

MINUTES

PLANNING BOARD

JULY 10, 2012

LONG HILL TOWNSHIP

CALL TO ORDER AND STATEMENT OF COMPLIANCE

The Chairman, Mr. Connor, called the meeting to order at 8:05 P.M. He then read the following statement: Adequate notice of this meeting has been provided by posting a copy of the public meeting dates on the municipal bulletin board, by sending a copy to the Courier News and Echoes Sentinel and by filing a copy with the Municipal Clerk, all in January, 2012.

PLEDGE OF ALLEGIANCE

ROLL CALL

On a call of the roll, the following were present:

Christopher Connor, Chairman  
Brendan Rae, Vice-Chairman  
Charles Arentowicz, Member  
Donald Butterworth, Member  
Joseph Cilino, Member  
Jerry Aroneo, Mayor's Designee  
Guy Roshto, Member  
Michael Smargiassi, Member

Excused:  
Sandi Raimer, Member  
Ashish Moholokar, 1<sup>st</sup> Alt.  
  
Barry Hoffman, Bd. Attorney  
Daniel Bernstein, for the Bd. Attorney  
Kevin O'Brien, Twp. Planner  
Thomas Lemanowicz, Bd. Engineer  
Dawn Wolfe, Planning & Zoning Administrator

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EXECUTIVE SESSION - It was determined that there was no need to hold an executive session.

PUBLIC QUESTION OR COMMENT PERIOD

The meeting was opened to the public for questions or comments. There being none, the meeting was closed to the public.

VALLEY & PLAINFIELD ASSOC., LP

977 Valley Road  
Block 10601, Lot 8

#12-05P  
Minor Site Plans  
for alteration to building &  
nonconforming ground sign.  
Bulk Variances

Present: Arnold H. Chait, Esq., attorney for the applicant  
Edward Croman, President and principal owner of Valley & Plainfield Associates, LP  
William Riedel, sign maker  
Fred Brohm, Executive Vice President and Chief Strategy Officer of Kings  
Peter Ricci, licensed professional architect

Sharon Palmer, certified shorthand reporter.

Proof of service was submitted.

Mr. Arnold Chait, attorney for the applicant, said that he is representing the applicant for minor site plan approval for a new façade for a Kings Supermarket to replace the former Pathmark supermarket within the Valley Mall. The applicant is also seeking sign variances as delineated in Mr. O'Brien's report both in terms of the façade sign as well as the ground sign.

Mr. O'Brien and Mr. Lemanowicz were sworn.

Mr. Edward Croman, President and principal owner of Valley & Plainfield Associates, LP, was sworn. He said that he built the Valley Mall and appeared before the Planning Board in 1972 to obtain a reverse subdivision of Mrs. Whitford's property, together with a small house owned by the Maresca brothers, that makes up the site that is now the Valley Mall.

As the result of the Pathmark bankruptcy, Mr. Croman said that his long term lease became an asset of the Bankruptcy Court that they decided to auction off instead of just giving it back to him, therefore, he had to buy the lease back at auction in order to protect the Valley Mall and the stakeholder's interest because there were a number of other non-food, non-supermarket tenants who might have bid on it and the court did not necessarily agree with him that the lease terms that he had would prevail. After buying the lease back at auction, he said he was able to start to market the space for supermarkets. Through that means, he was able to maintain control over the use of the former Pathmark space and the prospective tenants that could be put in there and maintain the integrity of the shopping center.

The present proposal is for Kings to occupy the northern portion of the former Pathmark store (closest to Valley Rd.). The Pathmark store contained 50,000 S.F. and Kings is proposing to occupy 30,013 S.F. (or 60% of the former Pathmark space). Because at this point it is not known, he said that a decision has been made *not* to address, as part of this application, what may happen with the remaining (former Pathmark) space.

In addition to the new façade, he said that he is seeking variance approval to replace the existing ground sign on Valley Rd. He said that he is proposing to enhance and improve it while keeping the existing stone columns provided his contractors find that the stone is still integrally adhered to the columns inside. The basic issue is that it has a very limited number of spaces for tenants. When the Valley Mall is fully rented, it will have 31 or 32 tenants (depending on whether or not the remaining 20,000 S.F. is taken by 1 or 2 tenants). Even with the proposed ground sign, there will only be room for 12 tenants which he said is a “big, big liability” for him to attract tenants because every tenant wants to have representation on the ground sign, particularly in a shopping center like the Valley Mall which is not built on top of the road. He said that the stores that do face Valley Rd. are 830’ back from the curb, which is almost the length of 3 football fields. He said that it is very hard for those stores to establish what they would like to establish in terms of identity and recognition from the road. He said that their normal request to be represented on a pylon sign is particularly important here and when he can’t do it it is more difficult to lease. In addition, he said that the other leg of the shopping center (which was first built and opened in 1974) which extends from the unit closest to Valley Rd. down to the Radio Shack is closer to the road, but those stores only face cars approaching from the west. Cars approaching from the east can’t see them at all, and most of them slant back from what used to be the original Pathmark anyway, so even those signs aren’t visible from the westerly direction very well at all. He agreed that that leg of the “L shaped” center is perpendicular to Valley Rd. and also extends 800’ back, so stores at that end have the same setback, but at a worse angle.

In response to Mr. Chait, he agreed that in addition to the unique condition of the 800’ setback and the fact that at least half of the stores don’t face the street, in working with the Planning Board over the years he agreed to add significant landscaping and trees to break up the parking areas and those trees also have an impact in terms of visibility from the road of the tenants in the center. He also agreed that the need for having some identity along the road is absolutely critical in terms of the viability and leasing of the center. He added that it is a detriment now and, even if the Board were to grant the requested increase in height of the ground sign, there will only be room for 12 tenants out of a total of 31 or 32, which is still a problem. He said that what he worked out (and he was not familiar with any other center that does this) is to make sign panels for *all* tenants and physically go out and change the panels on a regular basis, so everyone would get on the pylon sign from time to time. The sign will be specifically built so that it can be easily opened and the panels can be changed. He acknowledged that it isn’t ideal, but at least it addresses the situation for the tenants and the fact that they *all* said that they are interested in participating underlines the fact that it is better than the present situation. He said the requested variance is to exceed the 15’ maximum permitted ordinance height with the peak of the structure (rather than the actual sign) at 25.8’, so it will be exceeded by 10.8’. The ground sign is proposed to remain in the same location as the existing ground sign. It will have the same stone columns on either side, the same white cap on top, and the same floating look of the actual sign box itself (which doesn’t reach the stone columns on either side, but is attached to them).

Mr. Chait said that the Ordinance that imposes height limitations is uniform for all shopping centers of a certain size square footage and doesn’t distinguish those that have an 800’ setback versus those that have a 20’ setback, or those where the stores face the street and don’t have any landscaping in between versus those that are perpendicular, with landscaping. Mr. Croman agreed.

Also in response to Mr. Chait, Mr. Croman agreed that, as part of its operation, Kings is proposing to have outside eating facilities along the sidewalk. Under the ordinance, outdoor dining is permitted but Board of Health approval is required. He said that he has not initiated such an application until the site plan/variance application is completed.

Mr. Chait indicated that he and his client have had a chance to review the reports of the Board’s consultants. He noted that there was a request that the applicant consider restriping faded areas where the striping of the parking spaces is not visible.

Mr. Croman replied that that is something that he always does in the course of managing the center. He said that he would certainly address those faded areas of the parking lot, in particular the ones in front of the former Pathmark. He said that the reason it wasn’t done now is because he figured, with a store about to open, it would be better to put off the restriping until the store was closer to opening so that everything would look nice and fresh. He said that other faded areas will be taken care of in the normal course of management and will be striped properly.

Mr. Chait said that a request was also made to repair broken curbs in some areas where there are curbed landscaping islands. Mr. Croman replied that he was willing to do so.

Mr. Chait said that there was also an issue about the Ordinance requirement for lights to be shut off after the stores close. Mr. Croman agreed that the façade lighting will be turned off after the Kings store is closed or within ½ hour of closing. However, the ground sign is different because not all of the stores have the same closing hours. Mr. Croman said that he tries to get tenants to stay open during the normal hours of the shopping center, but there is a flexibility, particularly in the closing time. For the past 20 – 30 years, he said that the lighting in the ground sign turns off at 11:00 PM and he is proposing to continue that practice.

In response to Mr. Chait, Mr. Croman said that if the application is approved he would proceed to move forward as fast as possible. He said that the shopping center is hurting without the major tenant/supermarket and that he and Kings have the “upmost priority” of getting that store open as soon as possible. He agreed that there are currently a *significant* number of vacancies in the shopping center which is directly related to the closure of the Pathmark and lack of an anchor store, although he added that that is not the *only* cause, noting that 2008 decimated retailing and he has also had his fair share of problems.

Mr. Arentowicz asked, when the original ground sign was installed some 30-40 years ago, when did the number of stores exceed the number of signs available?

Mr. Croman replied that it was the largest ground sign that the Township would entertain at that time and so he made do with it. He approximated that he probably had about a dozen tenants at that time and did *not* rotate the signs at that time.

Mr. Arentowicz asked why all of a sudden we need to have a sign rotated for every store if 32 years ago there were stores that didn't have a sign.

Mr. Croman replied that he wanted to be sure everyone was on the same wave length. He said that every store would be on the ground sign from time to time and there would only be 12 signs (out of the 31 or 32 stores) at any one time on the ground sign. However, the reason that he wanted to give everyone the opportunity to have a sign is because this is a very important leasing consideration on the part of retailers and for 30 odd years he has had this problem and he has had to say "no" and it has hurt the leasing. He said that he has had tenants that said they would not rent (during negotiation) because of it and he described it as a "major, major factor" and being able to accommodate all tenants, even though it may be only on a rotating basis, at least takes the sting out of the fact that they would *never* have representation on the ground sign otherwise.

Mr. Arentowicz asked, with the tenants demanding that signage, why didn't something happen in the last 30 years?

Mr. Croman replied that he has had vacancies even before Pathmark went broke. He said that things have happened for 30 years and he could not point to a particular tenant that went out because he wasn't on the sign, but he was testifying that he has been asked by virtually every single tenant that goes in there to be on the pylon sign. He said that when he has to say "no" it makes it much, much more difficult to lease stores and that the tenants feel that it makes it more difficult for them to succeed. Although it has nothing to do with this application, he said that it makes a lot of sense that Walgreen's wanted a whole bunch of signs that say "Walgreen's" on all sides of its building and they will be right at the edge of the road. He said to imagine a tenant that is 850' back or is not on the edge of the road and only faces one side - he is going to want it much, much more. Whether they are right or wrong, he said that he was not going to argue. He said that Mr. Arentowicz may be right - that they don't need it and people figure they are there, but tenants feel they *have* to have it and feel that it is important to them which is a reality that he lives with when trying to put tenants in a shopping center.

Mr. Arentowicz asked, if it is so critical to your operation and the tenants to have a sign and there have been 7 signs and 30-40 years have passed and you say it is critical to your operation, why didn't you come to this Board sooner to expand the sign?

Mr. Chait asked Mr. Croman what kind of competition he had, in terms of leasing in the town, when the shopping center was built. He asked if the shopping center was *the place* to operate if you were a retail store versus the competition that he now has with leasing and the adjacent large malls. He asked if there has been a change in the leasing market.

Mr. Croman recalled that, shortly before they opened (within 5-7 years before), there was a study done by the International Council of Shopping Centers that said that there were either 5 or 7 S.F. of retail stores for every person in the United States. 10 or 15 years ago, he read the figure and it was 40 S.F. of retail stores for every person in the United States. He said that it mushroomed between then and 2008 and there were many, many more store spaces than there were decent tenants available, so you have a very over built situation in the United States today, but the number of square feet of retail space that they have to choose from is more than 8 times what it was per capita in 1974. He agreed that in 1974 if a tenant wanted to locate in his mall, he had the negotiating hand and if they wanted to be there, they might have to be there without signage on the street. However, under current conditions he does not have that kind of negotiating power where he can just tell the tenant that he is sorry if he cannot provide signage on the street - walk.

Mr. Connor asked Mr. Croman if he considered Dewey Meadows and the Lyons Mall as competition for his customers.

Mr. Croman replied that he his stores have customers who come from the areas that both are located in and so, by definition, if they are within his trading area, you would have to say that they are competition, although they are not very strong competition for something that the Valley Mall should be and, hopefully, is already and has been for years.

Mr. Aroneo thanked Mr. Croman for keeping good quality tenants over the years and keeping the down market tenants out, which is a positive thing for the community. However, he said that the trees on site are small and "scraggly". He asked Mr. Croman if he would be amenable to planting larger deciduous trees that would provide more shade in more areas or even where there are existing trees on the site, if his sign proposal was to meet his standards. He noted that the site contains the largest black topped area in the Township.

Mr. Croman replied that, if it was felt that that would be an improvement, he could do it, particularly addressing Mr. Aroneo's comment about larger trees in the existing spaces because he would not want to take away parking.

Mr. Aroneo asked Mr. Croman if he had looked at the type of sign that would have the capacity to allow room for signage for *each* of the stores, and if something like that would look ridiculously huge?

Mr. Croman replied that it would be not quite 3 times the height of the sign, if he kept to the 8' width, or in rows sideways. The other possibility that he looked into was a programmable sign where the names on the sign could be programmed to change regularly. The reason he did not go forward with it is that he was told that it was a 3' high sign that is less than the 8' existing width and it would cost about \$30,000.00 if it was a cheap one. His sign contractor told him that, in that case, after a year or two the sign company's are gone and there is no one to fix them and if you want a decent sign, it will cost \$50,000.00. However, he said that the technology is such that those prices might come down in the future. Also, he said that they all have black backgrounds with orange letters (or some other contrasting letters) and the combination of a sign that didn't fit right now in terms of size and the fact that he didn't think the tenants would be interested in hearing about what the cost factors were led him to decide that he did not want to do that now. He said that he even talked about putting that in as an alternate and Mr. Chait advised him not to complicate things and come back later when the technology improves if he wished to install such a sign.

Mr. Cilino said that it has been his observation in various clusters such as this that there are stores that do well and there are stores that don't do well. Including off of Valley Rd., he said that one shop recently went out of business and another is financially strapped and on the verge of going out of business. He said that both of them have fairly large signs right on Valley Rd. He was not sure that one could make a correlation between signage and business prosperity. It was his experience that a sign might help promote stores as a start up, but generally word of mouth works well. He cited Starbucks as a prime example noting that they have their name on the building, but it is not on the ground sign. He said that they have a good product and people like Starbucks, so when everybody found out that there is a Starbucks in the shopping center, they flocked to it and it enhanced their success. He said that there are other stores, such as the former card store, that he visited twice and felt that the price was pretty good, but the quality of their merchandise was not. He said that he was not sure in his mind that he could correlate the prosperity of a business unit with the name on a street sign.

Mr. Croman replied that he 100% agreed with Mr. Cilino and that there was no question in his mind about that. Also, he said that you cannot correlate the success of a store with how nice the shopping center looks or how clean it is kept. He said that the main thing about the sign that is significant is that the *tenants* think it is important. He said that even if you and I were to definitively prove to ourselves that it is just a marginal thing, it is certainly not going to keep a bad tenant in business and it will certainly not keep a great tenant from being successful if he doesn't have a reasonable sign and yet they all believe *very strongly* that it is an ingredient that helps them succeed. He said that if you interviewed half the people in the trading area, they don't know half the tenants that are there. So, the sign is of significance in an actual realistic sense even though you and I might agree that they could survive without the sign, and you certainly can't correlate their success with the existence of a sign or not, but their belief and their willingness to demand a sign is *absolutely unquestionable*. He said that they think its important and it helps him if a tasteful sign can be created that has much less signage per square foot for the size of the Valley Mall and all of the other retail stores put together and yet if it is tasteful and it gets the job done and gives the tenants something, that is an important thing in achieving what we all want – namely a good looking center with good tenants which speaks well for what Long Hill Township is looking for. He said that he did not get any personal benefit by having more signs up there except if it does let him get in more tenants. He did not feel that anything is being sacrificed in the way of good looks. As to why he didn't apply for additional signage a long time ago, he said that the answer is that back then people definitely didn't want a large sign at all but now they see that the Valley Mall has grown. It was only 80,000 S.F. at that time and now its is 195,000 S.F. or 196,000 S.F. and we are not even keeping our proportion in terms of the size of the sign to the size of the center as it was in the beginning. He felt that it is a very important thing in the minds of the tenants that he wants to have in there and ones which he wants to have a choice of. With regard to Starbucks and Panera Bread, he said that it was very difficult to convince them and get them to go but he insisted that they were right up front and face Valley Rd. and, therefore, did not need anything. However, for his tenants that are *not* up front and facing Valley Rd., they absolutely feel that it is an important thing in their leasing consideration. He said that rent, the size of the center, the population, and disposable income are all important considerations, but whether they can get on the monument sign or not is also definitely a major factor.

Mr. Cilino said that he could appreciate the struggle with that with possible tenants. He said that he was just wrestling a little bit with the fact that tenants want to be on this particular sign. He said that we are talking about a 25.8' sign.

Mr. Chait said that the applicant's architect will talk about the sign itself, but he felt that it is the *peak* rather than the sign itself that is 25.8'.

Mr. Cilino said that, sitting on the other side of the fence, he totally understood. He said that he was in sales at one time and he knew that when a prospective customer has their mind made up and a vision, it is very difficult to change that vision. Given today's economy and the fact that there are not a lot of new start-ups beating down the door of people like Mr. Croman to get into a facility, he said that he was not sure if he invested in a person or consultant who does that kind of thing (a marketing issue) where they can show that there are different companies or tenants in various locales throughout this area who have done exceptionally well without a sign and there are other tenants in those same locales who have a sign and have not done relatively well, given the fact that you may not be able to change a perspective tenant's thought process. He said that our Township has been struggling with getting signs down to a manageable level, and aesthetically pleasing. He said that the first thing that hits him in that parking lot is that it is a huge, huge runway with macadam all over the place. He said that there is nothing that breaks up the

macadam from an aesthetic point of view. He was in favor of the suggestion to put some shrubs and trees throughout which would not hamper the space available for parking.

Mr. Smargiassi said that he also fully understood the tenant's concerns about roadside signage and how important that may or may not be, but the perception is key there. He could also think of other shopping centers where the smaller stores don't have signage and the first thing that came to mind was any mall. He said that stores in the interior of malls do not have any type of road signage whatsoever, but the key there is the anchors and the tenants drive the traffic for those stores. His main concern had to do with the height of the ground sign and the proposal is actually 170% of what is permitted, so it would be 70% larger than a full size sign that is permitted by ordinance. His concern was how that fits in with the character of the area and how it impacts the neighborhood and the town. He said that he did not measure the signs on Valley Rd., but he believed that the ground sign is one of tallest (if not *the* tallest) in the town. He said that there are a lot of lower profile signs which may be 10' tall and usually they contain anchor stores in their centers and smaller stores on their sides. He said that he has seen pictures of those signs that can accommodate more than 12 tenants. He asked Mr. Croman if he had considered or looked at lower profile sized signs that would be significantly shorter, but much wider. He also said that if you look at the signs at Dewey Meadows or the Lyons Mall, you will see an anchor store tenant (or maybe several of them) which have the size of the signs you have currently as full size and below that the signs are divided up into 2 or 3. He said that, if you kept something that was similar to the current size, with a couple of anchor large signs on top and you divided it up below, it seemed to him that you could get to 12-13 tenants onto the size of the existing sign without increasing the height.

Mr. Croman replied that he did not consider making the sign wider and lower, but that is an interesting idea. The reason he didn't is that he was under the impression (and maybe it wasn't an accurate impression) that people like the stone columns and, the way the stone columns look now, they pick up the stone in front of the shopping center and it integrates everything and it has been there for a long time. He thought it was something that was appreciated as an architectural feature in and of itself that he should stick with. He said that there is no "holy grail" with the height. If he could get more square footage and lower it and the Board likes it better, he said he would try to do that. He said that he may have a little issue with some of his tenants because he has certain lease obligations that he gave them because he thought he had an approved sign, but he said let's assume that that could be worked out. If that is what the town and this Board want and, if he had the square footage to work with, he said he could probably work out something.

Mr. Smargiassi said that, if you look at some of the newer signs in town, they are smaller. He noted The Uncommon Thread sign and some of the bank signs and said that they all tend to be on the short side and he felt that that goes with how the feel of the town is. It was his opinion that a lower profile sign would have a better fit with what currently exists in the town. Also, as Mr. O'Brien had noted in his report, he said that the power lines are quite low on that side of the road and, if you go higher, he did not think you would see the signs at the top very well.

Mr. Croman said that his situation is a little more unique and demanding in the sense that his tenants aren't like the couple of stores that Mr. Smargiassi had mentioned that have a presence right near the street line. He said that he also tends to try to get national or regional chains which are used to having certain things as part of their site acquisition package, so there are some differences, but he said that he could try to work with what the Board desires.

Mr. Smargiassi replied that he could relate to that, noting that he has a client that is a national retailer and he knows that leases can kill retail businesses and so it is very important what leases they sign, where they are located, and if they can generate enough traffic. His concern was with the height of the proposed sign and how a sign that it is 70% larger in height than what is allowed fits in with the character of the town and how it works into the existing Zoning Ordinance. He said that it was set for a reason to get up to some type of look and feel for the Valley Rd. corridor and it caught his eye when he calculated the number of how much larger it is.

Mr. Roshto said that, if Mr. Croman has been involved for 40 years, he must be doing something right and he thanked him for that. In terms of the height, he said that he knew that there were a couple of trees that are quite large on both sides of the ground sign. He asked Mr. Croman if he was going to have to trim those trees if the signage is to be visible at the 25' height.

Mr. Croman replied that he did not think that he would have to trim the trees to build the sign. Will they be blocked by lower limbs? That could well be. He said that, from certain angles, the tenants will be blocked and if the trees come in the way, that is too bad. He said that the trees come first. He said that he wouldn't trim the trees to make the signs more visible, nor would he appear back before the Board for permission to do so.

Mr. Aroneo said that his observation was that it is 6'2" higher than the existing ground sign which was probably approved by variance because he believed that the Ordinance only allows a maximum height of 15'. He said that, relatively speaking, it is a small increase over the existing one and considering the size of the largest retail operation in our town, he felt that the proposed increase is quite small (the relative size of the proposal to the existing). He said that going shorter was fine with him, but then asked how much wider would you have to make it, and how would that look? He said that he would be open to either one.

Mr. Croman said that he has been thinking if they could do it with the width of the front yard that is grass (and he thought they could), but said that they would have to study it and return to the Board.

Mr. Aroneo asked if the same stone columns could be used.

Mr. Croman replied that he did not have a proposal but was willing to look at anything that the Board would like to do that achieves the result. He said that the height is not holy and he thought that the stone was a nice thing and so they tried to keep it, but if it has to go it can go, but he wouldn't want to have to build that if it meant they couldn't get the width in and maybe they would have to build it differently.

In response to Mr. Bernstein, Mr. Croman said that he was willing to restripe the areas that the Board Engineer and Township Planner find are in need as a condition of approval. He also agreed to come in with a landscape plan. He said that the thing that he was most interested in accomplishing tonight was getting the approval of the Kings facility/façade/and signs for Kings so that he could proceed to have that space rented. He said that the larger (ground) sign is also important, but he understood that it could be done later. He also agreed to provide an exhibit of alternative ground signage that could be reviewed by the Board at a future meeting.

Mr. O'Brien and Mr. Lemanowicz indicated that they had no questions of the witness at this time.

Mr. Smargiassi concurred with the last comment that was made. He said that he did not have any issue with the façade of the storefront sign whatsoever and that, if need be, the Board should move forward with it.

Mr. Croman expressed his pleasure in working with the Board over the past 40 years.

There being no further comments from the Board, Mr. Chait excused Mr. Croman and called his next witness.

Mr. Fred Brohm, Executive Vice President and Chief Strategy Officer of Kings, was sworn. He said that the subject location is within his jurisdiction. He said that when Kings is looking for new real estate prospects in order for the company to continue to grow, they do market research and spend a lot of time and effort on analysis of the marketplace. When they screened this location, he said it came back very favorably for them and they are thrilled to have the opportunity to serve Long Hill Township which they believe is currently underserved. He said that they believe that there is a need for an upscale, high quality market in this location.

Mr. Chait said that, focusing on the proposed façade sign, the letters "K, N, G, S" all conform to the Ordinance at 4' high. However, the "I" is a whisk which happens to be 6' high and, therefore, does *not* comply with the Ordinance. He asked if there has been a branding image developed for Kings that includes this style and the whisk?

Mr. Brohm replied that there has been and that they have worked on it for quite a number of months. In January of this year, he said that they re-branded the company, changed its corporate logo, and had the opportunity to launch it for the first time when they renovated and expanded their store in Bedminster in The Hills development. He said that that was the first use of the new icon and, thankfully from a consumer's standpoint, it has been accepted very positively. He said that they wanted to incorporate the whisk in the logo to symbolize that they are about good food and the preparation of food and felt that the icon in the logo was very appropriate for the direction of the company. He said that the iconography that they are using on the outside of the building really ties into what their plans are for the interior space. Rather than what you would see in a traditional supermarket where you go into the produce aisle and see the word "Produce" over it or, in the case of the meat department you would see the word "Meat" over it, they have taken a different approach to that internally and they use icons to represent the various departments inside the space. He said that they thought it was a nice element and a great decorative touch on the exterior of the building to carry the use of the iconography to symbolize some of the offerings and services inside the store. He said that the icons are not illuminated. The Kings letters will be backlit using LED lighting, which is the same technology used in two of their most newly renovated stores which are located in Bedminster in The Hills and also in Livingston. He agreed to comply with the requirement in the Ordinance for the lighting to be turned off no later than ½ hour after closing. The proposed hours of operation of the Kings store are from 7 AM to 9 PM.

In response to Mr. Chait, Mr. Brohm said that one of the exciting elements that they are going to include inside the store is a full production kitchen where they will have an Executive Chef with a whole chef team who will be making freshly prepared food on site everyday, which is a key component of how they go to market. They will also offer shoppers the opportunity to grab a breakfast or lunch in a relaxed setting as part of their shopping experience. Their intent is to have, as a complement to all of the freshly prepared food, a place for people to congregate. They would like this to become a cornerstone of the community where people really want to come and sit and enjoy the space and interact with each other. The plan is to have seating inside the store, as well as outside of the building. The outside area will be maintained by bussing so that it stays clean and orderly which is part of their overall standards. He said that it will be as clean and neat as the interior of the store. He said that there is limited seating outside of the Kings in The Hills and there is also outdoor seating at their locations in Florham Park and Hoboken. The proposed outdoor dining area will not have any speaker systems, paging, or music.

Mr. Cilino asked for the width of the sidewalk in front of the proposed Kings.

Mr. Chait replied that information will be covered, but they *do* provide the required clearance.

Mr. Brohm said that it can be verified, but he believed it to be 12' wide.

In response to Mr. Arentowicz, Mr. Brohm said that the plan submitted indicates proposed indoor seating for 32 people and 32 outside as well. The exterior seating will be linear, up against the building.

In response to Mr. Bernstein, Mr. Brohm said that the eating areas will be cleaned on a regular basis. He also did not believe that there is a ground sign at the Bedminster location. He agreed that Rt. 202/206 is a heavily trafficked road, although there is a light at that intersection that slows down traffic. He said that if this application is approved, he anticipated the Kings store moving in as soon as possible as they are *very* anxious to open the store and serve this community.

In response to Mr. Connor, Mr. Brohm said that Kings does not plan to renew the lease option at the Berkeley Heights location.

Mr. Aroneo asked Mr. Brohm if he felt that Kings could move into the proposed location by year end?

Mr. Brohm replied that December would be good, but he did not know if they could hit that date or not. He said that they are doing everything within their power to open the store as quickly as possible.

Mr. Aroneo asked Mr. Brohm for his opinion on the signage issue.

Mr. Brohm replied that all he could speak to is his experience in identifying real estate for the company and he could say that clearly he has walked away from potential real estate deals because he did not think the signage was sufficient to highlight the location. He said that, from a professional perspective, it is *extremely* important to have the right signage out on the roadway.

In response to Mr. Arentowicz, Mr. Brohm said that the 8 icons proposed on the façade are part of the new overall branding of the company. He added that they are on the *interior* of the store in Bedminster and on the exterior of that store, they chose to go in a different direction with graphics in the windows.

Also in response to Mr. Arentowicz, Mr. Brohm said that in Berkeley Heights, Kings is under an extension to their lease which will technically expire in April, 2013.

There being no further questions for the witness, he was excused.

Mr. William Riedel, sign maker, was sworn. He said that he has been contracted by the applicant to create and install the proposed ground sign. He has produced similar signs for other facilities. He said that the method of installation will mostly be done in one day. Once the sign is fabricated and ready to be erected, the existing sign will be taken down using a crane. Before the new sign can be installed, he said that they will need to add to the columns by bringing up the brick façade to the new height and welding additional pipe to the 6" existing pipe. He said that the work can be done without impacting the flow of traffic on Valley Rd. He said that he would probably block off between 4 and 6 parking spaces in the vicinity of the sign just to lay equipment, noting that the crane will only take up about 2 spaces. If the sidewalk is to be blocked, he said that they will have a safety man on scene who will direct any pedestrians around the work area. All work will take place during normal working hours and will take only a couple of days – no more than a week's time without foreseeing any problems with the weather.

Mr. Chait asked Mr. Riedel if he will present the Construction Official with calculations of the additional load bearings.

Mr. Riedel replied that that is normal and it all depends on what the Township requires – if they need an engineer's drawing for footings, etc.

With regard to a possible alternative ground sign that would be lower (but wider) that would achieve the same signage area for 12 tenants, Mr. Riedel felt that placement is a key thing. He said that, where the present sign is located, there is no room to expand it horizontally. It would have to be at another location to either the east or west side, closer to where one of the entrances is for visibility.

Mr. Aroneo asked how wide the sign would have to be in order to fit signage for 12 tenants.

Mr. Riedel said that, if the existing height were kept as is and it was doubled up on either side, keeping the anchor stores at the same proportion, it would probably be 16' long with a height of 8', adding that the ground sign cannot be on the ground. He noted that the existing sign is 32" off the ground. He said that the stone columns can be included if that is desired. He said that you can use a stone base and have the signs on top of that or have decorative feet installed on top of it to try to give it the same look, however it may need a little more landscaping.

In looking at the diagram of the sign, Mr. Connor said that from pillar to pillar it is 15' 8". With a 16' long sign, then adding the necessary space and pillars, he asked for the approximate width of the sign.

Mr. Riedel replied that it all depends upon how it is designed and how the base will be. Currently, the sign is almost 16' wide but the panels are only 8' wide.

Mr. Connor said that, if extended to 16', it would be 24' wide.

Mr. Riedel agreed that it would basically run between the sidewalk and the parking lot and when the cars pull up, they would be hitting the columns or the base. He said that it would need to be relocated further down on the strip on Valley Rd. to provide a better location.

Mr. Cilino asked if it would be fair to say if it was put in the same location and it went from the sidewalk to the parking lot by expanding it the additional 8' (making the width 24'), the existing trees would make it almost non-visible for some of the signs.

Noting the existing trees, Mr. Riedel agreed that you would have a "real tight area of visibility" at the current location and that an adequate location would need to be found for proper visibility.

Mr. Lemanowicz asked Mr. Riedel if he had ever worked with the N.J. High Voltage Proximity Act.

Mr. Riedel replied affirmatively and said that JCP&L would be notified. He said that the cable and telephone wires are what you are looking at right next to the sign and that the high tension wires are the 3 wires at the top of the pole that are about 15' higher than the proposed area of the sign.

For the Board's information, Mr. Lemanowicz said that that Act controls how close you can be to wires that are above a certain voltage. Depending upon the voltage, you can't be within 6' of it with a structure or equipment. Referring to the second page of Mr. O'Brien's pictures (shown as "3 - Area Around Ground Sign"), he said that you can see that the sign is up against the sidewalk. Towards the back of that photo you can see a utility pole and that it is lined up with the other side of the sidewalk so that the wires are, essentially, about 4' from the sign. He said that the question is, as you go up, will it get involved with clearances to the power lines?

Mr. Riedel replied that the dark lines shown are not the power lines. The power feeds are the 3 lines all the way at the top, which are the high tension wires. He said that they would definitely not be going any closer to the wires at all. He said that he would check with JCP&L to see if they would have to be shielded with a rubber mat in order for them to operate safely.

Mr. Lemanowicz suggested that the Board may want to have a verification before it goes any further. Noting that Mr. Reidel had spoken briefly about the foundations, he asked him if he had checked them yet.

Mr. Reidel replied that all he had were the drawings of the original foundations. He had not dug down physically to find out what is there. He said that right now there is supposedly 99 C.F. of cement in the foundations for each leg.

Mr. Lemanowicz asked if anyone had checked to see if that is sufficient. He said that, as he had indicated, the proposed sign will be about 32% larger in area and so you have wind load to consider.

Mr. Reidel replied that, for a 100 mph wind load, he would actually have to add 11 CF of cement to each leg. Depending upon what the Construction Official would like him to do, he said that he would dig down and install some rebar for reinforcement. He said that, most likely, he would dig it up to see exactly what is there because he, also, has to have peace of mind in order to know that the foundation is adequate.

Mr. Chait said that, when it has been resolved what the sign is going to look like and where it is going to be, as a condition of any approval for any variances relating to the ground sign, the applicant's consultant will prepare the necessary computations of load and wind resistance and they will be subject to the approval of the Construction Official.

Mr. Reidel agreed that he usually has an engineer's drawing for verification as part of the normal procedure for the permit process for construction.

Mr. Lemanowicz agreed that it is not unusual for specific design calculations to be pushed off to the Building Dept., but he was just trying to determine the extent of the work that is actually going to be done. He said that we might just want to spell out the issue of the N.J. High Voltage Proximity Act to be certain.

Mr. Connor added that the Board can always put reminders in its final Resolution.

Mr. Aroneo asked Mr. Lemanowicz if his questions regarding the load and wind resistance are things he felt he needed to know *before* it goes to the Construction Dept. because it is unique in that it is a large sign and we do not have too many in our town?

Mr. Lemanowicz replied that he did not feel that *he* needed to look at them, however he felt that a reminder in the Resolution and perhaps a note on the plan that points it out would be suitable. In response to Mr. Connor, he said that it will be required that the data would need to be signed off by a licensed structural engineer.

In response to Mr. Roshto, Mr. Riedel said that the base of the sign will look exactly the same as it does today since everything done to it will be done under the ground, it will just be made a little deeper with a little more structure to it. Before doing anything, he said that they will be required to get a mark out for all of the utilities as standard practice.

With regard to the parking lot (what is going to be closed, safety areas, etc.) Mr. Lemanowicz said that the applicant testified that between 4 and 6 parking spaces will be lost. However, he felt that the parking lot is big enough to absorb that given the empty tenant spaces and, therefore, it would not be an issue.

There being no further questions of the witness, he was excused.



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Mr. Peter Ricci, licensed professional architect, was sworn. He reviewed his educational and professional background and was accepted as an expert.

He said that he prepared the plans that are the subject of this application. He also said that a colored rendering of the proposed front elevation contained on Sheet A-2 of his plan was prepared with another firm under his supervision. He distributed 11" x 17" copies of the colored rendering, a copy of which was marked into evidence as **EXHIBIT A-1**. He said that the rendering was prepared to give the Board members a feel of what the front elevation will look like in terms of materials and colors. He said that the stone façade material, which is also on the existing pylon sign and a lot of the façades within the shopping center is carried out in the proposal. Some of the stone façade is existing, some will remain, and some will be new. He noted that the existing building has a feature where there is a lot of standing seam metal flow canopies and there are also areas where the canopies are made of a burgundy material. The façade of the former Pathmark store has a large element which protrudes outward. All of the elements which protrude out of the building will be removed. The new façade will be perfectly flat and the portion where the arch is at the King's front entrance will be brought out 18" from the face of the wall to provide some character, shadow and depth. Along with that, there will be a material type canopy on the front of the building over the windows which help to shade the sunlight coming in the windows and also helps give the look they are looking for by giving some depth to the front facade. He said that the materials used will include stone and EIFS (which is described as a synthetic stucco). There will be some horizontal groove lines in the EIFS in order to create a horizontal look to the building. He said that there will be outside seating underneath the exterior icons where there will be no covering except for possible umbrellas.

Mr. Ricci also presented copies of a detail of the exterior icons which will *not* be illuminated, a copy of which was marked into evidence as **EXHIBIT A-2**. They are made out of aluminum and will be mounted on the building slightly off of the face using mounting pins. They will be powder coated (painted) in the factory in a color called Turkish Coffee which is going to match the coping over the top of the building. He said that they will create shadows on the EIFS that is behind them and will be in the shapes of fruits, vegetables, a loaf of bread, etc., and thus they will vary in size but will be roughly 36" square in a box.

With regard to the Kings wall sign, he said that the letters will be conforming and 4' high, however the whisk will be 6' high and non-conforming, therefore a variance is being sought for the whisk. However, he said that in calculating the square footage for the sign, he was not calculating 4' x 15', but 6' x 15' to give a total of 90 S.F., therefore he calculated a whole 6' box which is *much* bigger than the sign really is. He said that the icons are decorative items which will help the look of the building and will give the wall some character as opposed to being plain or "blah".

Mr. Chait said that, If the Board agrees that the icons are not signs, the applicant will not have to deal with a variance to have more than one wall sign. In the alternative, if the Board feels that they *are* signs, then a variance will be sought.

In terms of area, Mr. Ricci said that the proposal is extremely less than that which is permitted. He said that the icons will measure 3' x 3', so the total of 8 of them = 72 S.F. The total of the Kings sign (using the 6' dimension, not the 4' dimension) totals 90 S.F., which together totals 162 S.F. of signage. If the applicant wanted to put signage on the building that *exactly* meets the Ordinance, it could put up signage that is 4' tall by 64' long because that is 40% of the length of the building. He said that that would total 256 S.F., whereas they are asking for 162 S.F. He said that the reality is that the front area of the building is 4,051 S.F. and you are allowed by code to have a 4' high by 64' long sign which comes out to 6.3% of the area of the façade, whereas the proposal is for only 3.9%.

In response to Mr. Chait, Mr. Ricci said that he prepared a comparison of the proposed signage to the previously existing Pathmark signage. He said that the Pathmark signs do not currently exist – they have been taken down. However, in addition to its own Pathmark sign, there was a a super center sign, a pharmacy department sign, and a Berkeley Federal (bank) sign. He said that those signs totaled 321 S.F. that existed on the building when Pathmark was there. The applicant is proposing a total of 162 S.F. of signage as opposed to 321 S.F. which is nearly a 50% reduction.

Mr. Chait said that he was not going to question the witness on the ground sign unless the Board wanted to move forward with it tonight.

Mr. Connor said that there are two sign issues – one being the ground sign and the other the façade signs. He felt that it may be advantageous to "de-couple" them.

Mr. Chait agreed and said that he would like to carry the variance application on the ground sign so that they can consider an alternative design and come back next month without the need for further public notice and deal with the Minor Site Plan façade approval and the façade signage variances tonight, which is why he was not proposing to question Mr. Ricci on the ground sign.

In response to Mr. Connor, Mr. Bernstein said that he felt that it an appropriate way to go. He said that questions were raised about the ground sign and alternatives to be prepared, therefore he felt it appropriate to finish up on the Kings application. He was not sure he would give a C.O. until the landscaping plan was approved by the Board, since he felt it was a very good suggestion and one that the Board wants. He said that that would not stop the

*processing* of Kings with the building permits. He noted that Mr. Brohm had indicated that he did not expect Kings to be in by December at the earliest.

Concerning the landscaping plan, Mr. O'Brien said that at some point in the past the Board has left it up to staff to review the landscape plan post approval. If the Board wishes to see the landscaping plan, however, it can be prepared and brought to the Board's attention. He also suggested that, at the appropriate time, Board members may wish to give their comments about the ground sign to give guidance to the applicant and his staff.

Mr. Connor said that he would like to continue with the Kings proposal and, if there is time, provide guidance.

Mr. Chait said that the question of sidewalk width and clearance for the outside dining was deferred.

Mr. Ricci said that the sidewalk is in excess of 12' wide in front of the building, whereas the Ordinance requires there to be 4' maintained for anyone to be able to walk by. He said that he showed the tables (to scale) pulled away from the wall easily 2' and found that they could operate the tables within half of the width of the sidewalk with no problem at all.

Mr. O'Brien pointed out that outdoor dining is not within the purview of the Board's approval. It is something that is handled by the Board of Health and the Zoning Officer and should meet all of the conditions laid out in the Ordinance.

Mr. Chait agreed. He also said that the architectural design features are intended to create consistency with the existing architectural features and colors of the shopping center so that everything fits together, including the freestanding building that sits on the site.

Mr. Ricci agreed and said that it was intended to all blend in.

Mr. Chait noted that it was mentioned that the existing Pathmark canopy is to be removed which contained lighting in the sidewalk area. He asked what is proposed to replace the lighting so that there is sufficient lighting on the sidewalk area.

Mr. Ricci said that, if the canopy was removed and not replaced, it would not be lit adequately for good, safe access for people walking by. The proposed new material canopy on the front of the building will have some light built up underneath it, attached to the building, that will shine down onto the sidewalk so that it will light up the front of the store. You will not see it because it is under the canopy and shines down. What is not shown on the plan is that gooseneck lighting is proposed, similar to what is on other locations in the mall. He noted that the freestanding building has gooseneck lighting along its front and back. He said that the final plan will actually show the gooseneck lights.

In response to Mr. Aroneo, Mr. Ricci said that the two doors under the Kings sign will be an entrance and an exit. He said that the sidewalk is 12' wide and the doors are typically 3' wide, so that from the front edge of the door to the edge of the sidewalk there will be 9' which he felt is "absolutely" enough to safely enter and exit the building.

Mr. Cilino referred to **EXHIBIT A-1** which he recalled in testimony was drawn to scale.

Mr. Ricci hesitated and said that it was "a pretty picture". He agreed that he was showing the tables to be 6' with seating for 4 people at each table. However, he said that the plan contains a notation that it is a "Partial Plan – N.T.S.", indicating "not to scale". He said that the plan shows 4 umbrellas and tables, where they are proposing a total of 8. They will not be in the center of the sidewalk, but will be closer to the building. He said that, if he was to allocate 6' for the walkway (although only 4' is required) and 6' for tables with umbrellas and chairs, then the umbrella would go over the table and possibly expand over some of the chairs a little bit, but that would all be within the 6' closest to the building. Referring to Sheet A-1 of the plan, he said that the chairs are shown at 45 degree angles and it makes the access to those chairs work much better.

Mr. Chait said that the bottom line is that there will be a *minimum* of 4' sidewalk clearance and the applicant believes that there will be 6' of clearance.

In response to Mr. Bernstein, Mr. Ricci said that, in his opinion, the exterior icons are "decorative elements", although he agreed that it could go either way (be considered as signage).

Mr. Bernstein referred to the gas station shell type of design and when people see it, they knew it is that brand of gas. He assumed that when people see the icons, they will know what the store is selling. Therefore, from his prospective, he felt that it is part of a sign. He said that it doesn't make any difference in the Board's decision, just in the Resolution how he draws it as to the square footage.

Mr. O'Brien noted that the staff Administrative Review, Zoning Review, and planning report found that the icons were signs according to the Township's definition of signs.

The meeting was open to the public for comments. There being none, the meeting was closed to the public.

Mr. Chait said that, as the Board has heard from several of the witnesses, timing is critical and the applicant and Kings want to move forward immediately with the construction of the building, the interior, façade, etc. and, if we deal with that aspect of it tonight, the applicant is seeking Minor Site Plan approval for the façade, permission to have the icon signs in addition to the main sign, and a 6' whisk in terms of a variance. He said that the witnesses have demonstrated that what they are asking for in terms of façade signage is *significantly* less than the previous Pathmark and less than what they could provide under the Ordinance. He requested the Board to approve the applicant's request that it act tonight by temporary approval subject to a formal Resolution so that they can apply immediately for a Site Plan approval.

Mr. Connor asked the Board members if they were in agreement to move forward on the actual Kings application subject to having a Resolution that can be drafted by Mr. Bernstein.

Mr. Aroneo was in agreement as long it includes the conditions discussed, including a future landscaping plan.

Mr. Bernstein said that the motion would state that it be resolved that the application that was submitted for Minor Site Plan approval and wall sign variances for icons on the exterior of the proposed Kings supermarket, including the 6' whisk (as the "I" in Kings), including having more than the number of permitted signs, albeit a lesser square footage, be approved; and that the application for the freestanding sign be continued so that the applicant may come back with a different design that the Board finds more acceptable; that the applicant also be required to return with a landscape plan; and that a C.O. not be granted for the supermarket until at least the landscape plan is approved (unless the Board wishes to defer it and let staff handle it).

Mr. Aroneo made such a motion which was seconded by Mr. Roshto.

In response to Mr. Chait, Mr. Bernstein confirmed that the applicant can proceed with his plans for a building permit application.

Mr. O'Brien added, however, that it would be done at the applicant's risk.

Mr. Chait replied that he understood.

Mr. O'Brien said that the Board may wish to consider the following conditions that were discussed by the Board at various points this evening, which apply *only* to the Site Plan and not the ground sign:

- The applicant will restripe the faded parking stalls;
- The applicant will repair appropriate landscape islands;
- The Kings sign on the façade will shut off ½ hour after closing;
- Larger trees will be planted in existing landscape islands;
- The applicant will submit a landscape plan prior to issuance of a C.O..
- A lighting plan for the façade shall be submitted to Board professionals or staff for review;

In response to Mr. Arentowicz, Mr. Bernstein said that he would like to include the issue regarding the need for Board of Health approval in the Resolution. He also said that he will also include a condition that the applicant will keep the inside and outside eating areas clean and sanitary.

Mr. Aroneo amended his motion to include the above items. Mr. Roshto amended his second to the motion likewise.

Mr. Roshto proposed to direct staff to review the lighting plan.

Hearing no comments to the contrary, Mr. Connor confirmed that staff will review the lighting plan.

Mr. Aroneo and Mr. Cilino indicated that they would like to see the tree planting/landscape plan.

Mr. Connor confirmed that the Board would like to see the proposed landscape plan.

There being no further comments, a roll call was vote was taken.

Those in favor: Dr. Rae, Mr. Arentowicz, Mr. Aroneo, Mr. Butterworth, Mr. Cilino, Mr. Roshto, Mr. Smargiassi and Mr. Connor. Those opposed: None.

After reviewing the Board calendar, it was agreed that this application is carried to September 11, 2012 with no further notice.

Mr. Connor said that he would like to look at the (ground) signage and have the Board talk about a wider sign.

Mr. Smargiassi suggested a sign which is lower in height than what was proposed. He did not believe that there are too many options to consider. He said that you can split the size of the signs and keep the current height which increases capacity or go to a lower profile and wider sign. Noting that there are two entrances on Valley Rd. (one to the east and one to the west), he said that another option would be to have two smaller signs. Instead of the Board trying to figure it out, he said that he would like to see a proposal along those lines that would work for the applicant and be economically feasible.

In response to Mr. Connor, Mr. Ricci said that the current sign is 19'6".

In that case, Mr. Connor said that it already exceeds the maximum permitted height in the Ordinance of 15'. He asked the Board if they would like to see the sign continue at its current height, or reduce the sign to 15'.

Dr. Rae agreed with Mr. Smargiassi's suggestion. Rather than to give guidance now, he said that he would like to see some proposals that will actually work for the applicant and then they may be better judged.

Mr. Connor said that, looking at the current sign, he may have a problem with the sign being higher. If it was wider, he said that he wouldn't mind.

Mr. Roshto said that, currently, the applicant is asking for a variance with a high percentage. He hoped that the applicant will return with a proposal that is more in line with the Ordinance and, if a variance is required, that is fine but nearly doubling the permitted square footage was concerning to him. He suggested lower profile signs that fit in a smaller physical area.

Mr. Ricci said that the biggest issue the Board has already heard is that the stores are some 800'+ back off the road and then there are other stores that don't face the road at all – they are not only 90 degrees, but they angle *in*, so you don't see them at all from the street. On top of that, he said that none of the existing stores have the traditional huge big-box signs even though they are 800'+ back from the road. He said that Kings is applying for signs that are considerably less than what they can apply for and receive approval for without a variance. He said that signage is important on the street. He understood the idea of taking the signs on the bottom and splitting them in half and making them small, however he said that they tried that already and did several layouts and they did not work. For example, he said that Kings is simple because it is only 5 letters, but if you take a Jones New York, it is difficult to read if the signs get too small on the street. He said that they have to be a minimum size and all of these signs are not the same size. The lower ones are smaller and they didn't make the upper ones much bigger because they did not want the sign to grow too much. He said that they also have the constraints of the site. At the front of the property, they can't go out because they are right at the sidewalk and, if they go in, there are problems with visibility and they will have to take some parking spaces away. He said that they could live with that, but the site visibility would be difficult and the signs must be kept a minimum height above the ground. He said that these are only 34" above the ground and, if they go in where the parking is, they would have to go 5' - 6' off the ground because if a car or SUV were to park next to them, you would not see the signs. He said that it is a difficult issue to make a sign that is double wide, although not impossible, but he has not thought of the solution if it is possible. He said that they understood the Board's concern about the height, but this is the biggest property in town and there are very few retail stores that are so far from the road and they have got to make it up somewhere in the signage to help the retailers out.

Mr. Roshto agreed and appreciated what Mr. Ricci was saying and noted that the Board granted two variances tonight. He did not think he was saying that the Board *wouldn't* grant a variance for this, he was saying that it seemed in his opinion to be an *excessive* request. He said that if the applicant can return with an alternative that is somewhat more in scale with what the residents are used to, he would appreciate it.

Mr. Ricci replied that they had 3 or 4 alternative plans that he felt the Board would like *less*. He noted that they, too, like them *less* and were working towards coming up with something that the Board would like.

Mr. Connor said that an alternative is two signs – one where the existing sign is located and the other at another location where it would be placed in such a way that they don't block one another.

In response to Mr. Ricci, Mr. O'Brien and Mr. Connor agreed that having multiple signs would require a variance.

Mr. Ricci replied that they would look into it as a possibility.

Mr. Bernstein said that it *may* require new notice.

Mr. Aroneo did not feel strongly about the need to reduce the height of the sign any great deal. He felt that it fits with the size of the lot and noted that it is already non-conforming. He said that the lot has already expanded quite a bit over the years. He said that the extra 6' is something that he could probably live with, but if the applicant can somehow shrink it down so that the rest of the Board is more comfortable with it, he would definitely be in favor of that. He also suggested that the applicant consider a more frequent rotation and less signs on the board – say from 12 signs to 10 signs with a more frequent rotation.

Mr. Connor assumed that there will be some anchor store signs that will remain.

Mr. Ricci replied that that was correct.

Looking at Mr. O'Brien's photos, Mr. Lemanowicz said that he was thinking that the peak on the top of the former Pathmark is supposed to be matching the peak over the existing ground sign which, dimensionally, he did think is much different in height than the Kings. However, he said that the Kings curve is much smoother and doesn't appear to be "jumping at you". He did not know if the Board wants to suggest that they mimic that gentle curve over the sign instead of the roof on the existing sign. He felt that it would reduce the visible mass if it was smoother.

Mr. Ricci replied that they could look at it, however they were trying not to change it much, even though the sign was becoming higher. They were trying to keep the look of the existing sign so it would not appear as a drastic change.

Mr. O'Brien said that the (existing) angle does give an appearance of height.

Mr. Cilino hoped that the Board keeps in mind the way the Township is going towards signage. He said that we want to maintain the integrity of the signage and like the sign. He felt that the suggestions of the changes with the arc is a good suggestion. He was in favor of the sign professional preparing a plan, or several different proposals to fit the applicant's needs, without going vertical or with something that will look obtrusive. At the risk of sounding redundant, he said that not every store needs a sign. He said that that is not paramount for the success of a store, although some people think it is, and asked the applicant to keep that in mind.

In response to Mr. Aroneo, Mr. Bernstein said that each application is unique. In this case, he said that the shopping center has attributes that other properties do not have. He felt that the testimony regarding setbacks was relevant and the fact that a lot of stores aren't visible from the road and at a difficult angle. He said that Sec. 40:55D-70c(1)c talks about a hardship or property difficulty based on the buildings on a site and it seemed to him that an argument could be made.

Mr. Aroneo added that the size and scale is something that we don't have throughout the rest of the town.

Mr. Bernstein agreed that it is not typical.

Mr. O'Brien added that the Sign Ordinance itself is unique to this Zone. He said that the B-3 Planned Shopping Zone has their own unique attributes of signs and what they are meeting here are those B-3 standards and not the standards that apply to the rest of the Township. The B-3 standards only apply to two properties in the Township and the subject property is the largest of them.

There being no further guidance to offer, Mr. Connor thanked the applicant and said that the Board looks forward to seeing him in two months.

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**DISCUSSION**

**DRAFT CONSERVATION ELEMENT**

In response to Mr. Connor, Mr. O'Brien said that the draft Conservation Element has not been distributed to the Board. He said that Mr. Roshto was kind enough to contribute his comments last week and they have been forwarded to the Environmental Commission for its review. He felt that it would be best to put it back on the agenda when the Board discusses agenda setting.

In response to Mr. Smargiassi, Mr. Roshto said that it was his expectation that what he had changed would be discussed tonight. He said that he forwarded it to Environmental Commission to see if they were interested in giving comment and, if so, we would discuss it – not that we were necessarily going to wait for them to provide feedback. He added that he did not receive feedback from the Environmental Commission.

Mr. Butterworth said that the Environmental Commission has not had a meeting yet and that they are scheduled to meet next week.

Mr. O'Brien apologized for the misunderstanding. He assumed that when Mr. Roshto had sent it over to him, they were waiting for the Environmental Commission to respond.

Before moving on, Mr. Roshto wanted to make sure that all of the Board members receive copies of the changes he had recommended. He also requested that it be placed on the agenda first at the earliest opportunity.

**DISCUSSION**

**BOARD PRIORITIES**

Mr. O'Brien said that the Status Report was revised and sent out to the Board members last week. Due to the lateness of the hour, rather than to go through the entire document he asked the Board members if they had any comments or changes they would like to see made to the document, then the Chair and Vice Chair, in consultation with other members of the Board, could set the agenda for the remaining meetings.

He referred to the bottom of Pg. 2 under "Valley Road Business District" which showed what occurred with the adoption of the Master Plan. He said that the adopted Element was sent out to the Board for any comments, revisions, or corrections and he received nothing up until now. He said that this week the final Resolution will be adopted and distributed and placed on the Township website.

He said that Pg. 3 contains an update on the Conservation Element.

At the top of Pg. 6 there is an update on the Transfer of Development Rights in the A.R. @ Millington presentation to the Board. Since this was written, a letter dated June 27, 2012 from A.R. @ Millington was received providing answers to a number of questions that were raised by the Board and issues raised.

Mr. Cilino said that he read through their letter and he didn't see any answers to anything. His observation was that it was a redundant third time around with the same responses that we have gotten from them. He said that there are no specifics addressing the levels. He said that questions were asked regarding what is the minimum number of units that could be put in place to be financially worthy for them and there was no response to that. He said that the further studies are needed on the 5 acre portion and this was the third time around that that question has been asked with the same response. He said that their response then went into 2 pages of COAH, affordable housing and the number of units and credits that we don't really need. He said that that was all he ascertained from their 4 page document and he was confused at their response.

Mr. Roshto wished to give an update from the Township Committee's perspective. He said that the Township Committee discussed this issue and had the Municipal Clerk send a letter to Advanced Realty informing them that they would like to have them come back to us with something more in scale that we could work from as a starting point and perhaps work up to as opposed to starting at the maximum and working down. He believed that the letter was sent to them this week and no response has yet been received.

Mr. Connor added that he was at a recent conference where they spoke about COAH and the proposed changes to it and, right now, the document is a "start new" document where all advanced credits and deficits are wiped out and everybody starts out from scratch at "zero".

In response to Mr. O'Brien, Mr. Roshto said that he would have a copy of the A.R. @ Millington letter forwarded to the Board.

Mr. Connor said that he would check with the attorney who made the presentation and see what he has in the way of documentation.

Mr. Roshto agreed that a lot of things are happening right now with COAH and that the Township Committee is discussing it at their level and any information will be helpful.

Mr. O'Brien said that all of the information is up in the air and it is a complete mess right now. Moving on, he said that on Pg. 8 there is an update on the Technical Review Committee. He said that he and Mrs. Wolfe attended a TRC meeting in Warren Township to watch and discuss their procedures. On that same page, he said that there is an update on Valley Rd. With the Element now adopted, he said that the next task for the Planning Board is to adopt ordinances that support the Master Plan that is in place now.

With regard to ordinance fees and escrows on Pg. 9, he said that that item was corrected by Mrs. Raimer.

In response to Mr. Connor, Dr. Rae said that the Zoning Board has appointed two members from the Board of Adjustment (Chris Collins and Mike Pesce).

Mr. Arentowicz said that they have a July meeting has been scheduled.

Dr. Rae added that all of the materials have been distributed for review by the members of the subcommittee.

Mr. O'Brien said that his report states that the Chair asked for a report by early September, however Mrs. Raimer has said that it was her understanding that the Chair indicated that he would like to *complete* the effort by September at some point.

Mr. Connor replied that, obviously, he would like to complete the work in September if possible. He said that we will get the report first and, if we are going to resolve it in September, we probably need to get the report in early September and resolution by the end (2<sup>nd</sup> week) in September.

Mr. O'Brien said that Pg. 10 contains a short update on COAH. He said that the most recent action on COAH here in the Township is that the Township Committee is meeting in special session on Thursday to consider an amendment to the spending plan which would allow the development fees that have been collected over the past 4 years to be spent on improvement to Lounsbery Meadows.

Mr. Aroneo said that that is already done and that money has already been allocated to the Lounsbery projects. He said that they are meeting Thursday because the Township Attorney advised the Township Committee that it should tighten up some of the language in one of the resolutions dealing with the COAH approval. He said that there is already an agreement in place, however it has not been executed. He said that the Township Committee authorized the Mayor to execute the agreement as late in the process as possible in case there is legislative or judicial action that would allow the money to be returned to the Trust Fund without going to those Lounsbery projects.

Mr. O'Brien said that an amended spending plan has got to be prepared and sent to COAH. He said that the Governor has taken action and vetoed that part of the budget that takes the development fees out of the budget, which means that they are now part of the budget. He has vetoed the legislation that gave a 4 year extension to development fees within the townships, so that is off the table, and he also vetoed a part of the budget that allowed towns to take their development fees and to allocate them to foreclosed homes or other homes that were in distress and purchase them. So, all of the affordable housing proposals that have been passed by the legislature in an attempt to keep the money in the towns, have been vetoed. At this point the budget in the State of New Jersey calls for the almost \$400,000,000. involved in fees to revert to the State.

In response to Mr. Connor, Mr. O'Brien said that the town must have something in writing by July 17, 2012.

On Pg. 11, he said that he added wording to the effect that Dr. Behr recently communicated his desire to present a draft of the Building Design/Architectural Standards to the Board in October 2012.

On the Priority List on Pg. 12, he said that he moved things around to make clear just exactly where they are currently. He said that the Work Calendar – 2012 brings us up to date now and lists all of the open items on the Status Report. He said that it is something that has to be gone through and, perhaps, the Chair and Vice Chair would like to take a crack at it.

Mr. Connor agreed that it is a status as of before this meeting and it will have to be changed to a status that includes September's meeting which will affect various things. He reminded of Mr. Roshto's suggestion that we somehow include the Conservation Element in September if we can, together with the schedule.

Mr. O'Brien said that it may be appropriate for the Board to have the Valley & Plainfield sign, and since both discussions took up the meeting this evening, perhaps you can assume that the sign will take up towards half the meeting and either do the Conservation Element at the first half, or the second half.

Mr. Connor said that, after everybody reviews Mr. Roshto's comments and we come pretty well prepared, we can hopefully set a goal that we are going to try to adopt this within an hour or less and then have the applicants come in slightly later. He said that we cannot take 2-3 hours on the Conservation Element and meet our schedule.

Mr. Roshto said that he met last week with Tom and Kevin Zilinski related to discussion of G.I.S. and how to update the Tax Maps or any of our various zoning related maps in our town to make them electronic. He said that he would like to continue those discussions and bring some of those people in town together to talk about how this might help the town, how we might start it, what types of grants we may be able to get, etc.

Mr. Aroneo asked if any of that is available through the County or the State already? He asked if we can piggyback onto another program or do we have to go on our own.

Mr. Roshto replied that the County has a very active G.I.S. system and have collected a lot of data. He said that the State also has a great deal of information and we might be able to piggyback off of them.

Mr. O'Brien said that the ANJEC Grant would be an additional opportunity for this because they do allow mapping of natural resources in various parts of the natural environment as well as zoning.

Mr. Lemanowicz said that there is not only an ANJEC Grant but also an NJDEP Grant we may be successful in getting. With regard to existing data, Morris County is probably one of the best ones and they give you a lot of background information that allows your dollar to go farther when you start adding things that you want that are unique to the Township.

Mr. Aroneo asked if it would be redundant or if we would pay for something that we already have.

Mr. Connor said that the discussion could continue but the meeting would need to be extended due to the lateness of the hour.

Mr. Roshto said that he would next like to bring Public Works together, the Environmental Commission, Open Space Commission – all of the groups that have some sort of interest in this and talk about these things.

Mr. Butterworth said that the reason he questioned it is because we have all of the sewer maps on there.

Mr. Roshto replied that he had already collected all the sewer maps and that it is all in one spot.

Mr. Connor felt that one of the advantages is that the software is probably more user friendly than some of the other software that we use and will probably be easier to modify without going through the more complicated software that the County provides.

Mr. Lemanowicz said that right now, with the GIS software, whatever you can tabulate, you can map – anything. Once these things are set up, it is not very expensive. Many of his clients have a budget every year and every year they add another layer with sanitary manholes or fire hydrants, for example. He said that it is not a major investment, mainly because Morris County has a lot of the base data already there.

Due to the lateness of the hour, the meeting adjourned at 11:04 P.M.

