

TUCKERTON LAND USE BOARD

Thursday, January 20, 2022 @7pm in Borough Hall

The following members were sworn in by the Board Attorney, Mr. Shinn, Esq.

- Mr. Morey
- Mr. Dupree
- Mr. McAndrew

Mayor Marshall called the Tuckerton Land Use Board meeting to order on Thursday, January 20, 2022 at 7pm at Borough Hall.

Open Public Meeting Act Statement

"Provisions of the Open Public Meeting Act have been complied with as notice was published in the Tuckerton Beacon and the Asbury Park Press stating the time, date and place of this meeting."

Flag Salute

Mayor Marshall led the salute of the flag.

Roll Call

The following members of the Tuckerton Land Use Board were in attendance: Mayor Marshall, Peter Gioello, Calvin Morey, Wayne Tonnesen, Keith Vreeland, James McAndrew, Mike Durpee, and Robert Rue. Don Rochesky was absent.

Reorganization

Chairman: Mr. Dupree makes a motion to nominate Mr. Morey as chairman of the Tuckerton Borough Land Use Board for 2022. Mr. McAndrew seconded. It was so moved.

Vice-Chairman: Mr. Morey motions to nominate Mr. Gioello as vice-chairman of the Tuckerton Borough Land Use Board for 2022. Mr. Dupree seconded. It was so moved.

RESOLUTION 2022 -- 01

**RESOLUTION OF THE MEMORIALIZATION OF THE BOROUGH OF
TUCKERTON LAND USE BOARD**

**RE: APPOINTMENT OF MARK ROHMEYER, P.E., CME, P.P OF THE
FIRM OF T&M ASSOCIATES, AS LAND USE BOARD ENGINEER AND
PROFESSIONAL PLANNER**

FROM JANUARY 1, 2022 TO DECEMBER 31, 2022

Mr. Vreeland moved, seconded by Mr. Dupree that Resolution 2022-01 be approved as read. It was so moved by unanimous consent of the Board.

RESOLUTION 2022 – 02
RESOLUTION OF THE MEMORIALIZATION OF THE BOROUGH OF
TUCKERTON LAND USE BOARD
APPOINTING ROBERT G. SHINN AND THE FIRM OF WOODLAND,
MC COY & SHINN, LLC AS LAND USE BOARD ATTORNEY
FROM JANUARY 1, 2022 TO DECEMBER 31, 2022

Mr. McAndrew moved, seconded by Mr. Vreeland that Resolution 2022-02 be approved as read. It was so moved by the unanimous consent of the Board.

RESOLUTION 2022 – 03
RESOLUTION OF THE MEMORIALIZATION OF THE BOROUGH OF
TUCKERTON LAND USE BOARD
RE: APPOINTMENT OF SAMANTHA HOLLBERG AS SECRETARY
FROM JANUARY 1, 2022 TO DECEMBER 31, 2022

Mr. Vreeland moved, seconded by Mr. McAndrew that Resolution 2022-03 be approved as read. It was so moved by unanimous consent of the Board.

RESOLUTION 2022 – 04
RESOLUTION OF THE MEMORIALIZATION OF THE BOROUGH OF
TUCKERTON LAND USE BOARD
ESTABLISHING MEETING DATES
FROM JANUARY 1, 2022 TO DECEMBER 31, 2022

Mr. Vreeland moved, seconded by Mr. McAndrew that Resolution 2022-04 be approved with the correction of the November meeting date to November 17th not the 10th. It was so moved by unanimous consent of the Board.

Approval of Minutes

Mayor Marshall motioned, seconded by Mr. Vreeland to accept the December 2021 Land Use Board meeting minutes. It was so moved. Greg Brojack and Mr. Rue abstained.

Invoices

WOODLAND, MC COY & SHINN - \$700.00

12/13/2021	69687	CORAZZA L20/B16	\$200.00
12/13/2021	69704	General Board Rep. Nov. 2021	\$100.00
01/06/2022	69841	General Board Rep. Dec. 2021	\$400.00

Mr. Dupree motioned, seconded by Mr. Vreeland that the invoices be paid due to the availability of funds. It was so moved by unanimous consent of the Board.

Correspondence

Waterfront Development application for 89 Curlew Drive was submitted to the state and a copy was sent to the Board for its files.

New Business

**Application: DOMINICK CORAZZA – PAPA D'S
 BLOCK 16 LOT 20 – 224 WEST MAIN STREET
 PRELIMINARY AND FINAL MAJOR SITE PLAN**

Mr. Shinn, Esq. introduced the applicant, Dominick Corazza, the address in question, 224 West Main Street, his attorney, Kevin Quinlan, and confirmed that they were here tonight for a use variance. He continued to stated that Mr. Vreeland, Mayor Marshall and Mr. Tonnesen may not participate as members in this hearing due to a conflict of interest.

Mayor Marshall and Mr. Vreeland left the room. Mr. Tonnesen stayed and participated as a member for the public.

Mr. Shinn makes it known that use variances require 5 affirmative votes to pass and there are 6 members able to vote at this time. Mr. Quinlan agreed that was okay with him and his client.

Mr. Quinlan introduced himself to the board. He stated that the Board will be hearing testimony from the Applicant, a professional planner, and a professional surveyor. He continues to describe what the plan consists of and why they need a variance. The property right now consists of a single family residence and the applicant is proposing to use the detached garage as a takeout food service business. He continues that if the garage and home were attached and it met the size requirements, they would not need to seek a use variance.

Mr. Quinlan calls his first witness. Dominick Corazza, 29 Ridge Road, Rutherford, New Jersey, 07070.

Mr. Corazza verifies that he is the applicant in question and owns the property on the application with his wife who is also in the courtroom. Mr. Quinlan verified that he has authorization to speak on behalf of both of them tonight. It was determined that the applicants have owned the property for a little over a year.

Mr. Corazza's original intention was to find a place in town for a food truck, but was advised against it by Mr. Quinlan. His new intentions are to keep the residential part of the property the same and turn the garage into a sandwich shop that will serve items such as sausage and peppers, cheesesteaks, hamburgers, and hot dogs. Mr. Corazza has no intentions on pursuing a liquor license. Furthermore the business is intended to be strictly takeout, no table service. There will be no servers or bus boys.

Mr. Quinlan confirms with Mr. Corazza that he plans to only have a cook and maybe 2 employees and that each guest is estimated to be there only 5-6 minutes each. He also intends to have a takeout window so people can just walk up grab their food and go. Mr. Corazza

explains that the counter shown in the plans is for someone who wants to eat their sandwich inside or when there is inclement weather, however there will be no servers waiting on them.

Mr. Quinlan stated that on the west side of the property shown on the plan there is gravel that goes over the property line. He confirmed with Mr. Corazza that the neighboring property owner has been in contact with him with some concerns about this. He continued to confirm that Mr. Corazza will be amending the plans tonight to add a fence along the property line as well as remove all the gravel off the neighbor's property.

Mr. Corazza stated that the hours of operation will be 7am-9pm but nothing later than that. Furthermore he does not intend to have any live bands or entertainment.

Mr. Corazza also confirms with Mr. Quinlan that he proposed a dumpster or private hall and discusses where it is located on his plans. This would be accessed after business hours.

Moreover, Mr. Corazza is proposing 2 signs for this business, one wall mounted and one free standing. It was pointed out that the applicant does not need any variance for these because he will be complying with all borough ordinances. He will also be compliant when it comes to any outdoor lights they may have however none have been proposed at this time.

At this time Mr. Quinlan asked if the Board has any questions for the applicant.

Mr. Dupree asked if this business will be a year-round operation or seasonal. Mr. Corazza stated that he intends for this to be a seasonal operation with the last day being around the last day in October and re-opening in the Springtime.

Mr. Dupree also asked if he plans on having any tables inside. Mr. Corazza stated that there will be no tables but there will be 5 chairs at the counter in case of inclement weather.

Mr. Rue wanted to confirm the hours of operation and when he would be receiving deliveries. Mr. Corazza confirmed that the hours of operation will be 7am-9pm and him and Mr. Quinlan confirmed that deliveries will probably take place later in the day during business hours by a box truck. They do not intend on having any tractor trailers bring deliveries.

Mr. Dupree asked about something that resembled a box on the plans. It was determined by the surveyor that they were pavers and he is not intending to building any additions onto the garage.

Mr. Dupree also asked about the utilities going to the garage. Mr. Corazza stated that he has already separated the electric and gas lines and he will be filing for the sewer line as well. The electric will be single phase.

Mr. McAndrew asked the applicant what his plan is for the traffic on Rt 9. Mr. Corazza stated that the property actually has 2 egresses so people can come in through Rt 9 and out on the other side of property so there is no back up on the road. Mr. McAndrew also asked if there are any restrictions with the Department of Transportation. Mr. Quinlan stated that he will get into this with the Planner.

Mark Rohmeyer, the Board Engineer, asked if Mr. Corazza has made any improvements or has any plans to beautify it since he bought the property. Mr. Corazza stated that he brought some gravel to level the property as well as painted the structure and the roof of the garage.

Mr. Rohmeyer also asked if he believes this would be an improvement to the neighborhood and a good fit for the area. Mr. Corazza stated he thinks so and that it will be an enjoyable time for everybody.

Mr. Dupree wanted to confirm that the applicant is not planning on enlarging the footprint at all. Mr. Corazza agreed.

Mr. McAndrew wants to know if there will be any use between the residents of the house and the sandwich shop, in other words will the people working at the sandwich shop be living in the house? Mr. Quinlan stated that that was a discussion with the applicant and he does plan on renting the house out to one of the employees however they are asking the Board not to limit the use to that in case he ever wants to sell it.

Mr. Rue stated that the house seemed pretty big, could a whole family live in there and also wanted to clarify where the residents would park. Mr. Corazza stated that the house wasn't that big, only 2 bedrooms and they will park on the premise. Mr. Quinlan stated that he will get into the parking situation more with the Planner.

Seeing no further questions, Mr. Quinlan called up his next witness after letting the Board know that the applicant will still be here if needed.

Mr. Shinn stated that he is marking all the paperwork as exhibits.

A1: the application

A2: the Surveyor

A3: the Engineer and the Site Plan

A4: the notices

Mr. Quinlan proceed to call his second witness. Giovanni Manilio, 62 Grove Street, Summerville, New Jersey, 08876.

It was determined that Mr. Manilio has never testified in front of this Board before, however he has testified at other Board hearings approximately 30-40 times. He also is licensed in the state of New Jersey, New York, and Pennsylvania as an Engineer. For these reasons he was recognized as an expert witness by the Land Use Board.

Mr. Quinlan confirmed with Mr. Manilio that he prepared exhibit A3, the site plan. Mr. Manilio agreed and explain what the plans depicted. He continued that just like the applicant stated, the garage will be converted into a restaurant space. The area totaling 538 square feet.

Furthermore, in order to use the garage as intended, they wanted to utilize some parking spaces for the residents and patrons to park. The Borough ordinance states that the requirement for parking would be 12 spaces for the 538 sq. foot building. He explains that this

is calculated by 1 every 50 sq. feet of the building plus 1 for every 4 seats in the restaurant. Moreover RSIS govern that there needs to be 1.5 parking spaces for a 2 bedroom house. In total the applicant will need 14 parking spaces. Mr. Manilio points out that the site plan shows 7 spaces because that is really all that you would be able to fit without stacking spaces or designating parking spaces. He continued that Mr. Quinlan testified earlier that he believes we should be able to fit 10 spaces on site if we were to stack an additional 3 spaces to the south of the 4 parking spaces there are now where the dumpster is and shift the dumpster closer to the property line closer to the east. We would probably designate those 3 spaces for employees because they are not leaving the property as often during the day. By doing this it will bring us closer to the required 14 parking spaces. Additionally, the thought process is that the residential and customer parking hours are scattered, they would not usually be using the spaces at the same time. Mr. Manilio also stated that they also looked at the ITE which generates their own parking manual and they go around and survey similar uses around the country and come up with a parking count. Moreover there parking requirements for a fast food restaurant are actually less than what the Borough ordinance calls for. The intended use of the garage would be classified as a fast food restaurant without a drive thru. The ITE calls for 16 spaces for every 1000 sq. feet. He reiterated that if we were going off of parking data done around the country, the property would require less spots than the ordinance.

Mr. Manilio also added the refuse enclosure and 1 ADA parking space that will be on a concrete pad and comply with all slope requirements and access into the building. They also added a free standing sign closer to the entrance.

Mr. Manilio clarified for the Board members that the intent for the parking lot is that the driveway to the west will be the egress into the site and traffic will follow it around to the exit on the east side.

Mr. Dupree asked if he feels there is enough space for a garbage truck to access the site without doing a k-turn. Mr. Manilio agrees stating that the site is big enough for circulation. Continually, the isle width behind the dwelling near the deck to the parking spaces is roughly 34 feet and the ordinance only requires 24 feet for maneuverability. Mr. Quinlan added that there is actually enough room to add more parking spaces, however it was determined to use that room for more maneuverability instead.

Mr. Manilio notes that there is one pre-existing non-conformity with the driveway width to the east side. The ordinance requires a 24 foot width along parking which is compliant also along drive isles the requirement is 12 feet for a 1 way and 18 feet for a 2 way circulation. The site plans shows about 19.7 feet on the west which will be compliant and 10.4 feet on the east, which is pre-existing but still plenty wide enough for a car to get through.

Mr. Quinlan asked that because the entrances on Route 9 are pre-existing that a letter of no interest from the Department of Transportation is required. Mr. Manilio agreed and stated that he did the calculations and believes none of this work would trigger a DOT permit and the driveways would be grandfathered in because they were created before 1992.

Mr. Manilio also testified that he believes there are no obstructions coming out of the driveway that would put cars at risk of not getting out in a safe manner.

Mr. Quinlan asked about the several waivers the applicant asked for, including the environmental impact statement. Mr. Manilio explains that this is correct and the applicant is not posing any increase in impervious or improvements besides designating parking spaces and a refuse area.

Mr. Quinlan also asked about the waiver for the landscaping requirements. Mr. Manilio wanted to clarify that landscaping can mean something different to everyone. To him it meant anything that is open space, so anything not impervious or gravel. So when he did the calculation there was only 14.4% which would comply with landscape area, however if someone were to take landscaping as bushes and shrubs, the applicant would not comply with the requirements.

Mr. Quinlan explained that the reason the applicant is asking for a waiver for the front building is because it has not change and they do not intend on changing it besides painting it. Mr. Manilio agreed.

Mr. McAndrew wanted to clarify that the front building meant the house and wanted to know if they put a deck on recently. Mr. Corazza stated that the deck has been there since he bought the property. Mr. McAndrew continued and asked if he believes the deck will influence customers to go sit on the deck and eat their food. Mr. Corazza stated that they do not plan on putting any tables on the deck for people to sit at. Mr. Quinlan confirmed that the deck will not be used for commercial use, it is strictly residential. He offered that if the Board would be comfortable, the applicant is more than willing to put a sign on the deck stating "private property".

Mr. Quinlan asked how the parking spaces will be clearly marked. Mr. Manilio stated that if the Board would like the parking spots can be striped yearly because it is gravel and the paint will wear. He gave the example of Doyle's right across the street that has no delineation between their spots and it seems to work out for them as well, and was hoping that the same would apply to this property.

Mr. Quinlan continued and stated that another waiver the applicant applied for was that no driveway be located less than 5 feet from the side property line or within 30 feet of an existing driveway of the same property, whichever is greater. Mr. Manilio clarified that we complied with this because it is pre-existing, the driveway is less than 5 feet from the property line. We are not proposing to change this, however will be taking some of the gravel away that is encroaching on the neighbors to the west of the property.

Mr. Quinlan asked more about some of the pre-existing non-conformities to this property, such as the frontage is supposed to be at least 75 feet from the property line and only resides at 73.75 feet. Mr. Manilio agreed that this is correct and will not be changing. Mr. Quinlan also discussed the general floor area of the residential structure that has a requirements of 100 square feet, however it is currently at 769 square feet that is existing. Mr. Manilio clarifies that the first floor of residential structures must be 1000 square feet and the pre-existing structure is only at 769 square feet. Mr. Quinlan continued that the front yard setback has a requirement of 10 feet, and the pre-existing structure only set at 4.5 feet and we will not be changing that. Mr. Manilio agrees. Mr. McAndrew wanted to clarify that all these pre-existing non-conformities are for the residential building. Mr. Quinlan and Mr. Manilio confirmed and agreed with Mr. Quinlan that all the other aspects are in compliance and do not need any other variances.

Mr. Rue asked the applicant if he plans to store any boats, trailer, cars, etc. on the property. Mr. Corazza stated that he does not plan to store any of these things.

Mr. Rohmeyer asked Mr. Manilio in regards to the waiver for the parking spaces, if he believes there are adequate parking spaces for the use being proposed. Mr. Manilio agreed and stated that he does think there is adequate parking spaces, however there is room if needed to add a couple more.

Mr. McAndrew wanted to clarify that the tables in the garage do not need designated parking spots because customers will not be dining in the restaurant, more so just waiting for their food, no one will be served. Mr. Manilio confirmed that there will be no table service. There will be no menu for them to look at and order from.

Mr. Shinn wanted to clarify if there were tables in the restaurants or stools. Mr. Manilio stated that there are 5 stools at the counter for people to wait for their food or have a quick bite.

Mr. Rohmeyer also requested that the parking spaces be clearly marked. He suggested to the board and the applicant maybe using concrete wheel stops rather than spray painting the spots, however it is up to the board's discretion. Mr. Quinlan clarified that it might be hard for wheel stops in some of the places because it is parallel parking, however they would be more than happy to do them in front of the dumpster to keep the cars neat. Mr. Manilio believed that putting wheel stops in front of the dumpster might make them hard to get to, however he believes doing a combination of both is a good idea.

Mr. Rohmeyer offered that putting 2 parking spots near the dumpster may make it difficult for the trash trucks to get to, and suggested stacking 2 rows of spaces and putting the dumpster on the side, but this is all things that we can work out as a condition of approval.

Mr. Manilio elaborated on the fence that was agreed upon between the applicant and his neighbor to the west of the property. The way the fence will work is putting a 6 foot tall solid fence from the rear property line to the last parking space and then from that space to the front of the house, the fence will be tapered down to 4 feet of solid fence. Additionally, the fence will be 6 inches off the property line. Mr. McAndrew stated that these are all requirements of fences in the Borough Code. Mr. Manilio agreed and stated that they will comply.

Mr. Shinn and Mr. Rohmeyer clarified that the neighbor's property in question is Block 16 Lot 19.

Mr. Morey offered that they paint the parking spaces on the fence they are building. Mr. Manilio stated that they can do that as well.

Mr. Rue asked if the installation of the fence will push the parking spaces further into the driveway. Mr. Manilio stated that it will push them in a little but the driveway will still be compliant.

The Board also wanted clarification on what the 24 feet was marking on the paper work. Mr. Manilio stated that the way he interpreted the ordinance was that there needed to be 24 feet after parking spaces to back out of a k-turn, however because the applicant is purposing parallel parking, he did not believe it pertained to this instance. Mr. Rohmeyer agreed with this.

Mr. Manilio stated he does not know for sure, however he thinks that the residents will park on the parallel parking side to the west by the fence. They will be designating specific spots for the residents however.

Mr. Dupree asked if they have made any plans for drainage of water runoff. He stated that the elevation of Mr. Corazza's property is a little higher than Block 16 Lot 19 and he believes that there will be runoff into that person's lot. Mr. Quinlan stated that they are not changing anything about the lot, such as impervious coverage. Mr. Dupree stated that there is going to be more traffic that leaks certain fluids coming in and out of the property and believes there should be something to alleviate it from going into the neighbor's property. He continues that he does not see an elevation for the neighbor on the east side but he did notice the one on the west side. His concern is that there will be runoff from vehicles to either property and if it were residential it would not be a problem but because there will be different types of vehicles coming in and out. He wants to know if there was any thought given to this. Mr. Manilio stated that the property will be staying the same pre-existing condition with the gravel. He recognizes that there will be more traffic on the property however he believes there will be very little runoff coming off the site because 1.) its gravel and 2.) there is very good soils in this area that will help with infiltration into the ground that acts as a natural filter. He also reiterates that they are not adding any impervious covers so there should not be an increase in runoff. Mr. Quinlan stated that down the road if there was an issue that a neighbor had a problem with, they would be able to bring it up to be addressed.

Mr. Dupree also wanted to clarify what the applicant meant when he stated that people could pull up to get their food. Mr. Quinlan stated that he meant that people can walk up to a window, however there will be no drive thru.

Mr. Rohmeyer asked if they have reached out to the local fire department for their input. Mr. Quinlan stated that they have not reach out to them at this time. Mr. Rohmeyer asked if there could get a letter from them as a condition of approval. They agreed.

Seeing there were no further questions from the Board for this witness, Mr. Quinlan called up his 3rd witness, the plaintiff at this time. Joesph Vince from Schwanewede & Hals Engineering, 9 Post Road St. 11, Oakland, New Jersey, 07436.

Mr. Quinlan asks Mr. Vince what his credentials are. Mr. Vince stated that he is a licensed engineer, land surveyor, and planner in the state of New Jersey. He has testified at Land Use Board meetings two to three times a week. Mr. Rohmeyer confirms that he is allowed to be an expert witness from his experience.

Mr. Vince prepared a couple exhibits that he passed around to the Board.

Exhibit will be marked as...

A5: 1st group of pictures Mr. Vince handed out (similar to pictures earlier presented)

A6: Pictures of the property from various angles from Google Earth

Mr. Vince stated that he visited the site earlier in the day and agreed that the pictures area a good depiction of the property.

Mr. Vince continued to say that this is a fully conforming lot in terms of area. He stated that the property is more than double the allowable area in that zone which is 5000 square feet and this

particular lot is 11,500 square feet. The lot is fully conforming except for the frontage which happened because the lot is irregularly shaped that almost looks like a pie so it is wider in the back. Even still it is only short by a foot and half which he believes will be de minimis. He reiterated that there is a single family dwelling and detached garage on the property. There are two nonconformities with the house 1.) the front yard setback and 2.) the minimum floor area that is required for the zone, which the house is a little under. The Zone is the B1 zoned commercial and professional office zone. There is a vacant property to the east and all the other properties are dwellings. He stated that Doyle's Pour House is 2 lots down on the east. Restaurants and food establishments are allowed in the zone as well as single family dwellings, so both of the uses are allowed in this zone. The reason the applicant is looking for a use variance is because the uses are supposed to be in the same structure and we are proposing two separate structures.

Mr. Vince states that this property is particularly suited to this proposed use because of the oversized lot and its location on Route 9. According to DOT accounts taken in 2012 there are about 14,750 trips on this property. He believes that using this property as just a single family dwelling is underutilizing the property at best, in terms of its potential.

Continually, Mr. Vince believes that it would not be appropriate to put the food establishment in the single family dwelling because it is 2 to 3 feet off the ground so to put a commercial use in that building would cause many ADA issues. He also stated that the location and set up of it would not be ideal for a restaurant. If they were to try to put a restaurant in the single family dwelling they would have to demolish or undergo substantial renovations to the property which would not make sense and the garage would be way more conducive to a restaurant set up. The garage is more than double the distance from the rear of the property so it is in a conforming location for a principal use.

Mr. Vince stated that after looking at Tuckerton's Master Plan, he knows that revitalizing the Route 9 corridor is important in terms of economic growth as well as preserving the existing historic character of the home. If the Board looks at the photographs, they will see the existing structure and where the garage will be in reference to it. He stated that the houses are very similar in the surrounding area and believes that what is being proposed which is a mixed use is not only permitted here but also preserves the look of the neighborhood.

He stated that because the parking is in the rear, you won't see it as much as you would with other commercial uses.

Mr. Vince reiterates that this mixed use proposal would be very appropriate because it will promote economic growth and will also preserve the existing look of the neighborhood.

He believes that although the applicant is intending to be open from 7am-9pm, they will mostly be catering to the lunch crowd. Contractors and employees that are driving up and down route 9 to get to and from work. He believes that all these reasons satisfies the suitability portion of the B1 zone use variance.

As far as the positive criteria, Mr. Vince believes that this proposal advances many of the goals of the Municipal Land Use Law. Particularly to "encourage municipal action to guide the

appropriate use and development of all land in the State, in a manner that will promote the public health, safety, morals, and general welfare;" because this project meets several goals outlined in your master plan and the uses are permitted in this zone. He continued to state that this project also will "provide adequate light, air and open space;" because the building is in a fully conforming location that they will not be changing. Mr. Vince went on to say that they are "ensuring that individual municipal development does not conflict with the development of neighboring municipalities;" because even though Tuckerton is surrounded by Little Egg Harbor it should not affect them. Mr. Vince continued to stated "To Provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses," again, he believes that this is very appropriate for the zone, keeping it just a single family dwelling underutilizes all the space the property has. He also states that they are "promoting a desirable visual environment through creative development techniques and good civic design and arrangement;" the commercial use will be to the rear of the property and the parking spaces will not be along the street so you will still see the house, maintaining the historic feel.

As far as the negative criteria, he believes that the proposal does not have any substantial impairment on the master plan. In fact Mr. Vince believes the opposite is true and it promotes many goals in the land use section, economic section, and circulation, parking and transportation section. So many goals are being advance by this proposal. As far as the substantial detriment on the zone ordinance, he does not see any because it is a permitted use. Continually as far as the substantial detriment on the public good, he also does not see anything because the structure already exists and they have talked to the neighbor to ease their concern by putting up a fence along the property line. The visibility from the street will still look like a residential property and the site is double the allotted space off the property line which is important to note.

Mr. Vince agrees with Mr. Manilio on the parking layout and its functionality and should be considered as a part of the use variance and waiver.

Mr. McAndrew asked a question about the current state of the garage, because right now it looks nothing like a restaurant. Mr. Vince stated that the whole front façade is planned to change. He explains that they will be adding a modest ground sign which will delineate where Papa D's is. Then when you go around to the back, the plan is to remove the garage doors so it does not look like a garage. Furthermore there will be a wall mounted sign to show people where to go as well as a walk up window that customers can use as well as a door to get in.

Mr. Gioello asked that if they are opening at 7am, will they be serving any sort of breakfast sandwiches. Mr. Corazza stated that yes, they will be serving breakfast. He believes it would help out the contractors passing thru that are up early and need rapid service.

Mr. Rohmeyer stated that he agrees with the planning testimony provided and believes that what is being proposed meets many goals of the master plan and they are only here tonight because the ordinances says you cannot have two separate principal uses but overall they meet the commercial use intent of the master plan.

Mr. Dupree stated that there are 3 different issues they are dealing with. 1.) the mixed use 2.) the width of the driveway on the east side and 3.) the parking spots. Mr. Rohmeyer agreed and stated that he does not believe the drive isle will be an issue because there is going to be one way traffic so they do not need the turning room. He continued to state that he believes the other waivers are appropriate.

Mr. Quinlan states that these witnesses will conclude their presentation. Mr. Shinn told the Board that they may open the floor to the public at this time.

Mr. McAndrew motioned, seconded my Mr. Dupree that the floor be open to the public it was so moved by roll call vote.

Terry Brady Esq. from Brady & Kunz, Toms River wished everyone a happy and safe New Year. Continually, he is representing Amanda Mower, one of the property owners from the neighboring property.

Mr. Brady confirmed that there was a discussion about putting up a fence between the properties and the agreement was that the best buffer between property lines would be the 6ft high fence tapering down to 4ft near the front of the house.

He stated that one of the issues about putting the fence up 6 inches off the property line is there are 2 surveys that have different courses. They spoke with the surveyor of the applicant and one survey has a course of South 21 degrees and the other South 18 degrees. He continued that they were told that when you look at them they are the same, they are just different because they were done by different surveyors. Mr. Brady stated that he just wanted to make sure that when putting up the fence 6 inches off the property line they use the most restrictive of the two. He stated that he has provided this language to the chief of the Board of Council, and the applicants attorney so that if the board does accept the application this language will find its way into the resolution.

Mr. Brady stated that there are concrete markers that they asked to be used to establish what the western property line is to be sure. He stated that you cannot be too careful. Moreover when you look at the plans you already see a little migration over the property line. Beyond that, he would just like the Board to use discretion in regards to the other issues that were raised here.

Mr. Rohmeyer wanted to clarify that Mr. Brady's client is on Block 16 Lot 19. Mr. Brady agreed and Mr. Shinn reiterated that this is the neighbor that has an agreement with the applicant to put up a fence as well as remove some gravel from their property. Mr. Shinn stated that if the Board is so inclined, he will put in the resolution that the fence must be 6 inches off the property line as agreed to between the attorneys.

Mr. Brady stated that the sweeping of the gravel back onto the applicants property is not a huge concern for her, the important point is to make sure that if the application is approved there is no migration of the fence.

Mr. Morey asked if they are looking to use the pre-existing markers to indicate where to put the fence. Mr. Brady stated that that was correct and he has given the survey with these pins to

the applicants attorney as well. He continued to state that the applicant's survey and his client's survey may be the same, however because there are no pins in the applicant's survey, it is impossible for an attorney to find out.

Mr. Quinlan stated that he can call his expert up to clear up the discrepancy.

Mr. Manilio stated that he is a land surveyor, however he did not prepare this survey. However when this was brought to his attention he looked into it and believes there is just a different north orientation, however it is the same survey and he does not believe there is a discrepancy. He continues that the applicant's survey does not show that the corners were found, whereas the neighbor's survey does have the corners plotted out. We would have to find and contact the original surveyor to see if they were there. If they are still there, as long as they are reasonably correct, we could rely upon them. He believes that the two parties should be able to settle it themselves. However, he does reiterate that based on his quick review he did not see a discrepancy.

Mr. McAndrew wanted to clarify what side of the property the fence would be on. It was confirmed that the fence will separate the applicant's property from the property to the left of him. Mr. McAndrew just wanted to make sure if there were any county requirements. Mr. Manilio stated that what happens with neighbor property disputes, is different surveyors use different norths when mapping out a property, which defines the orientation of the plan. So even if the two surveys are oriented differently, it's just a matter of twisting them and lining them up to make them the same orientation and it will show you an accurate comparison, which he believes are the same.

Mr. Rue wanted to clarify if what Mr. Brady was asking was that even if there is a difference in surveys, to use the most restrictive one when building the fence and the property line. Mr. Brady stated that that is correct and he believes the markers will really be the key, although whichever one it ends up being the most restrictive/narrow with the subject is the one they would like to use for the fence. This way if we find out later on that there was a mistake we are not on the wrong side of the fence.

Mr. Rohmeyer asked if they know about how off the lines might be. The applicant's surveyor stated that he does not believe the lines are off, however the only thing they can actually verify is that Lakewood Survey, the company that created the survey, was unable to find the pins on the property, so they do not know what evidence they have. As far as the angles themselves, he does not believe the surveys disagree. Mr. Rohmeyer would like to have this information provided as a condition of approval to clarify the survey. Mr. Manilio stated that we will have to reach out to who created the survey and see if they found the pins. Mr. Rohmeyer continued that maybe they can go out and clarify that. Mr. Manilio stated that if they cannot find the markers the applicant may have to have them reset, which he would have to do anyway if he is putting a fence up.

Mr. Brady finished by stating that the biggest issue his client had was about the property line, however the other issues that were raised such as the parking and the drainage, that is the

boards discretion. The reason that he is here tonight is to make sure that there is a buffer and it is in the right place. He also believes that the markers are there and they will find them.

William Tonnesen, 227 West Main Street, Tuckerton, New Jersey 08087, stated that after listening to the testimonies he wanted to bring up a few things. First, he has lived in this town since 1986 and this is the best the property in question has looked since he has moved here. He explained that the property used to be owned by Mr. And Mrs. Bird, who passed away and was bought by another person who used it as an illegal car dealership, which was a nightmare. He is glad to see that that is gone.

As far as the 75 foot frontage, Mr. Tonnesen dares anyone to find a residential area in Tuckerton, that is 75 feet wide. When they approved the master plan they came up with the 75 feet and not sure why they did not exempt the lots that have been there since the 1800s.

Mr. Tonnesen would also like to commend Mr. Corazza on keeping the property almost as is in that area, because almost all the houses that had character are pretty much gone. Whereas all Mr. Corazza did was refresh the property.

As far as the survey, one of the reasons they may not have been able to find a pin in the back was because there was so much junk dumped in the back corner from previous owners. He continued to stated that there was so much metal back there, that even if you used a metal detector, you still may not have been able to find it!

Mr. Tonnesen also stated that because there is counter service, the building would be required to have less parking. He wanted to clarify that the parking situation was sufficient for what they were asking. Mr. Rohmeyer stated that they agreed.

Mr. Tonnesen stated that if this was real court it would probably be hearsay, however he asked if he could express that him and all his neighbors support this. Mr. Shinn stated that as long as no one objects and the Board does not have a concern. Mr. Tonnesen continues that all the neighbors are very pleased at what they see over there and hope it goes through.

Philip Flannery, 12 Ramapo Road, Little Egg Harbor, New Jersey 08087, states that he has known Mr. Corazza a short period of time, but he knows that he does things right and this is going to be a good place. He believes that Little Egg and Tuckerton need a good little Italian place. We spent 30 years in Galloway and we had the casinos, but we need a good Italian place and I cannot wait to try his sausage and peppers. He is a standup guy, and what he says he will do. He continues to stated that this will be a good place for the town.

Seeing no more comments from the public Mr. McAndrew moved, seconded by Mr. Dupree that the public hearing section of the application be closed. It was so moved by roll call vote.

Mr. Quinlan stated that he does not have anything to add, he feels he would just be repeating himself. He finished by respectfully asking if the board would grant all the requested variances.

Mr. Shinn stated that the Board has a use variance, a few hardship variances for pre-existing conditions, and some waivers requested. He continued that normally they would do the use variance first and then do the hardship and other variances, however because they are all part

of one parcel they can do it with one motion. The Board needs five affirmative votes out of the six members that are voting to carry. He stated that there are a lot of conditions that if it gets approved he and Mr. Rohmeyer will review that will get put into a resolution, with respect to the fence, surveys, fire company, and maybe the Land Marks commission. Either way they do need outside approvals that they have acknowledged and are aware that they need.

Mr. Dupree motioned to accepted the application and variances requested as long as they straighten out the issue Mr. Brady brought up about the pins on the property. Mr. Gioello seconded the motion. It was approved my unanimous roll call vote.

Mr. Shinn determined that the application carries.

Mr. McAndrew stated that the resolution must be very detailed. Mr. Shinn agreed and stated that once he gets the minutes from Ms. Hollberg, he will start working on it to make sure its detailed.

Old Business

None at this time

Informal Discussion

Mr. Tonnesen wanted to bring up something on the B1 variance. He believes that this was mostly meant for the center of the town and for some reason they extended it all the way down until his property. Whereas B2 is highway commercial and if it had been highway commercial it would have been one less variance they would have needed.

Mr. Dupree agreed and stated that the wording "village" also must be straightened out at some point in time.

Mr. McAndrew stated that he also believes that the historic district needs to be revised.

Mr. Rohmeyer stated that the Master Plan was lasted reexamined in 2017 and its required to be updated every 10 years, however they can try and do it earlier to address some of these concerns.

Mr. Tonnesen stated that his biggest concern is that all the residential lots are different sizes and when they did the master plan they did not take into consideration these preexisting conditions.

Mr. Morey stated that when he was on the Planning Board, they tried to look at the municipalities surrounding Tuckerton and come up with a standard. If lots were combined they would use that standard, however if they were preexisting, they would be exempt and that's why it was worded that way.

Mr. Tonnesen continued that when he went to put the addition on the back of his house, he was told he was no allowed to because of the size of the lot, however then he was told that his house was a preexisting nonconformity and as long as he did not enlarge the nonconformity, he was allowed to do it and it saved him a trip in front of the board. He also stated that the lot next to him was depicted incorrectly on the tax map.

Mr. Gioello asked if the Board if they should look into updating it now, because it is fresh in our mind now and then we can keep updating it as we go along. Mr. Shinn stated that it is very difficult to do the Master Plan, he stated that the Board could recommend some zoning changes.

He believes the point is that most of the time if an applicant comes before the Board with a preexisting condition, the Board is very liberal when it comes to waivers. Mr. Tonnesen asked if there is something they can put in for preexisting conditions that make them exempt.

Mr. Roymeyer and Mr. Shinn stated that it would be a grandfather clause in the ordinance. And he believes there may already be a grandfather ordinance in place. This is more for when they are subdividing properties that everything is in order.

Mr. Dupree asked that if the Board wants to revamp the Master Plan, would they have to budget for it? Mr. Shinn stated that yes, it is a very big expense and is very involved. Moreover we also try to work with Little Egg because they are on 3 sides of us and usually we try and do our plan when they do theirs.

Mr. Dupree states that maybe this is something Council should address. Mr. McAndrew stated that if it's going to be in the budget that would be administrative and not sure when it will be able to be done. However if we cannot do it right away, the Board should keep notes on all their recommendations for when that times comes. Mr. Dupree stated that one way or another they will have to address it in the next 6 years.

Mrs. Gleghorn stated that the Master Plan is usually budgeted every 10 years because like it was said it is a sizeable amount and it is very involved. She continued that if the Board were to do a zoning ordinance now, the Borough would have to advertise it which is another expense to them on top of the Master Plan.

Mr. Dupree asks if Mr. Rohmeyer is involved with the Master Plan process, he stated that he is as a planner. They asked Mr. Rohmeyer to start making a list of things the Board wants in the plan. Mr. Rohmeyer explained that the Master Plan is supposed to be the general vision of the town and the ordinance goes into more detail about what to follow. He continued that it may be easier to make recommendations to the council to change the ordinances rather than taking the Master Plan reexamination out. He believes that will be quicker and less money.

Mr. Dupree asked if these ordinances include the zoning for B1 and B2. Mr. Rohmeyer stated that the Land Use Board could make a recommendation to Council to consider a change like that. Mr. Dupree asked if they could change the area of the zone or would that have to be done through the Master Plan. Mr. Shinn stated that the Master Plan is a concept and the ordinances are supposed to follow that concept. For example, the Master Plan says that it encourages fishing and everything Tuckerton is known for, and it's a framework for us to do the zoning. Mr. Shinn stated that the Board is talking about a lot of changes to the zoning and he believes that they should handle it on a case by case basis. He continues to state that this is the first time something like this has come up in a long time. He does not want all the zoning in the town to change because of one unique case.

Mr. McAndrew stated that in this case there are a lot of other department involves to make sure that the use variance is used in the right way. He commends the applicant on how well he cleaned the place up.

Mr. Rohmeyer stated that every year the Board will do a year-end review of all the applications, and if there is a commonality in a lot of them, then maybe the Board brings a recommendation forward to Council.

Public Forum

Mr. Shinn stated that this will be an informal public hearing.

John Edmunds, representative for Center Street, states that he has been to many council meetings in the pass. He states that anything on Block 16 that comes up, he stays on top of.

He commends Mr. Dupree for keeping contaminates out of Mr. Morey's front yard. He continues to state that Mr. Corazza's property is the lowest point and he lives right next to them. So he is interested in this project and anything that happens on this Block.

He states that this is what he is known for between Tuckerton, Little Egg and the County.

Mr. Morey stated that when he built his house there was a streaming flowing along his property line.

Mr. Edmunds stated that that is why anything on this block he makes himself available because the flood in 2014 was awful and the Rosano's never recovered and the property next to the garden center in Litte Egg is zoned to be cleared cut.

The Board thanks him for coming to the meeting.

Mr. McAndrew asked him how the speed limit is going. Mr. Edmunds stated that they have their signs and they are helping and the police are enforcing it.

Mr. Morey stated that Center street is a county road and if they do not do anything, the speed limit will be reduced by potholes. Mr. Edmunds stated that they were in contact with the DOT today on many issues. Specifically, he stated that they are redesigning the end of center street to get the trucks off first that needs DOT approval. He states that the police are certified to stop trucks and weigh them to make sure they meet the weight limit, however no municipality can afford those scales. That's why the state police have a separate department that does that.

Adjournment

Mr. Gioello made a motion, seconded by Mr. Dupree to adjourn. It was so moved by unanimous consent of the Board. The meeting was adjourned at 8:40pm.

Sincerely,
Samantha Hollberg
Tuckerton Land Use Board Secretary