

**TOWNSHIP OF PEQUANNOCK
BOARD OF ADJUSTMENT**

July 7, 2011

REGULAR MEETING

Meeting Convened: 7:38 PM

Members Present: Bruno, Dolengo, Hebert, Herforth
Imfeld, Melleno and Way. Also
present Anthony Wahl, Board
Attorney and Jill Hartmann,
Township Planner.

Members Absent: Cielusniak

Notice: Chairman Bruno stated that the
Sunshine Law had been complied
with by posting the notice of date,
time and proposed meeting on the
bulletin board of the Municipal
Building on June 30, 2011 and
sending it to the six area newspapers,
including the legal paper on June 30,
2011.

MINUTES:

June 2, 2011
Motion by Dolengo, second by
Herforth to approve the minutes as
amended. All in favor. **Motion
Carried.**

Mr. Melleno stood in as a full time voting member.

RESOLUTION:

Arthur/Banks, 8 Poplar Avenue, Block 1904, Lot 7

Motion by Way, second by Hebert to memorialize the resolution as amended. In favor:
Dolengo, Hebert, Herforth, Imfeld, Way and Bruno. **Motion Carried.**

Board of Adjustment
August 7, 2011

All Service Equipment, 770 Route 23, Block 902, Lot 5

Motion by Imfeld, second by Herforth to memorialize the resolution as submitted. In favor: Dolengo, Hebert, Herforth, Imfeld, Way and Bruno. Motion Carried.

T-Mobile Northeast, 30 Hillview Road, Block 4201, Lots 1 & 2

Motion by Dolengo, second by Bruno to memorialize the resolution as submitted denying the previously approved resolution for reconsideration. In favor: Dolengo, Hebert, Herforth, Bruno. No, Way. Motion Carried.

DISCUSSION:

T-Mobile Northeast, Cell Tower, 30 Hillview Road, Block 4201, Lots 1 and 2

Frank Scangarella, Esquire appeared for the applicant T-Mobil and requested the Board make revisions to the T-Mobile resolution of denial adopted at last month's meeting. Reginald Jenkins, Esquire, attorney for T-Mobile, also sent a letter to the Board asking for time to respond to Mr. Scangarella's request. Mr. Wahl stated that when a Board adopts a resolution that resolution is the action taken by the Board and that if the Board wanted to reconsider Mr. Scangarella's request that the Board should re-read the resolution and Mr. Jenkins' letter and then decide if they wish to reconsider revising the resolution. Mr. Bruno suggested that the Board secretary send each member a copy of the resolution, Mr. Scangarella's letter and Mr. Jenkins' response.

PUBLIC HEARING:

Handel, 441 Newark Pompton Turnpike, Block 2604, Lot 19

Use, Site Plan

Steven Shepis, Esquire, represented the applicant.

Mr. Shepis stated there will be four witnesses before the Board, Mr. Handel the applicant, Mr. Meola the Project Engineer, Mr. Byrne the Project Architect and Mr. McDonough, the Planner for the applicant.

Mr. Wahl stated there was correspondence given to the Board regarding res judicata because of a similar but somewhat different concept before the Board in 1990. Mr. Wahl stated that 20 years have lapsed since the last matter was presented to the Board. Mr. Wahl suggested that the applicant might want to testify that there were changes made to the neighborhood, the surrounding properties and possibly to township regulations. Mr. Wahl asked the Board if they wanted to hear the use variance before they entertained the site application. Mr. Bruno agreed with Mr. Wahl's suggestion and asked the applicant if they wanted to go forward with just the use variance part of the application. Mr. Shepis

Board of Adjustment
August 7, 2011

stated that the site design issues are intertwined with the use and he felt it was impossible to separate the two so he asked the Board to go forward with both the use and site.

Mr. Battaglia, Township Engineer, sworn.

8:16 PM

Michael Handel, applicant, sworn.

Mr. Handel stated his offices are presently located at 22 Foothills Drive. Mr. Shepis asked Mr. Handel what was conducted at the 441 Newark Pompton Turnpike property. Mr. Handel stated it was used as a contractor's storage yard. Mr. Handel stated that he met Mr. Schaeffer, owner of 441 Newark Pompton Turnpike, when Mr. Schaeffer came on to one of his jobsites in 2008. Mr. Handel stated that when he inspected the 441 location it was severely overgrown and had construction equipment on it. Mr. Handel supplied the Board with a series of photographs depicting the 441 location.

Marked as **Exhibit A-1** – Series of 9 photos portraying the condition of the 441 site in 2008.

Mr. Handel stated at the time he first went on to the site at 441 Turnpike there was a septic operation conducted on site with an excavator, several trucks, piles of gravel, excess dirt, hay, a car on a trailer, construction equipment, old buildings and a garage.

Mr. Handel gave a verbal description of all the photographs in Exhibit A-1.

Mr. Handel stated that he met with Robert Grant, the Township Construction Official, and Jill Hartmann, the Township Zoning Official and filled out a zoning permit. Mr. Handel stated he applied for a zoning permit and got an approval by the Zoning Officer, Ms. Hartmann.

Marked as **Exhibit A-2** – Official Zoning Permit

Mr. Handel stated that he applied for a zoning permit by supplying them with a letter of intent describing what vehicles and equipment would be stored on the property along with construction supplies. Mr. Handel stated he received a zoning certificate on November 26, 2008 from the Zoning Department giving approval for a preexisting nonconforming contractor's storage yard. Mr. Handel stated that after he got the zoning permit he had to correct the violations that Mr. Schaeffer had with the Health Department to clean up the site before a CO could be issued. Mr. Handel stated he removed a substantial amount of trees; removed dumpsters of garbage containing the dilapidated buildings; removed the scrap steel; removed two oil tanks; repaired the rear wall of the barn; cleaned up debris on the site; closed off two seepage pits. Mr. Handel stated he had the Health Department, Engineering Department and Construction Department at the site

Board of Adjustment
August 7, 2011

and complied with all of their directions and instructions. Mr. Handel stated that after he complied with all the township's requirements he took occupancy of the property. Mr. Handel stated he stores his dump trucks, roll off, excavator, backhoe, small trucks, small trailers and construction supplies on the property.

Mr. Handel stated that he was aware that there was a prior application on the site and read the resolution. Mr. Handel went to the library and met the town historian and received from him a photograph of the site from the 1920's.

Marked as **Exhibit A-3** – Photograph of site from the 1920's.

Mr. Handel stated the garage in the photograph still remains with some renovation to today. Mr. Handel stated there recently was a building taken down due to issues cited by the Health Department. There were also gas pumps situated on the site. Mr. Imfeld asked the applicant if Mr. Schaeffer was the owner of the property at the time the photograph was taken. Mr. Handel stated Mr. Schaeffer was not the owner in the 1920's but took ownership in 1971 when he used the site as a contractor's storage yard. Mr. Wahl asked if any of the buildings on the photograph remain on the site. Mr. Handel stated that there is one building still remaining on the site. Mr. Hebert asked if there were any gas tanks on site. Mr. Handel stated he removed the gas tanks and did not need any State approval because the tanks were less than 2,000 gallons. Mr. Handel stated that the gas station was one of the first gas stations in Morris County and it had a repair facility with a junkyard or storage yard in the rear.

Marked as **Exhibit A-4** – 1990 Board of Adjustment Resolution for Schaeffer

Mr. Shepis stated that in the resolution of 1990 the Board specifically found after a factual hearing that the existing commercial use on the site was preexisting non conforming. Mr. Wahl stated that it was not a legal preexisting non conforming use. Mr. Wahl stated that the resolution says there is a preexisting non conformity but does not say when it began or whether it was valid.

Mr. Shepis asked Mr. Handel what his plans were for the Schaeffer property. Mr. Handel stated that he proposes to construct a building with two offices on the right bottom and right top of the building for his use; on the left top two one bedroom apartments and on the bottom left two retail spaces. Mr. Handel instructed the architect to draw small retail spaces on the bottom floor about 860 square feet each.

Marked as **Exhibit A-5** – Rendering of the front of the proposed building.

Marked as **Exhibit A-6** – Rendering of side elevation of the building.

Marked as **Exhibit A-7** – Rendering of garage.

Board of Adjustment
August 7, 2011

Mr. Handel stated the existing garage on the site would be razed. The fence line that is on site presently would be the front line of the proposed building. Mr. Handel stated his offices would be on the right side first and second floor. Mr. Handel stated he would like a kitchen cabinet showroom in one of the retail spaces. Mr. Handel asked his architect to design the building to shield the neighbors on Tilley from the eyesore they have looked at in the past. Mr. Handel asked for an 8 foot high vinyl fence surrounding the garage area. Mr. Handel stated the trucks would be nestled in the back of the building and tried to conceal the truck storage with fencing and landscaping. Mr. Shepis asked Mr. Handel what he proposes to do behind the 8 foot fence. Mr. Handel stated that he is going to install bins to hold stone, dirt, hay and other products needed for his business. Mr. Handel stated he is going to keep some of his trucks inside the garage as well as outside. Mr. Shepis asked Mr. Handel what type of business he was involved in also how many employees he has and what his hours of operation were. Mr. Handel stated his hours of operation were 7 am to 6 pm six days a week, Sunday he would operate on an emergency basis only 9 am to 6 pm. Mr. Handel has three to four employees who basically go right to the sites he is working at.

Mr. Imfeld asked the applicant how he would get his trucks in and out of the garage area around parked cars. Mr. Handel stated that the parking lot is designed as a one way traffic flow. Mr. Handel stated he has a template radius from his engineer that shows his trucks can make the turns and he believes the plan will work. Mr. Imfeld asked the applicant what his plans were for the garages and whether maintenance would be performed at the site. Mr. Handel stated that he will do some small maintenance such as oil changes. Mr. Imfeld wanted to know how much equipment would be parked on the site. Mr. Handel stated that 99 percent of the time his equipment is located on a jobsite he is working on and that his equipment is parked on the site when he is not working like in the wintertime. Mr. Imfeld asked if any subcontractors will be located on his site. Mr. Handel stated no subcontractors will be on site. Mr. Imfeld asked if Mr. Handel owned his equipment. Mr. Handel stated that he is successful because he has invested the money in the business and he owns all the equipment. Mr. Hebert asked what kind of materials would be kept inside the garage. Mr. Handel stated that if he is building a house maybe they would store products needed for that home until he was ready to use it. Mr. Imfeld asked if he would store barrels of oil. Mr. Handel stated he stores oil in plastic gallon jugs not barrels.

Mr. Wahl asked the applicant when he first occupied the property. Mr. Handel stated he started to clean the property in 2008 when he first got his zoning permit issued in November of 2008. Mr. Wahl asked the applicant if it took him a year to clean the site. Mr. Handel stated at present he is still cleaning the site. Mr. Handel stated Mr. Schaeffer's tractors and excavating machinery are still on site. Mr. Wahl asked the applicant if he knew whether Mr. Schaeffer still had a functioning business on the site. Mr. Handel stated Mr. Schaeffer still runs his business through the site. Mr. Handel stated

Board of Adjustment
August 7, 2011

that Schaeffer's septic business includes pumping, installation, repair and service of septic systems.

Mr. Wahl asked Mr. Handel when the wooden building on the property depicted in A-3 was taken down. Mr. Handel stated the Health Department made Mr. Schaeffer take down the wooden building in 2008 because of its state of disrepair. Mr. Handel stated that in 1971 Mr. Schaeffer bought the property and in 1979 or 80 he went to the town for a permit to rebuild the garage, the footing, back wall and floors are original. Mr. Wahl asked Mr. Handel if he knew when the gas pumps were taken out. Mr. Handel stated that he pulled the foundation out and the remnants of the concrete islands about a year ago in 2010. Mr. Wahl asked the applicant if Mr. Schaeffer ever operated a gas station on the property. Mr. Handel stated there were several gas pumps and tanks on the property. Mr. Wahl asked if those tanks were utilized to run the Schaeffer business and whether the tanks were associated with a specific gas company. Mr. Handel stated he did not know.

Mr. Wahl asked how much of the site is covered with something other than natural soil. Mr. Handel stated the lane in from the road is partially paved and the rest is gravel that has been packed down heavily. Mr. Wahl asked the applicant what was on the property that would not be used in Mr. Schaeffer's septic business. Mr. Handel stated there is farm equipment and many other pieces of equipment not related to a septic business stored on the lot.

Mr. Wahl asked what the distance was between the garage door opening and the dumpster. Mr. Wahl wanted to know the length of the vehicles that were going into the garage. Mr. Handel stated that his trucks are 30 feet long so he could fit both a large truck and a small truck in the bays. Mr. Handel stated there is 65 feet from the garage opening to the gas station property. Mr. Handel stated the apartment tenants will have designated parking spaces. Mr. Way was interested in knowing what the options were for the property if Mr. Handel did not get his approvals. Mr. Handel stated the property would be taken back by Mr. Schaeffer and resume use as it is now; Mr. Handel could rent the property from Mr. Schaeffer and use it as a contractor's storage yard or Mr. Handel could get his approvals and put up the new building.

9:18 PM

William Byrne, 10 Main Street, Chester, New Jersey, Architect for the applicant, sworn.

Mr. Byrne stated the architecture plan depicts various views of the site. Mr. Wahl marked the 8 and a half by 11 depiction of the plan the same numbers as the full sheet A-5, 6, and 7.

Mr. Byrne stated he took a look at the project and designed it in a main street character combined with mixed uses consistent with what is on the Turnpike currently. Mr. Byrne stated the three retail units proposed are two at 880 square feet and one at 980 square feet.

Board of Adjustment
August 7, 2011

Mr. Byrne stated the garage has five bays 3,250 square feet with an area of 50 by 65 feet. Mr. Byrne stated the character of the building is traditional with decorative shutters. Mr. Byrne stated the garage was located in the rear in order to buffer the activity of the site from the neighbors and the fact that the doors opened towards the existing gas station would also buffer sound away from the neighbors. Mr. Byrne stated the front building section including the retail and one office space would be 2,740 square feet. Mr. Way wanted to know how the tenants would get into their apartments. Mr. Byrne stated there are two separate entrances to the apartments through doorways in the front of the building. Mr. Dolengo inquired as to what the garage would be made of. Mr. Byrne stated the building would be framed 2 by 6's which would include full insulation. Mr. Way wanted to know what would be placed in front of the fenced area nearest the gas station. Mr. Handel stated they would get rid of the fencing and install a new curb system along with landscaping. Mr. Wahl asked Mr. Byrne if there were any buildings within five blocks of the proposed building that were of its same size. Mr. Byrne stated that he did not do any comparisons along Newark Pompton Turnpike. Mr. Way had some concerns regarding the area closest to the Turnpike and how that would be landscaped given the size of the area. Mr. Handel stated that he had a conversation with the owner of the adjacent gas station and they will both agreed to address the area.

Motion to open the meeting to the public. All in favor. Motion Carried.

No one came forward from the public.

Motion to close the meeting to the public. All in favor. Motion Carried.

9:37 PM

Fred Meola, 28 Whippany Road, Whippany, NJ Engineer for the applicant, sworn.

Mr. Meola stated the property is close to the flood zone but not in it. Mr. Shepis stated that the town engineer determined that the property was in the flood hazard area. Mr. Meola stated that Mr. Battaglia looked at the FEMA maps which show the site in a gray area. Mr. Meola stated he determined the flood elevation to be 186 feet based on an elevation tied into the same benchmarks as the flood datum and the plan and profile of the Pompton River. Mr. Shepis asked how the property relates to the flood elevation number of 186. Mr. Meola stated that the property at the front is the same elevation number and then goes up one and-a-half feet to two feet in the back. Mr. Meola stated the property is out of the NJDEP flood hazard area and not subject to the township flood hazard control ordinance.

Mr. Meola stated he designed the property according to the architectural plans taking into account the septic system, the storage bins needed by Mr. Handel to run the business, the parking requirement and the safe ingress and egress of vehicles. Mr. Meola stated their septic system has not been approved by the Township Health Department yet. Mr. Meola

Board of Adjustment
August 7, 2011

stated they designed the driveway as one way in and one way out. Mr. Meola stated they made application to the Morris County Planning Board and the County approved the plan. Mr. Shepis asked Mr. Meola if he analyzed the turning radius of Mr. Handel's vehicles as they relate to entering and exiting the site. Mr. Meola stated the smaller trucks were okay but the bigger trucks do cross over the hatched area designated for the handicapped spots. Mr. Meola stated there are 24 parking spots on site and 23 are required so therefore if need be they could eliminate one spot to avoid the issue with the handicapped spot. Mr. Bruno asked if the turning radius took into effect the fact that Mr. Handel would also trailer some of his larger excavators and back hoes with a dump truck and wondered how that would affect the turning radius, ingress and egress into the site. Mr. Meola stated that the County traffic engineer does get the plan and he would have commented on that situation if it was an issue. Mr. Bruno asked if the County traffic engineer was told the specific trailer scenario. Mr. Meola stated the County traffic engineer gets the application and the applicant is required to describe everything that will go on at the site.

Mr. Shepis asked Mr. Meola to tell the Board what the impervious coverage was on the site. Mr. Meola stated that before Mr. Handel cleaned up the site it was 90 percent impervious and now that the site is clean it has been reduced to approximately 75 percent. Mr. Meola stated they will provide 4 seepage pits in the front and three pits in the rear to handle the construction and storage building. The front pits will handle the front building. Mr. Meola stated there will not be any negative runoff impact on the adjoining properties because the seepage pits will accommodate all the runoff from the construction. Mr. Meola stated there will be more greenery on site especially on the Newark Pompton Turnpike. Mr. Meola stated the applicant is requesting an 8 foot high fence around the construction yard. The fence will be six feet high with a two foot lattice on top to give the appearance of a lower fence. Mr. Meola stated they are proposing lighting mounted on the building and pole lighting at 18 feet high with a .2 or .3 foot-candle. Ms. Hartmann stated that the poles are rather high and that the lighting will need to be shielded so as not to spill over into the neighbors. Mr. Hebert wanted to know where the 8 foot fence will be located. Mr. Meola stated the 8 foot fence will start right at the back of the commercial residential building go along the northerly property line, along the westerly property line to the southerly line of the building. Mr. Handel stated that at the request of the neighbor at 435 Turnpike they will be reducing the fence to six feet high. Ms. Hartmann stated the applicant needs to improve their landscaping plan and that they should add shade trees along Newark Pompton Turnpike. Mr. Handel stated they will put shade trees along the Turnpike and also along the Park Avenue side of the building. Mr. Imfeld asked if there was any lighting presently on the site. Mr. Meola stated at present there is one pole light on the site. Mr. Imfeld made observation that at the present time there is no activity on the site at night but if the application was approved there would now be extensive lighting on site. Mr. Handel stated there is lighting on the site plan because of the township ordinance but he does not need any lighting except for maybe one for security reasons.

Board of Adjustment
August 7, 2011

Mr. Imfeld asked the township engineer, David Battaglia, to give his opinion on traffic. Mr. Battaglia stated that there is no traffic study and stated Mr. Meola has agreed to comply with everything in his report and will supply the Board with a traffic study. Mr. Battaglia stated that the applicant's engineer has to supply the Board with plans for the septic system and its proximity to the seepage pits. The plans will be revised to include a five foot buffer area next to the neighboring gas station. Ms. Hartmann stated that if there is an issue providing the site with a five foot buffer that the applicant can reduce the building in order to maintain that buffer. Mr. Handel stipulated to the five foot buffer between the parking lot and the gas station. Ms. Hartmann also stated the applicant needs a 5 foot planted area adjacent to the building in order to protect the building from people backing into the building. Mr. Meola stated that given Mr. Handel's concession regarding the lighting they would eliminate the pole light and one of the building mounted lights.

Mr. Battaglia felt it was very important for the Board to receive a traffic study from the applicant. Mr. Imfeld agreed that given the intersection a traffic study would be necessary. Mr. Bruno stated that there has been many changes made to the site plan and he also felt a traffic study was necessary. Mr. Handel stated he will provide the Board with a traffic study.

Ms. Hartmann had a question regarding the dumpster and its location. Mr. Handel stated he would place it closer to Newark Pompton Turnpike where the plan says "limit of curb." Mr. Hebert asked the applicant to provide the Board with the document that says the phone company relinquished a right of way on the property. Mr. Handel stated he would provide the Board with that document that was found by the title company.

Motion to open the meeting to the public. All in favor. Motion Carried.

10:39 PM

Salvatore Anello, 67 Second Street, Pequannock, sworn.

Mr. Anello stated that the applicant is going to have equipment driven in and out of the yard that is moved around on a trailer and asked the engineer how the applicant would be able to turn around inside the construction yard. Mr. Meola stated that now that the applicant will be getting a traffic study that will be answered.

Joseph Anello, 7 Tilley Avenue, Pompton Plains.

Mr. Anello stated he has been Schaeffer's neighbor for 40 years. He said there was never a gas station on the site. Mr. Anello was told he would have a chance to make his opinion known at a later time and was asked if he had any questions specifically for Mr. Meola.

Motion to close the meeting to the public. All in favor.

Board of Adjustment
August 7, 2011

10:41 PM

John McDonough, 101 Gibraltar Drive, Morris Plains, Planner for the applicant, sworn.

Marked as **Exhibit A-8** two sheet document of photographs of existing conditions.

Mr. McDonough stated the first sheet is a depiction of the Schaeffer property. Mr. McDonough stated the lot area is three times large than those in the area and surrounded by residential and some non residential uses. Mr. McDonough stated that if the application is approved it will bring the site more into harmony with the surrounding residential area than what is presently on the site. Mr. McDonough stated that he visited the main Schaeffer site and was shown what type of equipment was on the Turnpike site before cleanup and in his opinion the operation of the Turnpike site was a very heavy use. Mr. McDonough stated that the subject property is flanked by detached garages and sheds from adjacent properties which will serve to screen the proposed subject from the neighboring residents.

Mr. McDonough referred to structures located at the common boundary line which were sheds, garages and a tennis court that come up to or go beyond the subject property line, which is Mr. Anello's property on Tilley Avenue.

Mr. McDonough went over the photographs in Exhibit A-8.

Mr. McDonough stated the new building will have a highly attractive colonial look consisting of three units on floor one and three units on floor two. The garage in the back will be 3,250 square feet. Mr. McDonough stated the garage will hold equipment inside the building and will be screened from the Turnpike by the front part of the building.

Mr. McDonough stated that the site has been established to be a pre-existing nonconforming use that may continue in its current condition. Mr. McDonough stated that what is happening on the site is an alteration of a use that presently exists on the property.

Mr. McDonough stated the positive criteria for the use is the fact that the retail/office is more neighborhood scaled and stated the Board could put a rope around the uses that could go within the subject building. Mr. McDonough stated there should not be any food stores or coffee shops permitted on site but should stay with something less intrusive. Mr. McDonough stated that retail and office plus the storage yard would promote a desirable visual environment. Mr. McDonough stated that the site can accommodate the multiple uses on the property without detriment to functionality to the surrounding area.

Mr. McDonough stated that in going over the township's master plans that it was evident to him that the common thread in all the master plans was to retain the residential fabric

Board of Adjustment
August 7, 2011

of the area in particular the Newark Pompton Turnpike and that is what Mr. Handel intends to do by introducing the residential aspect to the application.

Mr. McDonough stated that it is his opinion that the statutory criteria for this application has been met and it is an application of good planning. Mr. Imfeld asked that since it is the intent of the master plan to maintain the residential area in the R-11 zone why doesn't the applicant just develop the site as residential without introducing office and retail stores. Mr. Imfeld stated that the construction operation is a major deviation from what was on site originally. Mr. Bruno asked to go to Exhibit A-4, which was a previous resolution for the subject property which asked for four apartments and three residential uses and in that resolution it stated that the intent of the township was to preserve the non commercial use of Newark Pompton Turnpike.

Mr. McDonough stated that in planning they recognize three legal forms of land use, permitted by right, permitted by variance or granted by variance in a non conforming use and Mr. McDonough stated that even though this application is a non conforming use disfavored by ordinance it is legally allowed to coexist with the ordinance and Mr. McDonough stated that this application is not going away and this is the opportunity to bring the site into more harmony with the surrounding area.

Mr. Shepis asked Mr. McDonough if the site can be developed as zoned. Mr. McDonough stated the lot is three times larger than what is permitted in the zone and that it could possibly be subdivided into two building lots but given the proximity to the gas station it would more than likely be impossible to sell those lots. Mr. Shepis asked Mr. McDonough if given the lack of zoning in the area for construction storage yards if he thought the current use on the site would ever be abandoned. Mr. McDonough stated that once a construction yard is created that it will always continue. Mr. Wahl asked Mr. McDonough if the proposal for the site is for three distinct uses. Mr. McDonough agreed that it was for three different uses. Mr. Wahl asked Mr. McDonough if within the whole of Pequannock Township if he knew whether there were residential units with industrial units. Mr. McDonough stated he did not know the answer to that question that he did not do that type of survey. Mr. McDonough stated it is more common to associate commercial with residential uses.

Motion to open the meeting to the public. All in favor. Motion Carried.

11:33 PM

Joseph Anello, 7 Tilley Avenue, Pompton Plains, sworn.

Mr. Anello wanted to know if the building was fire proofed being it is commercial and residential. Mr. McDonough stated that is a building code question and he could not answer that. Mr. Wahl stated that a residential use above a commercial use is permitted and there are very stringent fire code requirements that will be looked at by the

Board of Adjustment
August 7, 2011

construction code official. Mr. Wahl stated that in fact sprinkler systems may be required.

11:35 PM

Edward T. Gurka, 4 Park Avenue, Pompton Plains, sworn.

Mr. Gurka stated his property is the first home on Park Avenue. Mr. Gurka stated he lived in his home for 24 years and the Schaeffer property has been an eyesore and a junkyard. Mr. Gurka stated that when you come down Alexander Avenue the first thing you see is an eyesore. Mr. Gurka stated he will not be able to sell his home because of the disrepair on the Schaeffer property. Mr. Gurka stated it wasn't just the septic system company but Mr. Schaeffer stockpiled everything. There were weeds, rats and ground hogs on the site. Mr. Gurka stated he would applaud any board approval. Mr. Wahl asked Mr. Gurka about Mr. Handel's efforts to clean the property and asked Mr. Gurka if some of the property held abandoned or unused things. Mr. Wahl asked Mr. Gurka if he knew how much of the property Mr. Schaeffer actually used for the septic system business. Mr. Gurka said he had no idea he just noticed that trucks came in early in the morning and left late at night.

11:39 PM

Joseph Anello, 7 Tilley Avenue, Pompton Plains, sworn.

Mr. Anello stated he lived in his home for over 40 years and he said that the Schaeffer property was not a junkyard. Mr. Anello said Mr. Schaeffer had two trucks and a back hoe on the property. Mr. Anello stated that after Mr. Schaeffer was denied his last application for spite he brought all his trailers on site and stored all kinds of junk on the property and in the trailer. Mr. Anello stated the property is still not cleaned up at this time and he stated the property now looks abandoned. Mr. Anello stated there was never a gas station on the property. Mr. Anello stated the property was abandoned for 15 years. Mr. Wahl asked Mr. Anello if when he moved in 40 years ago if there were gas pumps on the Schaeffer property. Mr. Anello stated there was no gas pumps on the site. Mr. Anello is against the proposed application because he feels the business will generate a lot of noise in the morning and late evening.

11:45 PM

Janet Gurka, 4 Park Avenue, Pompton Plains, sworn.

Mrs. Gurka stated she has the best view of the Schaeffer property. Mrs. Gurka stated there were trucks on the Schaeffer property all the time. Mrs. Gurka stated that Mr. Schaeffer did not care about the property and now that Mr. Handel has come forward and cleaned up the property and is willing to fix it up she is for the application and believes the approval will be beneficial for her and her neighbors. Mrs. Gurka also stated there were rats on her property that came from the Schaeffer site.

Board of Adjustment
August 7, 2011

11:48 PM

George McCabe, 6 Park Avenue, Pompton Plains, sworn.

Mr. McCabe stated that he has lived in his house for 35 years and in those 35 years he observed the Schaeffer property as a junkyard. Mr. McCabe stated there were trucks that didn't even move. Mr. McCabe stated that you knew when the septic truck was parked because of the smell. Mr. McCabe stated there were gas pumps on the site and that he passed them on the way to school around the year 1957. Mr. McCabe stated he can't swear to it but he thought the pumps were there in the recent past.

11:50 PM

Chris DeLuca, 8 Park Avenue, Pompton Plains, sworn.

Mr. DeLuca stated he has lived on Park Avenue for the last seven years and for the last three years he has seen quite a change on the property for the better. Mr. DeLuca stated he would be happy to have Mr. Handel as his neighbor.

Motion to close the meeting to the public. All in favor. Motion Carried.

Mr. Wahl asked the applicant if he wanted the Board to take a straw poll. Mr. Shepis stated the applicant would be interested in getting some input from the Board.

A straw poll was taken to find out who would at this time vote favorably for the Use part of the application.

The Board's opinion as to whether they would vote favorably is as follows:

Mark Herforth - Yes
Louis Hebert - Undecided
Paul Dolengo - No
David Way - Yes
Roger Imfeld - No
Charles Melleno - Undecided
Donald Bruno - No

Mr. Bruno asked the applicant if he wanted to take a vote or wait until the Board had the traffic study available for them.

Mr. Shepis told the Board that they would wait until the next meeting for a vote.

An extension of time to act was given to the Board until September 30th.

Board of Adjustment
August 7, 2011

Due to the lateness of the hour the application will be carried to the August 4th meeting. No further notice is required.

There being no further business motion by Dolengo, second by Imfeld to adjourn the meeting at 11:59 PM. All in favor. **Motion Carried.**

Respectfully submitted,



Linda Zacharenko
Recording Secretary