor Maio – yes

Mr. Romano - yes
Mr. Rogalo – yes
Mr. Torelli - yes
Ms. Zelif-Murphy – yes
Mr. Maguire - yes

Election of Vice-Chairman:

On nomination by Chairman Maguire, seconded by Mr. Torelli, Paula Zelif-Murphy was elected Land Use Board Vice-Chairman for 2018 on the following unanimous roll call vote.

ROLL CALL:

| | |
|-----------------------|------------------------|
| Mr. Bielanowski – yes | Mr. Romano - yes |
| Mr. Benson – yes | Mr. Rogalo – yes |
| Mr. Cipollini -yes | Mr. Torelli - yes |
| Mayor Maio – yes | Ms. Zelif-Murphy – yes |
| | Chairman Maguire - yes |

Resolutions

**Board Secretary RESOLUTION OF THE STANHOPE LAND USE BOARD
APPOINTING BOARD SECRETARY**

WHEREAS, there exists the need within the Land Use Board (the “Board”) for the retention of personnel to perform such secretarial services/clerical duties and office work as required by the Board’s job description to hold a monthly public meeting, at the monthly compensation of \$778.83, and in addition, other such work as deemed necessary by the Board at a \$20.00 hourly rate or other rate negotiated per task;

WHEREAS, the monthly compensation rate of \$778.83 for the Board Secretary is the salary paid for the year 2017; and

WHEREAS, upon determination of the salary increase for Borough employees, the Board will determine the salary increase for the Board Secretary, which increase shall be retroactive to January 1, 2018; and

WHEREAS, the funds for such duties and services are available for this purpose;

NOW, THEREFORE, BE IT RESOLVED by said Board that it hereby appoints Ellen Horak as the Board’s Secretary, to be retained for the calendar year 2018 to perform such duties and office work outlined in the Board’s job description, with reimbursement for all expenses, at the monthly compensation of \$778.83;

BE IT FURTHER RESOLVED, by said Board that, after a salary increase has been determined for Borough employees, the Board shall determine a salary increase for the Secretary which salary increase shall be retroactive to January 1, 2018.

On motion by Mayor Maio, seconded by Ms. Zelif-Murphy, and carried by the following unanimous roll call vote, the above resolution was adopted.

AFFIRMATIVE: Mr. Bielanowski, Mr. Benson, Mr. Cipollini, Mayor Maio, Mr. Romano, Mr. Rogalo, Mr. Torelli, Ms. Zelif-Murphy, Chairman Maguire

OPPOSED: None

ABSTENSIONS: None

**Board Attorney: RESOLUTION OF THE STANHOPE LAND USE BOARD
APPOINTING BOARD ATTORNEY**

WHEREAS, the Land Use Board of the Borough of Stanhope is in need of Professional Legal services; and

WHEREAS, R.S. 40A:11-5 specifically exempts professional services from this provision of the local public contracts law of 1971,

NOW, THEREFORE, BE IT RESOLVED that the firm of **Criscuoli & Gavan, LLC** is hereby appointed as Attorney for the Land Use Board of Stanhope for a period of one year, to December 31, 2018, with the understanding that **Glenn Gavan, Esq.** will be primarily responsible for the work done for the Board.

BE IT FURTHER RESOLVED that the aforesaid is a member in good standing of his profession.

BE IT FURTHER RESOLVED that this Resolution is contingent upon receipt of a fully executed professional service contract with attached fee schedule established for Criscuoli & Gavan, LLC's professional services.

BE IT FURTHER RESOLVED that this Resolution is contingent upon the receipt of a completed C.271 Political Disclosure Form pursuant to N.J.S.A. 19:44A-20.4 et. seq., commonly known as the Pay-to-Play Law.

On motion by Mr. Romano, seconded by Ms. Zeliff-Murphy, and carried by the following unanimous roll call vote, the above resolution was adopted.

AFFIRMATIVE: Mr. Bielanowski, Mr. Benson, Mr. Cipollini, Mayor Maio, Mr. Romano, Mr. Rogalo, Mr. Torelli, Ms. Zeliff-Murphy, Chairman Maguire
OPPOSED: None
ABSTENSIONS: None

**Board Engineer: RESOLUTION OF THE STANHOPE LAND USE BOARD
APPOINTING BOARD ENGINEER**

WHEREAS, the Land Use Board of the Borough of Stanhope is in need of Professional Engineering Services; and

WHEREAS, R.S. 40A:11-5 specifically exempts professional services from the provisions of public bidding as provided in the Local Public Contracts Law;

NOW, THEREFORE, BE IT RESOLVED that the firm of Bowman Consulting is hereby appointed as Engineer for the Land Use Board of Stanhope for the period January 1, 2018 through December 31, 2018, with the understanding that **Eric Keller, P.E.** will be primarily responsible for the work done for the Board;

BE IT FURTHER RESOLVED, that the aforesaid is a member in good standing of his profession;

BE IT FURTHER RESOLVED, that this Resolution is contingent upon receipt of a fully executed professional services contract with attached fee schedule established for Bowman Consulting professional services, and

BE IT FURTHER RESOLVED, that this Resolution is contingent upon the receipt of a completed C.271 Political Disclosure Form pursuant to N.J.S.A. 19:44A-20.4 et. seq., commonly known as the Pay-to-Play Law.

On motion by Mayor Maio, seconded by Mr. Torelli, and carried by the following majority roll call vote, the above resolution was adopted.

AFFIRMATIVE: Mr. Bielanowski, Mr. Benson, Mr. Cipollini, Mayor Maio, Mr. Romano, Mr. Rogalo, Mr. Torelli, Ms. Zeliff-Murphy, Chairman Maguire

OPPOSED: None

ABSTENSIONS: None

Board Planner: **RESOLUTION OF THE STANHOPE LAND USE BOARD
APPOINTING BOARD PLANNER**

WHEREAS, the Land Use Board of the Borough of Stanhope is in need of Professional Planning services; and

WHEREAS, R.S. 40A:11-5 specifically exempts professional services from this provision of the local public contracts law of 1971,

NOW, THEREFORE, BE IT RESOLVED the firm of **Bowman Consulting** is hereby appointed as Planner for the Land Use Board of Stanhope for a period of one year from January 1, 2018 to December 31, 2018, with the understanding that **William Hamilton, P.P.** will be primarily responsible for the work done for the Board.

BE IT FURTHER RESOLVED, that the aforesaid is a member in good standing of her profession.

BE IT FURTHER RESOLVED, that this Resolution is contingent upon receipt of a fully executed professional service contract with attached fee schedule established for Bowman Consulting professional services.

BE IT FURTHER RESOLVED, that this Resolution is contingent upon the receipt of a completed C.271 Political Disclosure Form pursuant to N.J.S.A. 19:44A-20.4 et. seq., commonly known as the Pay-to-Play Law.

On motion by Ms. Zeliff-Murphy, seconded by Mr. Rogalo, and carried by the following unanimous roll call vote, the above resolution was adopted.

AFFIRMATIVE: Mr. Bielanowski, Mr. Benson, Mr. Cipollini, Mayor Maio, Mr. Romano, Mr. Rogalo, Mr. Torelli, Ms. Zelif-Murphy, Chairman Maguire
OPPOSED: None
ABSTENSIONS: None

Official Newspaper: **RESOLUTION DESIGNATING OFFICIAL NEWSPAPER FOR THE 2018 CALENDAR YEAR**

BE IT RESOLVED, by the Land Use Board of the Borough of Stanhope that they New Jersey Herald is hereby designated the official newspaper of the Land Use Board for the calendar year 2018 and

BE IT FURTHER RESOLVED, that the New Jersey Herald and the Daily Record are hereby designated to receive all notices of Land Use Board meetings in the calendar year 2018 as required under the Open Public Meetings Act.

On motion by Mayor Maio, seconded by Ms. Zelif-Murphy, and carried by unanimous voice vote, the above resolution was adopted.

Meeting Dates: **RESOLUTION ESTABLISHING MEETING DATES FOR THE CALENDAR YEAR 2018**

BE IT RESOLVED by the Land Use Board of the Borough of Stanhope that the following schedule of dates for Regular Meetings be established for 2018 and that all scheduled meetings shall convene at 7:00 p.m. at the Stanhope Municipal Building, 77 Main Street, Stanhope, NJ:

January 8
February 12
March 12
April 9
May 14
June 11
July 9
August 13
September 10
October 15
November 19
December 10

BE IT FURTHER RESOLVED, that the Annual Reorganization Meeting shall be on January 14, 2018, at 7:00 p.m.

On motion by Mr. Romano seconded by Ms. Zelif-Murphy and carried by unanimous voice vote, the above resolution was adopted.

MINUTES

November 13, 2017 Regular Meeting – On motion by Ms. Zelif-Murphy, seconded by Mr. Torelli, the Minutes of the November 13, 2017 Meeting were approved on majority voice vote. Mr. Benson and Mr. Romano abstained.

CORRESPONDENCE

- 11-20-17 New Jersey Planning Officials – The New Jersey Planner (Sept./Oct.)
- 11-29-17 Stanhope Clerk – Resolution re: appointment of Raymond Cipollini as Alternate #1 to LUB
- 11-29-17 Dennis McConnell, Esq. – Amended Form #3D re: Manjit Bawja and Ravinder Kaur, Preliminary and Final Site Plan Application for Block 11703, Lots 1 & 2
- 12-04-17 Byrne Design Associates – Rendering of Market re: Manjit Bawja and Ravinder Kaur, Preliminary and Final Site Plan Application for Block 11703, Lots 1 & 2
- 12-04-17 Houser Engineering – revised plans re: Manjit Bawja and Ravinder Kaur, Preliminary and Final Site Plan Application for Block 11703, Lots 1 & 2
- 12-18-17 Sussex County Division of Planning – Ryan Leavy Variance – no effect on County
- 12-27-17 New Jersey Planning Officials – The New Jersey Planner (Nov./Dec.)
- 12-27-17 Eric Keller -Leavy Resolution Compliance Review #1
- 12-29-17 Eric Keller –Technical Review # 2 re: Manjit Bajwa/Ravinder Kaur Site Plan for 7th Heaven Market & Delta Gas, Blk 11703 Lots 1 & 2
- 01-05-18 Jessica Caldwell – Planning Report for 7th Heaven Market & Delta Gas re: Blk 11703, Lots 1 & 2
- 01-05-18 Cory Stoner, P.E. – Preliminary & Final Site Plan for 7th Heaven Market & Delta Gas, Blk 11703, Lot 1 and Block 11703.01, Lot 1

On motion by Ms. Zeliff-Murphy, seconded by Mayor Maio, and carried by unanimous voice vote, the Correspondence List was accepted and placed on file.

OPEN TO THE PUBLIC FOR NON-AGENDA ITEMS:

Chairman Maguire opened the meeting to the public for non-agenda items. Seeing no one from the public wishing to speak, Chairman Maguire closed the public portion of the meeting.

NEW HEARING:

Manjit Bawja and Ravinder Kaur

Block 11703, Lots 1 & 2, Preliminary and Final Site Plan Application

Deemed Complete: 10/16/17

120 days: 02/13/18

Dennis McConnell, Esq., representing the applicant, came forward. Mr. McConnell stated the application before the Board is for a gas station and convenience store on property known as 246 Route 206. The property is located in the highway commercial zone. Mr. McConnell stated this site was an application before the Board in 1999 and in August of 1999 that plan was approved, which was for a more intrusive use. In the plan they are proposing, they are drastically reducing the impervious coverage and they are trying to make it friendlier to the community. Mr. McConnell stated he will have testimony from the applicant, engineer and architect, as well as the planner, who will arrive shortly.

Manjit Bawja, applicant; Tyler VanderValk, engineer and Michael Byrne, architect came forward and were sworn in

Tyler VanderValk, came forward and spoke about his area of expertise and provided his credentials as a licensed engineer. He has a BA degree in civil engineering with 8 years of experience. He is licensed in the State of New Jersey for about 3 years and has testified before numerous boards in the

State of New Jersey. Mr. VanderValk testified he has reviewed the most recent correspondence from Eric Keller, the Board's engineer, dated December 29, 2017. Mr. VanderValk gave a general overview of the project and displayed a larger version of the plans submitted to the Board, dated August 9, 2017 and last revised on November 30, 2017. Mr. VanderValk directed the Board to Sheet 3, which is the layout and dimension plan. The property is approximately 1.4 acres and is east to Route 206, south to Belton Drive and to the west are residential properties in Byram Township. The property is zoned highway commercial and the current application proposes approximately 2,900 square foot convenience store and gas station with fuel pumps positioned beneath a canopy. The canopy is approximately in the center of the site with the proposed store to the south and the fuel tanks are to the north. A separate entrance and exit is proposed along Route 206 and a secondary entrance/exit is proposed behind the convenience store to the south. An application is at the NJ DOT for a major access permit, which is currently under review. The zone requires 14,528 square foot lot area and the applicant has sufficient size with almost 62,000 square feet. The minimum impervious coverage permitted is 30% and we are proposing 44%. This calculation is prior to the inclusion of the lot access on Belton Drive. If that is included, impervious coverage is reduced to 41.2%. The canopy exceeds the permitted height with a height that is needed to make clearance for the fuel trucks. With respect to parking, 28 stalls are required and they are proposing 15 parking spaces; therefore, a design waiver is required. Although parking calculations were based on a "restaurant," the deli use does not see as much parking as a restaurant. The required amount of parking spaces are 11 stalls for retail use and 17 stalls for restaurant use. Parking spaces are provided around the building. Mr. VanderValk addressed the signage, stating there will be multiple signs. The main building will have a mounted sign on the convenience store which will be the only sign on the building and will be conforming. Five (5%) percent of the building face is permitted and estimated to be 55 square feet. Also, there will be two signs on the canopy facing north and south in order to be visible to the traffic. The "Delta" sign in the last submission will be reduced in height to be conforming. It will be shortened to 12-1/2' x 12'. They are no longer requesting a waiver for that sign. There will be a free-standing sign for the name and fuel prices. The prices will be displayed with LED electronics. The sign area is 50 square feet and 70 square feet is permitted. The "Delta" symbol will be displayed on each pump, as is typical with gas stations. There will be nine pumps and the symbol will be on both sides of the pump. It will be a simple red/blue Delta symbol. The total permitted sign area for the site is 150 square feet and we will be at 195 square feet, requiring a design waiver for exceeding 150 square feet. The pricing indicated on the top of each pump is mandated by law and they estimate it to be 4 square feet. Mr. VanderValk addressed the outdoor storage and the comments raised in Eric Keller's report. The intent would be minimal outdoor sales, i.e. propane tank exchanges, which tanks will not be filled on site. The plans also include a strip along the face of the building between the building and the pumps where sales would include items such as washer fluid. They estimate the area for outdoor sales to be about 340 square feet. It will also possibly include an ice freezer. All these items are typical items at gas stations.

Mr. VanderValk listed the variances and design waivers requested. A variance is requested for steep slope disturbance. Mr. VanderValk directed the Board to Sheet 4 of the plans which shows the topography. The intent is to leave as much of the slope undisturbed as possible. There is a need for a retaining wall and landscaping which requires them to obtain a variance for steep slope disturbance. They are proposing to disturb 26-1/2%. The maximum impervious coverage permitted is 30% and they are proposing 41% (if you include Belton Drive) and the third variance requested is a height variance for the canopy. They are requesting design waivers for the sidewalk and parking

spaces. Mr. VanderValk noted Eric Keller's report indicating a minimum five-foot-wide sidewalk, five inches above the pavement is required. They are proposing a flush sidewalk across the front of the store with bollards along the spaces. The Board Engineer indicated he has no objection to this design waiver as it is a standard for convenience stores. Mr. VanderValk said, with respect to the parking space size, 10' x 20' is required and they are proposing 9' x 20'. This will reduce the impervious coverage. With respect to the driveway location, the requirement is 50 feet from the next property line and they are proposing 22.5 feet. The NJDOT requires a second access. Mr. VanderValk stated they are providing a loading space to the north of the property and they will be requesting a waiver for a loading zone. With respect to a buffer area, the ordinance calls for 50 feet between residential properties and the development. The driveway out to Belton Drive is encroaching on the property line. Mr. VanderValk noted there are two design waivers relating to the signage; permitted sign area is 150 feet and they are proposing 195 feet and sign set-backs require 20 feet and they are proposing 10 feet. Having the location of the sign next to the right-of-way helps motorists see the prices from the roadway. A design waiver is requested for the parking requirements as 28 spaces are required and they are proposing 15 spaces. The final waiver requested relates to shade trees which was brought up in the Board Engineer's report. One shade tree is required for each 1,000 square feet of parking area. According to the Board Engineer's calculation of the pavement area being 22,000 square feet, there is a requirement for 30 shade trees. Mr. VanderValk stated his calculation of the pavement is 13,000 square feet which would require 13 shade trees.

Mr. VanderValk directed the Board to Grading indicated on Sheet 4. The most western side of the site is steeply graded. Half of the property drains west and the rest drains east towards Route 206. They are going to provide a berm further west, thereby cutting off some of the drainage to the west and bring it into the site. It will drain mostly to the north. Several retaining walls are proposed. There will be underground electric and underground water connection to the Route 206 main and a sewer connection from Route 206. Fuel to the building will be provided for an above ground propane tank. With respect to stormwater, it is an ongoing design process. The property currently contains three distinct drainage areas. A small portion goes into Belton Drive, one to Route 206 into a swirl and discharges east. They propose a stormwater water quality basin – 2 detention basins. One will be to the south. All paved areas will be collected into a water quality basin to the north. All run off will go to the sub-surface basin.

Mr. VanderValk directed the Board to and Landscaping Plan on Sheet 5. He incorporated the comments of the Board Engineer. The intent is to provide sufficient screening to the west of their neighbors. They propose planting pine and spruce trees on top of a landscaped berm in order to create a screen to the property owners to the west. With respect to the lighting plan, shown on Sheet 6, Mr. VanderValk stated he will work with the Board Engineer. The goal is to limit the amount of overflow of lighting intensity anywhere near the residential properties. Lighting fixtures will face towards the development, not towards the building or neighborhood. The wooded area will remain.

Board Engineer, Eric Keller, commented according to zoning, the parking is in design standards. The zoning ordinance for highway commercial specifies the signage is an accessory use and makes it a variance rather than a design waiver. Also, according to the ordinance, the parking in the highway commercial zone sets parking spaces in accordance with Section 100-120 and it is therefore a variance, not a design waiver.

Chairman Maguire asked what the referenced accessory building will be. Mr. VanderValk responded it will be a convenience store and deli. Mr. VanderValk said he was applying restaurant requirements which requires 28 stalls under the current ordinance and they are providing 15 stalls. Mr. VanderValk asked the Board to consider the fact that most people who use the convenience store are leaving their car at the pump and running in and out of the store. Most customers will not be staying to eat at the location. They are also counting inside and outside dining. Mayor Maio asked about the seating to which Mr. VanderValk responded they are providing 18 seats inside and restaurant bar style seating and outside there will be 4 tables with 4 seats. Mr. VanderValk stated adding additional parking spaces would increase impervious coverage.

Chairman Maguire questioned drainage and the height of the berm. Mr. VanderValk responded at its highest it is about 3 feet from the curb and they propose plantings on top of the berm. On the southern side of the dumpster it will be about 1-1/2 feet. Chairman Maguire asked how far apart the trees will be. Mr. VanderValk responded on center they will be about 10 feet apart. Mayor Maio expressed concern with pine trees, adding they tend to thin out over time and would not be aesthetically pleasing. Mr. VanderValk clarified they are proposing White Spruce and Colorado Blue Spruce.

Board Engineer Eric Keller commented on the outdoor storage of the propane tank exchange and asked its intended location. Mr. VanderValk directed them to Sheet 3, showing two boxes, being the location of the propane tanks. They will be in cages and there will be fencing around them so they will not be visible from behind. Mr. Keller asked if they have signs on them. Mr. VanderValk responded they have safety signs on them and he is not sure if the company name is on it. Mr. Keller stated the plans must include all types of signage. Mr. VanderValk stated they are more instructional signs, not advertising. Board Attorney Glenn Gavin stated the plans should show they will have "informational" signs. The Board agreed identification signs should not count towards the signage requirement. It was noted, if the signage on the pumps are considered "identification" they are at approximately 144 square feet. Mr. Keller noted his comment regarding the outdoor storage strip along the front of the building. Mr. VanderValk responded it requires revised plans. They presently have a larger than needed "drive isle" between the convenience store and the pumps. They will bring that down and increase the sidewalk strip. Mr. Keller asked Mr. VanderValk how they calculated 28 parking spaces being required, adding they have 18 seats in the building requiring 9 spaces and 16 seats outside requiring 8 spaces and the store itself requires 15 parking spaces. Mr. VanderValk responded, if taking the deli use as a separate count, they are taking that out of the calculation.

Mr. McConnell referenced the December 29, 2017 letter of Eric Keller and asked Mr. VanderValk if he believes most of the items he can address and comply with. Mr. VanderValk responded in the affirmative. Mr. McConnell stated the majority of the 55 comments they will comply with and he will go through with Mr. VanderValk those comments they cannot satisfy. Page 3, item C – they feel the fuel pump area should not be included in the parking area calculation. If not included they would be required to provide 12-13 shade trees, which they can comply with. Board Attorney Gavin stated it is the Board's decision if a person goes to the fuel pump and leaves the car to go into the store are considered to be parking their car. Ms. Zeliff-Murphy expressed her opinion that a car at the pump should not be considered a "parked" car. Mr. Keller suggested 22 shade trees. Mr. VanderValk suggested that parking area should only be defined where cars are actually parked and

not under the canopy. Mr. VanderValk stated they will provide 13 shade trees required for 13,000 square feet versus 22,000 square feet. Mr. Keller stated it is the Board's decision if they want the area underneath the canopy included in the calculations. If the Board agrees, then the applicant would only be required to provide 13 shade trees, which they have agreed to do and thereby, a design waiver would not be required. Mr. VanderValk noted page 4, waiver from surveying all of the trees. Mr. Keller indicated he does not think the waiver should be given for which Mr. VanderValk does not agree. There is a cost to surveying the trees and the plans indicate that most of the trees will be removed. Mr. VanderValk stated they are still requesting a waiver. Mr. McConnell noted the in the previous application, which was approved by the Board, the applicant was going to clear-cut the property. Mr. VanderValk noted Mr. Keller's technical review comment regarding the Fire Chief's comment regarding the fire hydrant. Mr. VanderValk stated they meet the Borough's ordinance requirement with regard to the fire hydrant and there would be the cost of a new fire hydrant or moving the existing fire hydrant if necessary. In response to Mr. Keller's comment #14 on page 5, they are building a privacy fence which should be sufficient and it has a good aesthetics to it. Also, a fence is easier to fix than a masonry wall. It will be a white vinyl privacy fence. Mr. Keller has no objection to the fence. Mr. Torelli raised a concern regarding the possibility of the dumpster getting dropped on the propane tank. Mr. VanderValk responded they will include bollards. He does not believe it should be an issue because the truck will be using a fork to unload the dumpster. Mr. Gavan questioned the possibility of moving the location of the dumpster. Mr. VanderValk responded they had hoped to keep it all in the same location and not spread it throughout the property. With respect to Mr. Keller's comment #39, Mr. McConnell stated they believe they can comply. Mr. Keller stated he wants to make sure that when you stop at Belton Drive, trees and shrubs do not block the view. With respect to Mr. Keller's comment #43 regarding lighting, Mr. VanderValk noted the last report stated they had some level of lighting on to Route 206. The new design they are proposing lowers the lighting in the driveway and reduces the lighting on Route 206. Mr. VanderValk stated he will work with Mr. Keller on this issue and will comply with Mr. Keller's recommendation. With respect to comment #55, Mr. VanderValk stated they are waiting for feedback from the NJ DOT before they can address Mr. Keller's comment. Mr. McConnell stated the remaining items in Mr. Keller's letter will be complied with or addressed with the Board Engineer.

Mr. Keller stated any approval should require an OEM manual for the stormwater management plan. It will be a requirement of any approval and they will need to file an annual report.

Jessica Caldwell came forward and was sworn in. Ms. Caldwell is the Planner retained by the applicant. Ms. Caldwell provided her credentials as a licensed planner in the State of New Jersey, her educational background and 20 years experience as a planner. She has testified before over 100 boards on various applications. Ms. Caldwell has reviewed Mr. Keller's December 29, 2017 report and she prepared a report dated January 4, 2018, which was submitted to the Board. They are proposing a freestanding sign setback from the right of way. They are proposing 10 feet where 20 feet is required, thereby necessitating the need for a variance. Ms. Caldwell noted the Board's discussion about removing the "branding" on the fuel pumps from the calculations, and if they do, they will then comply with the requirement. The accessory structure height is 19 feet and 15 feet is permitted. They are proposing 15 parking spaces and 28 parking spaces is required. Ms. Caldwell noted the seating in the convenience store is more for accommodation for the customer to sit while waiting for their food. Most people do not stay at a convenience store; they go in and out quickly. The customers will utilize the property relatively quickly, not like a restaurant where you would

need additional parking and the outside seating is only seasonal and will not be utilized like a restaurant. Ms. Caldwell stated the variances requested are bulk ("c") variances and the Board can grant these variances where two provisions exist for the granting of bulk variances. The first provision for granting a "c" variance (C1), the Board must find whether there has been a showing of peculiar exceptional practical difficulties or exceptional undue hardship arising out of the exceptional narrowness, shallowness or shape of a piece of property, or by reason of an extraordinary and exceptional situation uniquely affecting this specific piece of property or the structures lawfully existing thereon. The second provision for granting a "c" variance (C2), the Board must find that the application relates to a unique situation on a specific piece of property, that the purposes of the MLUL would be advanced by the requested deviation, that the variance can be granted without substantial detriment to the public good, that the benefits of granting the variance outweigh any detriments and that the variance will not substantially impair the zone plan or ordinance. Ms. Caldwell stated the property was previously approved for a more intense development in August 1999 which consisted of an automobile service station, oil change facility, auto-parts store, state inspection facility and gasoline and diesel dispensing facility. Approval was also granted an impervious coverage variance for 55% where 30% is permitted. The site is a long rectangular shape. The approving resolution from 1999 mentioned the site had historic fill placed on it, most likely during the construction of US Route 206. The steep slopes to the rear of the property are a result of the fill. Disturbance of the steep slope area is needed to allow for fuel filling trucks to get through the site. The reason for the increased canopy height is they need to have a certain height to accommodate all types of vehicles that travel the roads. Ms. Caldwell said the property is adjacent to residential properties and they are trying to keep the development as close to the highway as possible. Ms. Caldwell expressed her opinion that they meet the positive criteria for granting the C2 variance. All aspects of the requested variances present better planning alternatives than developing the site strictly according to the zoning standards. The following purposes of zoning are met by the proposal: #g to provide sufficient space in appropriate locations for a variety of agricultural, residential, commercial uses to meet the needs of all New Jersey residents. Ms. Caldwell added the proposed gas station and convenience store is well-suited to the location, being on Route 206 and close to ramps onto and off Route 80. Allowing for an increase in impervious coverage, a lesser setback for the freestanding signage and slightly taller canopy, provides for this commercial use to locate in an appropriate location; and #h to encourage location and design of transportation routes which will promote free flow of traffic while discouraging location of such facilities and routes which will result in congestion or blight. Ms. Caldwell added the proposed layout of the site, lesser setback for the sign and slightly taller canopy provides for the free flow of traffic onto the site, under the canopy and back onto Route 206 and Belton Drive. The location of the freestanding sign allows for customers to see the site within stopping distance and make a safe turn into the site. Ms. Caldwell said to address the negative criteria the applicant must demonstrate that the proposed variance can be granted without substantial detriment to the public good and that the granting of the variance will not substantially impair the intent and the purpose of the zone plan and zoning ordinance of the municipality. Ms. Caldwell stated there is no substantial detriment to the public good. The proposed variances do not negatively impact the neighborhood as all additional run-off on the site will be addressed through the proposed stormwater management system and all site development will be kept as close as possible to Route 206 and away from the adjacent residences. Also, there is no substantial impairment to the zone plan or ordinance. The use is permitted and the general layout and design of the use is conforming to the zone standards. Ms. Caldwell noted the benefits outweigh the detriment and they made every attempt to minimize any negative impact.

Michael Byrne, architect for the applicant came forward. Mr. Byrne provided his credentials as a licensed architect in the State of New Jersey since 1980, practicing in Morris, Warren and Sussex Counties. He has appeared before between 30 and 40 boards through his practice and testified as an expert witness in Morris County Court. Mr. Byrne testified he was retained by the applicant to develop the site. Mr. Byrne directed the Board to Sheet A-1, being an exterior rendering of the building. It is a one-story structure with a canopy going across the front of the building. The building has a stucco finish and metal roof covering the canopy and entranceway. There is a sidewalk across the front of the building that will have bollards for the protection of the pedestrians. They are proposing to pull the sidewalk out another 2 feet. The overhang will not come out further when the sidewalk increases. Mr. Byrne directed the Board to Sheet A-2 which shows the various elevations of the building and a floor plan of the market and the canopy area. The west elevation area has the additional parking areas; the south elevation along the side street has the addition of trees and the east elevation shows the entire site including the market, canopy and dumpster area. They are proposing a 15-foot clearance to the underside of the canopy, which is typical. The floor plan of the canopy shows 9 pump stations and a kiosk for the attendant under the canopy.

Mr. Keller asked if there is a parapet on the main roof line. Mr. Byrne responded in the affirmative. Mr. Keller asked where the mechanicals would be located. Mr. Byrne responded they will be located on the roof. Mr. Keller asked if the inconsistencies between his plan and Houser Engineering's plan will be resolved. Mr. Byrne responded in the affirmative.

Manjit Bawja came forward and testified that he is the owner of the property. The hours of operation will be 24/7. Mr. McConnell asked how many employees he will have to which Mr. Bawja responded he will have about 3 employees. Mr. McConnell asked about deliveries. Mr. Bawja responded, in the beginning he anticipates having 4 to 5 deliveries per week. With regard to the convenience store deliveries, there will be about 1 per week with smaller deliveries (i.e. chips) being about 3 to 4 per week. Mr. Gavan asked if the convenience store will be run by Mr. Bawja. Mr. Bawja responded in the affirmative. Mr. Keller asked for clarification on the deliveries for the convenience store. Mr. Bawja stated the main delivery (larger truck) will be about once a week, but small box trucks delivering smaller items such as chips, will be more often (3 to 4 times per week). Deliveries will depend on how busy they are.

Chairman Maguire opened the meeting to the public for questions or comments on this application.

Cory Stoner, Harold E. Pellow & Associates, Byram Township's engineer came forward and was sworn in. Mr. Stoner stated he is appearing on behalf of Byram's Mayor and Council. Mr. Gavan noted Mr. Stoner submitted a lengthy letter to the Board which the Board Engineer intends to review and go through the comments with Mr. Stoner. Mr. Stoner referenced Sheet 4 – Grading and Drainage Plan, and stated Byram's governing body is concerned for their residents around the site. The concerns revolve around stormwater, buffering and use of Belton Drive for access. Mr. Stoner stated he has heard the testimony and has additional concerns. Mr. Stoner stated there is no recharge on the site. Mr. VanderValk stated they are exempt from recharge because they are a gas station. Mr. Stoner stated the final design will slow down the flow. It does not decrease the water coming off the site. All water is to be directed to the west. Mr. McConnell stated they may be able to design a base with infiltration to pick up non-contaminated water. Mr. Gavan stated this application will not be completed during this meeting and will be carried. All concerns raised in

Mr. Stoner's letter will be addressed and he suggested Mr. Stoner address the issues with the Board's Engineer. Mr. Stoner stated there is property to the north that, with this design, discharges into and he asked who owns the property. Mr. McConnell responded it is not the same owner as this property, it is a separate corporation. Mr. Stoner stated the rear of the site is wooded and the southwestern corner of the site shows a lot of disturbance; they have an 8-foot high wall and there is no buffering in that corner. There is also a concern about trash. Chairman Maguire asked Mr. Stoner to address his concerns with the Board's Engineer. Mr. Stoner stated he also has a concern with trucks on Belton Drive. The Board should look at truck turning movement over the site. He believes Belton Drive is too narrow.

Mark Papendick, 9 Adair Street, Byram was sworn in. Mr. Papendick expressed concern with the drainage issue. There is a 25-foot differential between the height elevation at the site versus his property elevation. His property is about 600 feet from the site. If you do not collect the water, it will flow downhill and his property will get wet. Chairman Maguire stated the Board intends to address the drainage issue. Mr. Papendick also expressed concern with the hours of operation for deliveries and asked that deliveries be restricted to daytime. The neighborhood should not be disturbed with late night/early morning deliveries. Mr. Papendick also asked that there be a larger buffer of trees across the back (west side) of the property so those properties are shielded from the lights of the cars and trucks.

MaryAnn Lindsey, 70 Ash Street, Byram was sworn in. Ms. Lindsey expressed concern with the truck size, being basic tractor trailer. Mr. Keller stated it is a fuel truck size. Ms. Lindsey stated the wheel base is about 170 and going into the turning radius onto Belton Drive is an issue. Chairman Maguire stated the Board Engineer will address this concern, adding the Board has the same concern.

Gregory Walker, 11 Banker Drive, Byram was sworn in. Mr. Walker stated he is the second house from the property and he has a concern about the line of sight. He supports development of the property, but does not want to look at gas pumps. Previously there was no talk about installing additional trees. Mr. VanderValk stated the plans have been updated to be more of a tree than a bush as previously proposed. You may still see the canopy, but vehicles and the pumps will be screened. Mr. Gavan stated this is a permitted use at the site so there are only certain things the Board has the power to require the applicant comply with. Mr. Walker asked for some type of fencing or a few trees. Mr. VanderValk stated if they extend the berm, they will be increasing the steep slope disturbance. Mr. Walker asked that they consider shielding his view. Mr. Keller noted one of his comments in his review was to extend 2 more trees around the corner, which would help accomplish what Mr. Walker is requesting.

Alex Rubenstein, Byram Township was sworn in. Mr. Rubenstein asked if there will be public comment permitted at the next meeting on this matter. Mr. Gavan responded in the affirmative. There will be public comment before the Board votes on the matter.

Chris Stevenson, 67 Ash Street, Byram was sworn in. He is the corner lot directly behind and adjacent to the proposed site. Mr. Stevenson read the following statement: While I am in agreement about hoping to be accommodating neighbors rather than combative ones, I am sure you can see why aspects of the project concern me most – basically because I am the property most affected by it. The current code calls for a 50-foot buffer zone on the rear of the property and the

applicant is requesting a variance down to 22' from the entrance/exit point of the facility off Ash Way or what's listed in the plans on Belton Street .. 22' or approximately 10 steps from my backyard where my 2 young children and their friends play on their trampoline, swim in their pool and where we entertain on our deck. Now I'm not naïve enough to think that I can somehow block this project and obviously my list of concerns is long, but I'm hoping the applicant/builder will at least address my most pressing issues mainly, safety, noise and lights. All of which I believe can be dealt with in a single aspect of the project. While I would prefer to see the Belton Street entrance/exit removed from the project altogether, my dilemma lies in arguing that point would remove any discussion about a contingency plan were that not to happen. So, from what I can tell there is currently no plans for any solid structure or fencing encompassing the rear of the property, only a line of trees which just so happens to end prior to the rear of my property which means every vehicle that cycles in and out of the property off Belton Street will at one point or another have their headlights shining directly in my backyard and on my house and windows. What I'm requesting is that the owner agree in the final resolution to provide some form of solid structure whether it be in the form of a wall or solid fencing, in addition to the line of trees extending as far as possible to the end of the property without obstructing the view for vehicles exiting the site. Such a buffer would provide better insulation from the sounds, lights and most importantly safety aspects that I mentioned earlier and at a negligible cost. I think we can all agree that the last thing we want is a vehicle jumping the property curb 10 steps from where my kids and their friends are playing in their backyard. Mr. VanderValk stated there is a guardrail on the site.

Dawn Christian, 3 Banker Drive, Byram was sworn in. Ms. Christian expressed concern with having a side exit onto Belton and Ash. It encourages people to make a right turn and cut through the neighborhood because you cannot make a left onto Route 206 out of the site. Vehicles will have to go through the neighborhood to get to Route 206 North. Ms. Christian noted the number of employees and questioned how it is possible to have 3 employees with a convenience store/restaurant and 9 pumps. Ms. Christian also questioned not counting parked cars at the pump, for parking space requirement, but not for the shade tree requirement. Ms. Christian asked for consideration about granting the variances, noting 30% is permitted and the applicant is asking for 44%. They say it is not much, but it is, and the Board should not let the "small amounts" be overlooked. Mr. Gavan stated previously the site was approved for over 60%. The applicant is asking for much less than what was previously approved.

Seeing no one further from the public wishing to speak, Chairman Maguire closed the public portion of the hearing.

Chairman Maguire assured the public that their comments and concerns will be addressed. Although the public speaking tonight are from Byram and this is a Stanhope property, the Board certainly has listened to them and will address their concerns.

Mr. Gavan stated, at the next meeting there will be a more detailed plan from tonight's public comment and, the public will have the opportunity to speak before a vote is taken.

Mr. Gavan stated this matter will be carried to the next meeting, being February 12, 2018 at 7:00 p.m. with no further notice. Mr. Gavan informed the public present that there will be no additional notice on the hearing.

BILLS:

Bowman Consulting Group, Ltd.

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| 11/07/17 | Re: Bajwa Prelim & Final Site Plan | \$735.00 |
| 11/07/17 | Re: Ryan Leavy Variance | \$ 35.00 |
| 12/11/17 | Re: Bajwa Prelim & Final Site Plan | \$672.50 |

Miscellaneous

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| 11/19/17 | NJ Herald – legal notice re: Solecki | \$ 17.70 |
| 11/19/17 | NJ Herald – legal notice re: Juntos Holdings | \$ 17.70 |
| 12/11/17 | Linda Chirip – secretarial services re: 11/13 mtg | \$ 60.00 |

On motion by Mr. Romano, seconded by Mr. Rogalo, the aforesaid bills were approved on the following unanimous roll call vote.

AFFIRMATIVE: Mr. Bielanowski, Mr. Benson, Mr. Cipollini, Mayor Maio, Mr. Romano, Mr. Rogalo, Mr. Torelli, Ms. Zelif-Murphy, Chairman Maguire

OPPOSED: None

ABSTENSIONS: None

NEW BUSINESS:

Annual Report – Chairman Maguire stated the Board is required to prepare an annual report listing all variance applications received during the year. The Secretary has prepared the annual report which shows the Board received two variance applications during the year 2017. On motion by Ms. Zelif-Murphy, seconded by Mr. Benson and carried by unanimous voice vote, the Board approved the Annual Report and directed the Secretary to forward a copy to the Mayor and Council.

ADJOURNMENT:

On motion by Mr. Rogalo, seconded by Mr. Torelli, it was the consensus of the Board to adjourn the meeting at 9:40 P.M.

Respectfully submitted,



Ellen Horak, Board Secretary