

**FRANKFORD TOWNSHIP LAND USE BOARD
OCTOBER 24, 2007 – 7:00 P.M.
MINUTES OF THE REGULAR MEETING**

CALL TO ORDER

The meeting was called to order by the board Chairman, Mr. Romania, by announcing that notice appeared in the New Jersey Herald and the New Jersey Sunday Herald in accordance with the requirements of The Open Public Meetings Act.

Flag Salute

ATTENDANCE

Those Present were: Mr. Ayers, Mrs. Kristensen, Mr. Risdon, Mr. Zappile, Mr. Gstattenbauer, Mr. McDowell, Mr. Martin, Mr. Larson, Mr. Romania, and Mr. Dolan. Also present were Ms. Leo, representing the board attorney and Mr. Pellow, the board engineer.

Those absent: Mr. Smolen (excused).

MINUTES

The Minutes of the September 19, 2007 Regular Meeting of the Land Use Board were reviewed. A Motion was made by Mr. Martin and seconded by Mr. Larson to approve the Minutes of the September 19, 2007 regular Meeting of the Land Use Board. All were in favor, except Mr. Romania, who abstained. The Motion was carried.

RESOLUTIONS

Timothy & Anne Keller – LUB 06-22 – Block 104, Lot 5 – “C” & “D” Variance:

The Resolution was reviewed. A Motion was made by Mr. Martin and seconded by Mr. Gstattenbauer to approve the Resolution for Timothy & Anne Keller for an approval of a 6 month extension of the Variance. Roll Call:

YES: 6 Ayers, Risdon, Gstattenbauer, Martin, Larson, Dolan

NO: 0

ABSTAIN: 0

The Motion was carried.

Barry & Tawnie Scymanski – LUB 04-43 – Block 109, Lot 50 – 156 Lower North Shore Road – “C” Variance:

The Resolution was reviewed. A Motion was made by Mr. Martin and seconded by Mr. Risdon to approve the Resolution for Barry & Tawnie Scymanski for an approval of a 1 year extension of the Variance. Roll Call:

YES: 7 Risdon, Zappile, Gstattenbauer, McDowell, Martin, Larson, Dolan

NO: 0

ABSTAIN: 0

The Motion was carried.

RESOLUTIONS CONT.

Frankford Township (Salt Shed) – LUB 07-16 – Block 46, Lot 2.01 – 31 Perry Road
Review by Planning Board for Capital Projects:

The Resolution was reviewed. A Motion was made by Mr. Martin and seconded by Mr. Zappile to approve the Resolution for Frankford Township for an approval of a Capital Project (The Salt Shed at the DPW Garage). Roll Call:

YES: 6 Risdon, Zappile, Gstattenbauer, Martin, Larson, Dolan

NO: 0

ABSTAIN: 0

The Motion was carried.

Frankford Township (Claws) – LUB 07-17 – Block 4, Lot 5 – 28 Pelletown Road
Review of a Capital Project:

The Resolution was reviewed. A Motion was made by Mr. Dolan and seconded by Mr. Martin to approve the Resolution for Frankford Township for an approval of a Capital Project (Claws). Roll Call:

YES: 6 Risdon, Zappile, Gstattenbauer, Martin, Larson, Dolan

NO: 0

ABSTAIN: 0

The Motion was carried.

James F. Bain – LUB 07-14 – Block 26, Lots 15, 17 & 17.01 – Route 206 – Minor
Subdivision & Variance:

The Resolution was reviewed. A Motion was made by Mr. Risdon and seconded by Mr. Gstattenbauer to approve the Resolution for James F. Bain for an approval of a Minor Subdivision & Variance. Roll Call:

YES: 7 Kristensen, Risdon, Zappile, Gstattenbauer, McDowell, Larson,
Dolan

NO: 0

ABSTAIN: 0

The Motion was carried.

BOARD BUSINESS

Invoices:

A Motion was made by Mr. Martin and seconded by Mr. Zappile to approve the October, 2007 Invoices on the Bill list attached hereto and made a part hereof. Roll Call:

YES: 9 Ayers, Kristensen, Risdon, Zappile, Gstattenbauer, Martin, Larson, Romania, Dolan

NO: 0

ABSTAIN: 1 McDowell

The Motion was carried.

Correspondence:

The correspondence was reviewed. No formal action was taken.

Subcommittee Reports:

Technology Committee – Mr. Zappile indicated that a discussion was held at the sub committee meeting this evening was the hardware that would be needed for this project for electronic submission of applications before the Land Use board. He further indicated that a quote should be put together and submitted to the Township Committee to see if there is money in the budget to purchase the equipment needed before going any further with this discussion.

TDR Committee – Nothing to report from this committee at this time.

PUBLIC PARTICIPATION

A Motion was made by Mr. Martin and seconded by Mr. Zappile to open this meeting to the public. All were in favor. The Motion was carried.

There being no public participation, a Motion was made by Mr. Martin and seconded by Mr. Zappile to close this matter to the public. All were in favor. The Motion was carried.

ZONING OFFICER'S AGENDA

The Zoning Officer indicated that there was no report this month.

EXTENSIONS

Raymond Mastoloni – LUB 07-01 – Block 112, Lots 1, 2 & 2.01 – Culvers View Lane & Lower North Shore Road – Minor Subdivision, “C” Variance & Planning Variance – Extension of Time to file deeds:

A letter was received from the applicant's attorney requesting a two month extension of time to file the deeds in connection with this application. A Motion was made by Mr. Martin and seconded by Mr. Gstattenbauer to grant a two month extension of time to file the deeds. All were in favor. The Motion was carried.

NEW APPLICATIONS

Citgo Fueling Station & Convenience Store/13 Newton LLC – LUB 05-01 – Block 19, Lot 2 – Route 206/Newton Avenue – Preliminary Major Site Plan & “D” Variance:

A Letter was received from the applicant’s attorney requesting that this matter be carried to the December 19, 2007 Land Use Board meeting without further notice. A Motion was made by Mr. Martin and seconded by Mr. Zappile to carry this application to the December 19, 2007 Land Use Board meeting without further notice. All were in favor. The Motion was carried.

BOARD BUSINESS CONT.

COAH Update:

Ms. Leo indicated that the COAH process is in the Appellate Court and by the end of the year COAH is supposed to have new regulations out. She further stated that on October 10th her office received draft reports. One of the reports dealt with filtering, which is one of the Appellate issues if there was filtering and if there is, how much. The report indicated that there was filtering, but interestingly enough it is going up in a lot of places, but in the low and moderate income it is going down. The overall conclusion is that filtering is going down and this will likely be upheld in the COAH regulations. The second report, they did an analysis of national and New Jersey and have new charting numbers on the number of employees which generate a COAH requirement. The one for retail used to be 1 employee for each 1000 square feet of retail is now 2 employees for each 1000 square feet of retail. She indicated that there is a meeting at the end of November which her office will be attending.

Major Site Plans & Subdivision Procedures:

Mr. Clark indicated to the board that any major subdivisions or site plans that appear before the board should appear at the first meeting for completeness only and then advertise for the public hearing. A discussion was held with regard to this matter. A Motion was made by Mr. Dolan and seconded by Mr. Larson that all major site plans and major subdivision application must appear before the board for completeness only before advertising for a public hearing. All were in favor. The Motion was carried. Mr. Romania indicated that this should be put on the website.

Meeting Schedule:

A discussion was held that all applicants should advertise for 7:00 p.m. instead of 7:30 as done in the past. It was originally scheduled at the beginning of the year that from 7:00 to 7:30 would be board business, then applications would start. It was noted that if there is no board business and the applicants advertise for 7:30, the application could not start until 7:30. A Motion was made by Mr. McDowell and seconded by Mr. Zappile to have the applicants advertise the public hearings to start at 7:00 p.m. All were in favor. The Motion was carried.

NEW APPLICATIONS CONT.

Our Lady Queen of Peace – LUB 07-20 – Block 112, Lots 1, 2 & 2.01 – 209 Route 206 – Amended Site Plan & Variance:

Mr. Zappile stepped down from this application.

NEW APPLICATIONS CONT.

Our Lady Queen of Peace – LUB 07-20 – Block 112, Lots 1, 2 & 2.01 – 209 Route 206 – Amended Site Plan & Variance cont.:

The applicant's attorney submitted to the board Exhibit "A-1" which is the site plan and Exhibit "A-2" which were pictures of the actual pavilion the applicant is proposing to build.

Appearing before the board was the applicant's attorney, John McDermott, and on behalf of the applicant, John Boyce, and Harold Rowan who is with the engineering firm who prepared the plans. Mr. McDermott indicated that Mr. Rowan is not a licensed engineer or a professional planner. However, Mr. Rowan works with the engineer who did the plans and he did a lot of the work for this application. He further indicated that the engineer who actually did the plans was let go by the engineering firm and the applicant was unable to have that particular engineer attend the meeting this evening. He indicated that they do have another engineer who is willing to do any revisions that are required by the board. Mr. Rowan can testify as having drawn the plans to certain items if this is permitted by the board. The board agreed to let Mr. Rowan testify on behalf of the applicant. Mr. Rowan and Mr. Boyce were sworn in by the board attorney.

Mr. Pellow reviewed his report dated October 15, 2007 as to completeness:

"1." The applicant is proposing to construct an accessory structure greater than 900 square feet (a 40' x 80' structure is proposed, or 3,200 square feet), and a variance is needed.

"2." The following items from the Checklist have not been supplied and should be supplied 48 hours prior to the meeting scheduled for October 24th:

"Item 21": Applicant's name, address, phone number, and fax number. Phone and fax numbers not submitted. The applicant agreed to add this to the plan.

"Item 31": North arrow giving reference meridian. Reference meridian not shown on the Schoor DePalma map. The applicant agreed to add this to the plan.

"Item 34": Key map showing location of tract to be considered in relation to surrounding area, within 200 feet. Scale not less than 1 inch equals 400 feet and north arrow. Key map is shown at a scale of 1"=600'. The applicant agreed to make this correction.

"Item 75": Building floor plan, elevation views and first floor elevation with overall building height. The plan the pavilion submitted is very difficult to read. Mr. Pellow indicated that the applicant submitted this evening color photos which show what they are intending to build.

"Item 78": Graphic/written description of area surrounding the site so the prevailing zoning and actual uses in the area are clear. To be submitted by the attorney. Mr. Pellow indicated that this was submitted this evening.

"Item 79": A description of any alternatives that were considered. To be submitted by the attorney. Mr. McDermott indicated that this was not submitted because basically there were no alternatives considered by the applicant.

"Item 80": A statement or legal brief which clarifies why the variance should be granted. To be submitted by the attorney. Mr. Pellow indicated that this was submitted this evening.

Ms. Leo indicated that the notice was sufficient that was submitted by the applicant.

NEW APPLICATIONS CONT.

Our Lady Queen of Peace – LUB 07-20 – Block 112, Lots 1, 2 & 2.01 – 209 Route 206 – Amended Site Plan & Variance cont.:

Mr. Romania indicated that the applicant can testify as to the height of the building during testimony.

A Motion was made by Mr. Martin and seconded by Mr. Larson to deem this application complete. All were in favor. The Motion was carried.

Mr. McDermott indicated that the applicant is proposing a 80' x 40' pavilion that is open on 3 sides with 1 side being enclosed for storage purposes. They have looked at different types of modular type buildings. They are in the process of trying to obtain some additional funds that they need to do the project for the church. It may very well be that some of the parishioners may donate some materials in time. Therefore, they are not sure which type of building it will be. The pavilion will be used primarily for breakfast on Sunday after Church and Fish n' Chips dinner occasionally on Friday nights or Saturdays. They will also use it for some youth group meetings. The only hall that the Church has presently is a room that accommodates approximately 45-50 people. Therefore, they are limited to anything they have larger than that outside based upon weather conditions. This will economically and practically address this problem so they can have some more community activities for the members of the parish. The location of the pavilion is in the center of the property. He indicated that there is really nobody around the church property other than the southerly side there are 3 homes. The house that is closest to the church is on the other side of the berm that is approximately 10 to 15 height which provides a natural barrier. They have had carnivals and other events at the church in years past and no one has ever complained to them about noise, light or any other complaints.

Mr. Pellow continued reviewing his report:

“3” Will any landscaping be installed? Mr. Rowan indicated that they will plant some small bushes as indicated in Exhibit “A-2”. He also indicated that he will draw a landscape plan for Mr. Pellow to review.

“4” The use of the pavilion to be explained. This was already explained in Mr. McDermott’s presentation.

“5” The wetlands were delineated in 1989 and any L.O.I. would have expired. Mr. Pellow indicated that in looking at the map they are not close to any buffer. Mr. Rowan indicated that they are 208’ from the wetland lines.

“6” The height of an accessory building cannot exceed 15’. Testimony is needed from the Applicant, as no height is given. Mr. McDermott indicated that they are not sure if they are going to do the modular unit or they have had a fabricator willing to donate some trusses. If the trusses are donated they would ask that the board approve up to 20’ maximum in height which would cover the height for the trusses.

“7” The materials and colors of the pavilion to be outlined, as they have to be approved by the Land Use Board. Mr. Rowan indicated that they would like the colors that are shown in Exhibit “A-2” which are beige siding and a green roof. He also indicated that there would be a concrete floor and pavers at the entrance. Mr. McDermott indicated that since they are pouring a concrete floor, they would like to put in the lines to the sewer system for future use. They would also like to put in hot and cold water pipes for future use. Mr. McDermott questioned Mr. Rowan as to how much of the pavilion will be enclosed for storage purposes. He indicated that it would be approximately 20’ at the

NEW APPLICATIONS CONT.

Our Lady Queen of Peace – LUB 07-20 – Block 112, Lots 1, 2 & 2.01 – 209 Route 206 – Amended Site Plan & Variance cont.:

Mr. Zappile returned to the meeting.

Mr. Romania questioned the applicant if they are planning to start construction before the Resolution is adopted next month. If they are there is a form that can be signed to by the applicant that they agree to proceed at their own risk until the Resolution is read.

Off Shore Marine, Inc. – LUB 07-12 – Block 50, Lot 3.01 – 352 US Highway Route 206 – Preliminary & Final Major Site Plan & “C” Variance:

Mrs. Kristensen stepped down from this hearing and left the meeting.

Appearing before the board was Megan Ward, the applicant’s attorney, the applicant’s engineer and planner, Daren Phil and Lou Cecchini, the applicant. Mr. Phil and Mr. Checcini were sworn in by the board attorney. Mr. Phil gave his qualifications to the board and was accepted by the board as an expert witness.

Ms. Ward indicated that this property is located on Route 206 and the rear of the property is on Cook Road which is in the C-2 Zone. She indicated that Off Shore Marine is an existing business which Mr. Cecchini has owned since 1992. They have submitted with their application a detail from 1977 subdivision approval for an adjacent lot that shows a principal retail building that is in front and the basic parking area and circulation pattern is already in place on this lot in 1977. They also submitted a 1984 site plan as well as a Resolution of approval that was granted at that time for Haggerty Marine. This included accessory structures and a height variance for the two storage buildings that are in the rear of the property as well as “D” Variance to display boats in the front. Since this time, the Ordinance has been changed so that it is no longer a “D” Variance, it is a conforming use under the C-2 Zone, which retail is a permitted use under the definitions in Frankford Township’s Ordinance under retail sales, retail sales outdoors and retail service. In fact, the definition of retail sales outdoors specifically includes the display of boats. They have also submitted a survey from 1988 prior to Mr. Cecchini owning the property that shows virtually everything including the current amount of gravel area and clear area that existed in 1988. They have also submitted a 1992 survey from when he did acquire the property showing the same conditions. This application is for Preliminary & Final Site Plan approval. They have delineated a storage area, they are proposing to make some improvements to the parking lot, they are proposing to add slates to an existing chain link fence to help buffer and they are proposing to 2 sheds that were on the previous site plan approval, and finally they are requesting to add portable boat storage racks adjacent to the storage buildings at the rear of the property on the existing gravel area immediately adjacent to the existing storage buildings. This application is not about a new use or any additional service or impervious coverage. They are also requesting to put a planter around the base of the existing sign.

Mr. Pellow reviewed his report dated August 13, 2007 and revised September 17, 2007 as to completeness:

“Item 7”:

Compliance with legal notice requirements. Ms. Leo indicated that this was acceptable.

“Item 12”:

Copy of Sussex County Planning Board Application. Not provided. This was submitted and they are scheduled to be heard by the County Planning Board on November 5, 2007.

NEW APPLICATIONS CONT.

Off Shore Marine, Inc. – LUB 07-12 – Block 50, Lot 3.01 – 352 US Highway Route 206 – Preliminary & Final Major Site Plan & “C” Variance cont.:

“Item 32”: Properties within 200 feet, Lot and Block Number and Owner, Outline of 200 Foot Perimeter. Not provided. The applicant is requesting a partial waiver to supply the names and addresses in the application and not on the plans. Mr. Pellow indicated that this was added to the revised plans.

“Items 57-59”: Final Site Plan Items. Not Provided. These items can be temporarily waived as they are not usually submitted until construction of improvements is complete.

“Item 64”: Environmental Impact State. Not Provided. A waiver is appropriate. Mr. Pellow indicated that this okay because there is no new septic or well being proposed. The only item they are proposing to add is the outdoor storage racks.

“Item 76”: Provisions for solid waste, dumpster enclosure. Not Provided. Mr. Pellow indicated that this was added to the revised plans.

“Item 77”: Compliance with ADA requirements. Not Provided. Mr. Pellow indicated that this was added to the revised plans.

A Motion was made by Mr. Risdon and seconded by Mr. Gstattenbauer to deem this application complete, subject to the applicant obtaining County Planning Board approval. All were in favor. The Motion was carried.

Appearing before the board was Mr. Bryce, an attorney representing an objector to the application.

Mr. Pellow continued reviewing his report:

“3”: Zoning Comments: A. The portion of the property in question which is proposed to be developed is located in the C-2 Commercial Zone. B. The existing use was approved by the Zoning Board of Adjustment on September 18, 1984 and memorialized by resolution on October 17, 1984. This decision granted the Applicant a height variance for the accessory storage buildings to the rear of the property and provided for the outdoor display of boats. C. The area and yard requirements for the C-2 Zone are as follows:

Description	C-2 Zone	Existing/Proposed
Minimum Lot Area	217,000 SF (4.98 acres)	53,535 SF 1.23 acres
Minimum Frontage at Right of Way	300 ft.	175 ft.
Minimum Frontage at Setback	360 ft.	165 ft.
Minimum Lot Depth	400 ft.	340 ft.
Minimum Front Yard Setback	100 ft.	55.6 ft.
Minimum Side Yard Setback	75 ft.	40.7 ft.
Minimum Rear Yard Setback	75 ft.	209.6 ft.
Maximum Building Height	35 ft.	<35 ft.
Maximum Impervious Coverage	50%	79.5%
Maximum Floor Area Ratio	20%	0.12%
Accessory Side Yard	75 ft.	7.2 ft. – Variance Required
Accessory Rear Yard	75 Ft.	15. ft. – Variance Required

D. The subject property is undersized for the zone and has several pre-existing non-conforming conditions. The proposed accessory structures will require variances for side yard and rear yard setback for accessory structures.

NEW APPLICATIONS CONT.

Off Shore Marine, Inc. – LUB 07-12 – Block 50, Lot 3.01 – 352 US Highway Route 206 – Preliminary & Final Major Site Plan & “C” Variance cont.:

“4. Site Plan Comments”: a. The proposed site plan shows the display areas in the front of the building in areas of square feet. I note that the approval from 1984 granted approval to display five (5) boats in front of the business, which would be removed at night and during the winter months. Is the continued outdoor storage area proposed for a maximum of five (5) boats? The applicant has requested that the display area be limited by size rather than number of boats. Mr. Ayers questioned if the display boats would be for new and used boats for sale. Ms. Ward agreed.

Ms. Ward indicated that the only objection they have to Mr. Pellow’s report is that the portable boat racks are an accessory use. They feel that the racks are not an accessory use.

“4b”: The applicant should identify how many boats are currently stored on the site and how many additional boats are proposed for storage. Will all stored boats be kept behind the fence with the proposed privacy slates?

“4c”: The natural vegetative screen shown in the vicinity of the storage racks on the northern sideline is not on the subject property. Screening should be proposed along the Applicant’s property line in the event that Lot 3.02 is developed in the future. A note has been added to the plans to provide landscaping to the satisfaction of the Board Engineer.

“4d”: I note that the “new” storage sheds shown on the property already exist.

“4e”: A planter bed is proposed around the existing sign. Any additional changes proposed for lighting or signage on the site should be provided.

“4f”: A solid waste storage enclosure needs to be provided and shown on the plans. The existing dumpster is sitting in the parking area without screening. A solid waste enclosure has been provided.

“4g”: No grading or additional impervious surfaces are proposed. The applicant to confirm that gravel areas will not be expanded and that the proposed portable boat storage racks will be placed on existing impervious areas. Mr. Pellow indicated that they checked with the DEP about the wetland buffers. The DEP indicated that as long as nothing has changed, no grading has taken place, he will not need an LOI.

Mr. McDowell questioned where the septic system was because it was not located on the map. Mr. Phil indicated it was on the side of building.

“5. Landscaping Comments”: a. New landscaping is proposed in a planter bed around the sign, in front of the existing building and along the southern side property line. While typically additional screening and landscaping is required in the front yard in the C-2 Zone, I believe the granting of the previous variance on the site to allow storage in the front yard precludes this requirement. The Board attorney to comment. Ms. Leo indicated that given that the applicant’s are here this evening with a change to the previous site plan, the landscaping would be back on the table.

“5b”: Additional screening vegetation or screening fencing should be provided along the northern property line. Mr. Pellow indicated that if something is built on the adjacent lot, then the screening should be installed, however, at this time it is not needed.

NEW APPLICATIONS CONT.

Off Shore Marine, Inc. – LUB 07-12 – Block 50, Lot 3.01 – 352 US Highway Route 206 – Preliminary & Final Major Site Plan & “C” Variance cont.:

“6. Parking Comments.”: a. One parking space per 200 square feet of gross floor area is required for the use in the C-2 Zone plus one space per employee. A total of 14 spaces is required and 14 spaces are provided.

“6b”:

One van accessible space is required per ADA accessibility standards. None are shown. Mr. Pellow indicated that a van accessible space has been shown to the rear of the building on the revised plan. This parking area is behind the fenced area of the parking lot and actual accessibility should be discussed. Is there an accessible entrance on that side of the building? Mr. Pellow questioned the applicant that there is a handicapped parking spot behind the building, does the customer have to come around the front or is there an entrance in the rear. Mr. Cecchini indicated that there is an entrance from the rear.

“6c”:

One (1) 15’ by 40’ loading space is required. It should be noted on the site plan. Mr. Pellow indicated this has been shown on the plan.

“6d”:

The design of the parking area includes a one way 12 foot wide access aisle to 45 degree angled parking spaces. The combination of the fence and the storage of boats in the driveway aisle do not allow the public to utilize the access aisle to leave a parking space. The access aisle should be kept open at all times that the showroom and sales building is open to the public. Mr. Pellow indicated a note has been added to the plans that the applicant will do this.

“6e”:

The parking area should be re-striped and one way arrows should be painted on the access aisle to direct traffic around the building to exit. Mr. Pellow indicated that striping has been shown on the plans.

“7. Miscellaneous Comments”:

a. It appears that a COAH contribution is not required as no new jobs are proposed. The Applicant to verify number of employees. The Board Attorney to verify COAH requirement. Ms. Leo indicated that there will be no COAH obligation.

“7b”:

Sussex County Planning Board approval or waiver to be provided. The applicant agreed.

“7c”:

A response memo is needed from the Applicant’s professionals answering each comment from this report, and how and where the comment was addressed on the plan. Mr. Pellow indicated that this was provided when the applicant submitted the revised plans.

Mr. Pellow indicated that he walked the site and the owner showed him where the racks are going to be installed and it is on a gravel area.

Mr. Ayers referred to the prior Resolutions on this property from 1984. He interpreted the approval that the board granted the storage buildings and they allowed 5 boats to be displayed. Ms. Ward indicated that the relief for the storage buildings was for a height variance. They buildings are 24’ high and at the time the height limitation was 15’. He questioned if this resolution approved outdoor storage or the display of 5 boats. Ms. Ward indicated that the 1984 Resolution does not address outdoor storage. Mr. Martin indicated that that 1984 Resolution states that the boats would be stored outside during the day and brought in at night and not displayed in the winter time.

NEW APPLICATIONS CONT.

Off Shore Marine, Inc. – LUB 07-12 – Block 50, Lot 3.01 – 352 US Highway Route 206 – Preliminary & Final Major Site Plan & “C” Variance cont.:

Mr. Bryce, representing Castle Storage as an objector to this application indicated that there are several items he would like to bring to the board’s attention concerning this application. He stated that the primary concern his client has is that the proposed activity of Off Shore Marine is an expansion of a non-conforming use. He indicated that the current zoning ordinance defines outdoor storage. Outdoor storage is defined for any type of materials being stored outside for greater than 72 hours. He referred to the 1984 Resolution which states: “Now, therefore, pursuant to NJSA 40:55-70(d) be granted to permit the outside display of boats in front of the building on either side of the existing sign between the road right-of-way and the existing parking area and a variance pursuant to NJSA 40:55D-70(c)”. He further stated that the Resolution further goes on to qualify “The outside storage display of boats be limited to five boats, not to exceed 19 feet in length”. He indicated that this subject property is in the C2 Zone. The C2 Zone does not have a warehouse or storage use, which is specifically provided for in the LI Zone. By implication the continuation of an outdoor storage of vehicles display greater than 5 is an expansion of something that was non-conforming and already granted a variance to. He stated that it is his client’s belief that the proper standard to measure this application against is a “D” Variance.

Mr. Bryce further referred to the environmental features on the property. He stated that this particular property is adjacent to an existing stream. The existing stream is in the rear yard on the west side. This stream is well within 50’ of the property and there are also wetlands associated with this specific piece of property. They believe that this property is within the flood hazard area and within the 100 year flood zone and flood zone limits. The Frankford Ordinance specifically relates to the flood hazard protection act which is very concerned with the placement of any structure or any activity within the flood zone. The township’s ordinance actually states that nothing can be placed within the flood limits unless there is approval from the DEP first. He indicated that this approval has not been presented this evening by the applicant. His concern with this application that the flood limit has not been defined and it is not on any of the plans submitted by the applicant. They also believe that there are wetlands on the property and proposed activity will be occurring within those wetlands buffer limits. He indicated that as far as the EIS is concerned, the board granted the waiver for it. He indicated that his client was hoping that the board would not grant the waiver because they believe there is significant environmental features of this property that should be reviewed and looked at prior to granting any type of site plan application. Frankford’s Ordinance states that it is a primary goal of Frankford Township to protect the environment for any development especially commercial development. Mr. Bryce indicated that there was a concept plan for the adjacent property which does note a flood hazard area.

Ms. Ward questioned Mr. Checcini as to how long he has been operating in the Marine business. Mr. Checcini indicated over 21 years. Ms. Ward questioned Mr. Checcini as to how long he has owned the subject property. Mr. Checcini indicated that they have owned the property since 1992, but owned the business since 1986. Ms. Ward asked Mr. Checcini to describe to the board as to what the marine operation consists of. Mr. Checcini indicates that the Marine operation is one that is sales and service. His sales go with new boats, motors and marine accessories. The service part of this is servicing what they sell. As part of this service, they transport boats, yearly service and storage.

Mr. Phil referred to sheet 2 of the revised site plan. He indicated that the site plans shows the survey of the property, the topographic features, the locations of the structures and buildings on the property, the existing parking lot with circulation and also the handicapped parking which is blacktop and the gravel area which fronts along Cook Road.

NEW APPLICATIONS CONT.

Off Shore Marine, Inc. – LUB 07-12 – Block 50, Lot 3.01 – 352 US Highway Route 206 – Preliminary & Final Major Site Plan & “C” Variance cont.:

He indicated that to the north property line it shows a 20’ drainage easement located on the adjacent property which is vacant, Lot 3.02, Block 50. To the south of the property is the existing Rescue Squad building. Mr. Phil indicated that the size of the subject property is 1.2 acres or 53,535 square feet.

Mr. Phil reviewed the proposed improvements. On the site plan there is a cross hatched area along Route 206 for a display area which goes across the front of the property. Within this area they have demonstrated where the existing sign is. They are proposing a modular block planter around the existing sign. They have shown a detail on the site plan map. They have also provided additional landscape screening between the Rescue building and this display area. They have also noted improvements to the chain link fence which parallels the front line of the building which goes from property line to property line. They are proposing privacy slates so that you can not see through it. In front of the fencing is additional landscaping that is proposed on both sides of the access drive. He explained to the board the access to the property and indicated that the access is entirely off of Route 206 to a counter clockwise direction going across the front of the building. Through the gates to the right there is an existing dumpster location for solid waste. This dumpster area will be enclosed, as requested by Mr. Pellow’s report. To the left side of the building is a 10’ x 12’ shed. There is another small 10’ x 12’ shed adjacent to the northerly storage building. They have illustrated a circulation pattern that has been established in the past and has been working since 1984.

Mr. Phil indicated that there are details on the plan showing the ADA stripping, signage, landscape wall, and the fence gates and privacy slats.

Mr. Phil showed the board the building envelope lines indicated on the plans by a triangular shaped dotted line in the middle of the lot. This building envelope is approximately 1000 square feet. All of the setbacks on the lot are pre-existing.

Mr. Phil presented to the board Exhibit “A-1” which were photographs of the existing conditions of the property. The first photograph of Exhibit “A-1” is a photograph taken from Route 206 Right-of-Way towards the southern property line by the Rescue building. This photo also shows the free standing sign. The second photograph of Exhibit “A-1” is a photograph taken from the southern property line which shows the southern storage building. The third photograph is of the showroom, sales and parts building. The fourth photograph showing the property from the rear facing forward of the southern property line.

Mr. Phil presented to the board Exhibit “A-2” which were photographs of the existing conditions of the property. The first photograph is a photo of the Blue Ridge Rescue Squad building which is just south of the common property line of the subject property. The second photograph is taken from Cook Road at the center of the rear property line of the subject property. The third photograph is also taken from Cook Road to the rear of Blue Ridge Rescue Squad at the northwest corner of the subject property which shows a natural buffer. The fourth photograph is a photograph taken from Cook Road at the north end of the property facing south also showing the natural buffer.

Ms. Ward referred to paragraph “5b” of Mr. Pellow’s report which states that additional screening vegetation or screening fencing should be provided along the property line of Lot 3.02. Mr. Phil indicated that Lot 3.02 is vacant and there is a 20’ drainage easement through that property. They have provided a note on the plan that should this property be approved for development that the applicant would have no objections to screen the entire sideline. He further indicated as testimony was provided, there are

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environmentally sensitive areas on that property. He stated that the odds are that this property will remain wooded. Mr. Phil did review the proposed plan for this property and there was a proposed development along the frontage to the northern corner of the property so there will be a tremendous buffer that will be of the natural forest.

Mr. Zappile questioned the applicant what would be the square footage limitation in the front for permitted use that the applicant is asking for. Mr. Phil indicated the front area, that is existing gravel is the display area is 3,555 square and then there is 625 square feet to the right side of the driveway. Mr. Zappile questioned Mr. Phil if they are asking for the current approval of 5 boat display to be changed to almost 4,200 square feet. Mr. Zappile indicated that the current approval of 5 19' boats would equal approximately 1,000 square feet and the applicant is requesting 4,200 square feet. He questioned if this is an intensification of a non-conforming use and changing what they are asking for to a “D” Variance. Ms. Leo indicated that the board will have to consider what they are proposing. They must look at what the applicant is proposing now as a whole and then determine what variances may be needed.

Mr. Dolan questioned Mr. Phil if there is access from Cook Road onto this property. Mr. Phil indicated that there is no access from Cook Road.

Mr. Ayers indicated that there was testimony that Lot 3.02 has environmentally sensitive areas. Mr. Phil indicated that what he was indicating was that there is a map around with regards to delineation of wetlands on this vacant piece of land. Mr. Ayers questioned if there is any wetlands on the subject property before this board this evening. Mr. Phil indicated that the whole issue with regard to this is exactly what Mr. Pellow explained, and it is consistent with his findings, is that the Bureau of Freshwater Wetlands indicates that as long as you're not changing the surface features, you are fine.

Ms. Ward questioned Mr. Phil if the application requested rear yard and side yard setback requirements with regard to the proposed portable boat storage racks. Mr. Phil indicated it did. Ms. Ward questioned Mr. Phil as to the required rear yard and side yard setbacks in the C2 Zone and what is the applicant proposing. Mr. Phil indicated that the required setbacks are 75' and the applicant is proposing a rear yard setback 15' and the proposed side is an average and it is as small as 7.2' and then it increases to 8.4'. Ms. Ward questioned Mr. Phil if the rear property line is adjacent to the paved portion of Cook Road. Mr. Phil indicated that the right-of-way, which is the property line, is about 15' feet off of the improved portion of Cook Road. Therefore, there is a 30' buffer to the proposed portable boat storage racks.

Mr. Phil testified as to use of the property. He indicated that with regards to the use of the property, the subject property permits retail sales. He presented to the board Exhibit “A-3” which were definitions of Retail Sales, Retail Sales-Outdoor, Retail Services, Building, Structure, and under C-1 definitions for Retail Store and Outdoor Storage which are listed within the current Frankford Township Land Use Ordinances. Mr. Phil indicated that with regard to the C-2 Zone permitted uses, retail commercial sales is a permitted use. Ms. Ward asked Mr. Phil to compare the applicant's existing business and how it relates to retail sales, retail sales-Outdoor and retail services. Mr. Phil indicated with regards to the ordinance and without the explicit connection with the language in different sections of the ordinance, what was interesting about the C-2 Commercial was that the retail portion use is not in the definition. You have the retail sales, retail sales-outdoors and retail services. He indicated that retail sales is in the principal building located on the property that gets involved in the sale of new and used boats, all of the equipment associated with the parts and repairs, as well as all the accessory types of

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items associated with sporting in the marine environment. Mr. Phil referred to Retail sales-outdoor definition which states: means the display and sale of products and services outside of a building or structure, including garden and landscaping supplies, flower, shrubs, plants produce, farm equipment, building and construction materials and boats, but excluding new or used vehicles. He indicated that the ordinance specifically permits outdoor boat display.

Mr. Phil referred to the definition of “Retail services”. He indicated that, as an owner of a boat, he is familiar with what is involved in boating. He noted that with regard to boating, many ordinances do not allow you to park your boat on your property. Therefore, you need to have the boat stored somewhere else. Also, you must winterize your boat and if it is not done right you could have significant damage. Typically what is done is you go to the individual you buy the boat from, you get the servicing done, the winterizing and the maintenance done throughout the winter. The boat is kept at the request and the requirement of the owner to complete the winterizing and maintenance. He further indicated that the actual storage is part of the principal retail sales of aspect of service.

Ms. Ward questioned Mr. Checcini if he stores boats on the property that he does not service. Mr. Checcini indicated that no he does not. He further noted that the boats that are there for storage are boats that are service customers.

Ms. Ward indicated to Mr. Phil that there were questions raised by Mr. Bryce regarding outdoor storage. She questioned him if outdoor storage is defined in the ordinance. Mr. Phil indicated that it was defined in the ordinance and it is quite broad. The definition states “Means the keeping in an unenclosed area of any goods, junk, material, equipment, merchandise, inventory or vehicles in the same place for more than twenty-four (24) hours.” Ms. Ward questioned Mr. Phil if outdoor storage is a permitted use. Mr. Phil indicated that no where in the ordinance has he found, other than in the definition, other than in the definition of the C-1 Commercial zone talking about the storage of materials and items outdoors. Ms. Ward questioned Mr. Phil what is different about this definition from the Ordinance of C-1 Commercial and the C-2 Zone. Mr. Phil indicated that in the C-1 Zone the ordinance specifically states “retail store where goods are sold or personal services rendered, provided that there is no fabrication, manufacturing, converting, altering, finishing or assembly on the premises except incidental to such retail sales, and provided that these uses shall be confined to the first floor and basement of the premises and that no supplies, material, or goods are stored, displayed, or offered for sale outdoors.” The township acknowledges the fact that in the C-1 commercial zone, you do not permitted anything outdoors. The township does not do that anywhere else with regards to the C-2 Zone or any other zones that allow retail.

Ms. Ward questioned if Mr. Phil reviewed the LI Zone Ordinance of the township. Mr. Phil indicated that he did. She questioned if the ordinance provides anything with regard to outdoor storage in the LI Zone. Mr. Phil indicated that its states that wholesaling including warehousing or storage of goods, but nothing for outdoor storage.

Mr. Phil indicated that by the definition of retail sales outdoors allows the display and services associated with that retail use.

Mr. Phil referred to the variances requested by the applicant. With regards to a C1 Variance, the size of the building envelope is a hardship. This property can't be developed within the building envelope because of the size of the property as well as the

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shape of the property. The building envelope is a little over 1000 square feet of which the property is approximately 53,000 square so its 1/50th of the property is the actual permitted area that is allowed in the portion of the ordinance. He indicated that from the 1984 Resolution, the 2 storage buildings on the subject property were lawfully constructed and there was a “C” Variance for the height of those given. He indicated that in reviewing the site, they can not take the storage racks and move them to the other side of the property to get them further away from the property line without dismantling the existing buildings. This is also a hardship to the applicant. Mr. Phil referred to a C2 Variance. Mr. Phil indicated that the proposed loading racks are actually to provide a more efficient use of the property. At the present time the boats are stored on the ground and must be moved around to be serviced, the racks will allow more efficiency on the site. This will also help with fire safety should it happen on the property. He indicated that the intent of the racks is to get the boats organized, get them up in the racks to turn around and get the site that it is more organized with regards to its appearance, that it will turn around and also be screened from the proposed fencing, and the enhancement of the landscaping across the frontage.

Mr. Phil referred to the negative criteria of the application. He indicated that to the rear of the property is a 30’ natural buffer zone where the rear storage rack is proposed, which is from the edge of the pavement to gravel area on the property. There is also the additional screening that will be planted if Lot 3.02 is developed

Mr. Phil indicated that in reviewing the Frankford Township Master Plan, it has recommendations with regards to the aspect of enhancement of the front of properties, through landscaping which the applicant has proposed.

Mr. Phil indicated that they have recognized the fact that negative impacts to environmentally sensitive areas are an issue here. He further stated that this application does not result in the disturbance of any land, the re-grading or the removal of any trees and that the preservation of natural features which is the major objective of the township’s ordinance. Based on his review of the Township Master Plan and Zoning Ordinances that special reasons exists to grant the variance and its also his opinion that the granting of the variance will not be a substantial detriment to the zone plan or zoning ordinances. It is further concluded that the benefits of the proposal substantially outweigh any detriments associated with the requested variances.

Mr. Ayers questioned the applicant if there is a percentage of how much sales and how much service and storage of boats there is at the site. Mr. Phil indicated that the applicant could not just sell the boats, the service and storage of the boats is part of the package. Mr. Ayers referred to the definition of retail service which states “means establishments predominately providing services...” He further indicated that the word “predominately means more than 51% of the business. He indicated if retail sales is 51%, then service can not be predominate, therefore, this can not be defined as part of the operation. Ms. Ward indicated that this can not be defined as a separate operation; it is part of the whole operation.

Mr. Romania questioned the applicant if they will be storing boats other than the boats they service. Mr. Checcini indicated that all of the boats that are stored are serviced. He further indicated that they do not solicit the storage of boats.

Mr. Bryce questioned Mr. Phil as to where the gravel area is depicted on the site plan. Mr. Phil indicated on the site plan map where the gravel area was. He further questioned Mr. Phil if the boats that are currently on the property are being stored and where are they

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stored. Mr. Phil indicated that they are being stored on the gravel areas, inside the metal buildings, and on the blacktop areas which is beyond the parking requirements for the showroom sales and parts building.

Mr. Bryce questioned Mr. Phil as to how many boats are being stored on the property and inside the buildings at the present time. Mr. Phil indicated that this changes on a daily basis and he could not answer this question.

Mr. Bryce referred to the original site plan approval from 1984 on this site. He questioned Mr. Phil if he saw on the site plan and variance approval a reference to the amount of boats proposed to be stored within the enclosed storage areas. Mr. Phil indicated that he does not recall a number of boats being stored within the building. Mr. Phil referred to the Resolution from 1984 paragraph “2” on page “3” which states: “Applicant proposes to erect two additional buildings to the rear to provide for boat storage of approximately 100 boats with a height requirement in excess of the permitted height per the Zoning Ordinance, in order to facilitate additional storage.” Mr. Bryce questioned Mr. Phil if there were 100 boats stored inside the building. Mr. Phil indicated he could not answer this question. Mr. Bryce questioned Mr. Phil if he felt that the applicant in 1984 felt that he could store 100 boats inside this building. Mr. Phil questioned Mr. Bryce what size boats. He further indicated this is the whole situation now that the boats that are in there now are twice the size compared to 19’ boats mentioned in the 1984 Resolution.

Mr. Bryce submitted to the board Exhibit “O-1” which is a photograph of the subject property showing the property from Route 206 and indicated he did not know when the photograph was taken. Mr. Bryce questioned Mr. Phil if the photograph was of the subject property and was taken from Route 206 looking at the subject property. Mr. Phil agreed. He questioned Mr. Phil as to how many boats from this photograph were on the subject property. Mr. Phil indicated he recognized 9 boats. Mr. Bryce questioned Mr. Phil under the previous resolution how many boats were they permitted to display in the front yard. Mr. Phil indicated it was 5 boats. Mr. Bryce questioned Mr. Phil based on Exhibit “O-1” it exceeds 5 boats. Mr. Phil indicated it appears that there are 5 boats in front of the building, the rest are behind the fence. Mr. Bryce questioned that the boats shown in this photograph were they on display or shrink wrapped. Mr. Phil indicated that most of them are covered. Mr. Bryce questioned Mr. Phil as to how boats are normally displayed. Mr. Phil indicated that he is not in the business, but he knows that some are covered and some are uncovered during the day. Mr. Bryce questioned Mr. Phil if it would be reasonable to assume that they are covered because they stay out their over night. Mr. Phil indicated that as a boat owner, he leaves the cover off, he does not cover it every night.

Mr. Bryce questioned Mr. Phil if it was his testimony as of today that boats are still being stored on gravel areas. Mr. Phil agreed. Mr. Bryce submitted to the board Exhibit “O-2” which is a photograph of the subject property. He asked Mr. Phil to describe the photograph. Mr. Phil indicated that it looks to be storm drains, vegetation, and a pontoon boat that is wrapped. Mr. Bryce questioned if there is any gravel shown in this photograph. Mr. Phil indicated that you can’t tell from this photograph if the boat is sitting on gravel or not.

Mr. Bryce submitted to the board Exhibit “O-3” which is a photograph of the subject property. Mr. Bryce questioned Mr. Phil if the boat in the mid-ground of the photograph to the right has gravel underneath it. Mr. Phil indicated no it is actually sitting against the building on the lawn. Mr. Bryce questioned Mr. Phil if the boat to the left side of the

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photograph is sitting on gravel. Mr. Phil indicated that he could not tell because of the shadowing of the photograph, however, there is gravel in front of it.

Mr. Bryce submitted to the board Exhibit “O-4” which is a photograph of the subject property similar to “O-3”. He questioned Mr. Phil if this picture shows gravel underneath the boat to the left. Mr. Phil indicated, again, he can not tell because of the shadowing of the photograph.

Mr. Bryce referred to the old site plan from Haggerty Marine. He questioned Mr. Phil if there are any sheds on this site plan. Mr. Phil indicated that there were no sheds on the old site plan, however, it is a part of the site plan approval before the board this evening. Mr. Bryce noted that sheds were put up on this property without site plan approval. Mr. Bryce questioned Mr. Phil as to how many sheds were put up on the property. Mr. Phil indicated that there are 2 sheds. Mr. Bryce questioned Mr. Phil if the propane station shown on the old site plan in the same location. Mr. Phil indicated it was not.

Mr. Bryce referred to the parking on the site plan submitted by the applicant which showed number of parking spaces at 14 which included a certain square footage based on the building. He also indicated that this was done by Ordinance 30-608 for onsite parking of Frankford Township Ordinances. Mr. Phil agreed to all of the above. Mr. Bryce read a portion of this ordinance which states “Where a particular project contains more than one use, the minimum parking requirements shall be the sum of the component parts of use.” Mr. Bryce indicated that assuming there are multiple uses proposed on this site including storage, outside storage, service, he questioned Mr. Phil if the parking calculations would remain the same if you considered the storage buildings to be a different use. Ms. Ward indicated that she objected to the form of the question. Ms. Leo, the board attorney, indicated that Mr. Phil could answer the question. Mr. Phil indicated it would depend if the operation was owned and operated by the same people, then no. However, he further indicated, that this is such a hypothetical question, he could not answer it. Mr. Bryce asked Mr. Phil to explain to the board as to how he calculated the parking spaces for this site plan. Mr. Phil indicated that the full calculations for the parking is shown on the site plan which is as follows: Show Room/Sales: 1,486 S.F. x (1 space/200 s.f.) = 8 Spaces

Employees:	
Admin.	= 1 Spaces
Sales/Parts	= 2 Spaces
Service	= 3 Spaces
<hr/>	
Total Parking Spaces Required	=14 Spaces

Mr. Bryce questioned Mr. Phil as to what building on the site plan did he use for the square footage of 1,486 s.f. Mr. Phil indicated that this is the sales area. Mr. Bryce indicated that the square footage of the building of the Showroom/sales/parts building is 2,160 s.f. Mr. Phil indicated that he does not need parking for the parts part of the building. He took the active area of showroom/sales to calculate the 1,486 s.f. Mr. Phil indicated that this is supported by item “6a” of Mr. Pellow’s report. Mr. Bryce questioned Mr. Phil if the entire building of 2,160 s.f. was used for parking, what would the result for parking be. Mr. Romania indicated that he feels the parking requirement by the applicant has been met as verified by Mr. Pellow’s report. Mr. Zappile questioned Mr. Pellow if this was an appropriate way to calculate parking. Mr. Pellow indicated it was. Mr. Bryce indicated in the Ordinance under the C2 Zone it states “one space for each 200 square feet of gross floor area for any use other than residential in accordance with Section 30-304.”

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Mr. Bryce questioned Mr. Phil in which building the service of boats occur. Mr. Phil indicated in the northern portion of the northern building. Mr. Bryce questioned Mr. Phil if any of the boats that ultimately sold out of this property stored in any of these buildings. Mr. Phil indicated that he did not know. Mr. Phil indicated that this facility of this size that has been operating for several years and there has not been a parking problem. He further stated that there is no need to add impervious coverage to this property, should there be an issue. Mr. Bryce indicated that based on the actual square footage of the building is in excess of 2,000 square feet, this would increase the parking requirements by two. Mr. Phil did not agree with Mr. Bryce's calculations. He indicated that the total parking spaces is 14 if you take 2,100 divided by 200, they are at 10.5 spaces.

Mr. Bryce referred to a previous concept plan that was submitted for lot 3.02, which is to the immediate left of the property looking from Route 206. This plan was marked as Exhibit "O-5". He questioned Mr. Phil if he notices any DEP delineated wetlands on this plan. Mr. Phil indicated that he did. He indicated that this plan indicates that there is wetlands that goes from the north property line, it meanders around the proposed improvements and stops before the 20' wide drainage easement. He further indicated that there is a stream shown on the plan. Mr. Larson indicated that Mr. Pellow mentioned earlier in the meeting that there is no change to the property; the applicant does not need to get an LOI. Mr. Bryce indicated that there are 2 items that need to be looked at, not only wetlands, but flood hazard and stream encroachment, which are 2 sets of regulations from the DEP. He further indicated that they are treated differently in the township's ordinance as well. Mr. Bryce continued that not only is there reasonable likelihood that there are wetlands proximate to the subject property, but also a flood encroachment. Mr. Larson questioned, that since this property is pre-existing, how does this play into this.

Mr. Bryce questioned Mr. Phil if the applicant is proposing to place storage racks at the very back of this property. Mr. Phil agreed. He further questioned him if this is proximate to a stream that exists that directly adjoins the property. Mr. Phil agreed. Mr. Bryce questioned Mr. Phil as to what the value resource this creek is. Mr. Phil stated that as Mr. Pellow stated earlier, the applicant did not need to go through this process, because they were not proposing anything associated within impacting that stream. Mr. Phil indicated that he is the Borough Engineer of Mt. Arlington, he deals with this issue consistently, and the loading racks are exempt from the flood hazard rules. Mr. Pellow indicated that he did call the DEP and the stream they are referring to is not trout production, it is trout maintenance and there are no setbacks.

Mr. Bryce referred to Section 30-404.5 Floodplain District which states "Any subdivision, site plan or other development proposal for a property including a natural drainage course shall designate the boundaries of the one hundred (100) year flood elevation (stream encroachment line) and designate this area as the flood hazard area. No excavation, construction, or other permanent or temporary activity shall be permitted within this area unless a permit from the New Jersey Department of Environmental Protection accompanies the application specifically approving the construction, excavation or other activity." Mr. Bryce questioned Mr. Phil if this is a site plan application for development and that he did not provide a delineation on any site plan of the 100 year flood plain boundary. Mr. Phil agreed. Mr. Bryce questioned Mr. Phil if the placement of temporary boat racks in anywhere near the 100 year flood plain limit would be prohibited without DEP approval according to this ordinance. Mr. Phil indicated that that is not what this section of the ordinance is stating. He further stated that what this ordinance is stating is that if your activities (any type, temporary, permanent, excavating) if those activities require a permit, you must delineate it and get the permit. He further

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stated that his testimony is that this proposed application is exempt from the Flood Hazard Regulations. He stated that you can not obtain a permit for an activity that is exempt. Mr. Bryce questioned Mr. Phil if it would be possible to get a letter from the DEP stating that the proposed placement of temporary storage racks in this area is okay. Mr. Phil indicated that he has done so much consultation because of his position as a municipal engineer along a large portion of Lake Hopatcong that he knows exactly what the DEP is going to do and it will be exempt.

A Motion was made by Mr. Martin and seconded by Mr. Zappile to open this matter to the public. All were in favor. The Motion was carried.

Appearing before the board was Joseph Indelicato. Mr. Indelicato was sworn in by the board attorney. Mr. Indelicato read the following statement to the board:

“Dear Board Members: You may remember my appearance before this board some weeks ago on another issue concerning my company Delicato Transport, LLC and Storage located at 51 US Highway 206 Suite 107, Augusta, New Jersey. My name is Joseph Indelicato and I am the Sole Member and Owner of Delicato Transport, LLC Moving and Storage and an active member of the business community of Sussex County. Tonight, however, I am here on behalf of Mr. Louis Cecchini of Off Shore Marine and his application for a variance. Although I am currently in the moving and storage business and have been for many years I have extensive experience in the marina and marine industry. I present my self tonight on behalf of Mr. Cecchini if not as an expert, certainly someone who is highly qualified to discuss and explain the industry. From 1984 through 2004 I worked at, helped build and managed Waackaack Marina and Boatel in Keansburg, New Jersey. Waackaack Marina a 100 slip full service marina was founded by my father Vincent J. Indelicato in 1984 and was a family business that I was fully involved in regardless of what other employment or business ventures I pursued. Upon my fathers death in 1998 I along with my two brothers operated all aspects of the marina along with our manager Captain Al Cruz who was a merchant sea captain for more years than I can imagine before working for my father. I feel confident that this extensive 20 years of experience working and managing in the marine industry qualifies me to address this board on the issues at hand tonight. As a full service marina Waackaack Marina slipped boats, sold fuel, provide mechanical work on site, hauled boats in and out of the water, provided ramp services, sold marine equipment and supplies, sold bait and fishing equipment and provided managed dry dock storage of boats both blocked and on trailers. Which bring us to the issue at hand “Boat Storage”. From my experience boat storage is not merely storing a boat for the winter. Storing includes winterization, shrink wrapping, and often sanding, scraping and repainting hulls. Very often it also includes removal of outboard engines for inside storage and/or overhauls during the winter months, removal of out drives for inspection and maintenance, removal and maintenance of props and electronic equipment. During the winter months the boat owner knows that his or her boat is under the care and charge of a qualified marine facility. In the event of storm damage to the boat or to the covering or any unforeseen circumstances the vessel is in “Managed Storage. Upon spring season the marine facility provides another set of services starting with removal of the protective covering, inspecting for ice damage to the engine, lines, hull, replacement or any mechanical or electronic parts that were removed for storage, tuning up engines replacing fluids and inspecting for safety. Also customers with larger vessels do not trailer them and they require the marine facility to haul them into storage for winter and haul them back to the body of water in the spring. These types of vessels require professional blocking. Blocking a boat is a highly sensitive procedure and must be done correctly and by a professional. If a large vessel were to fall or be blown off its blocks the result could

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be tens of thousands of dollars in damages if not a total loss. This procedure not only takes expertise but specialized equipment. I explain all this to the board to help illustrate the fact that “storage” at a marine facility is much more than just storage and is an integral part of the overall service that any marine dealer or marina provides and is expected to provide for it’s consumers. Just as managed storage of household goods is an integral part of the service that any mover is expected to provide. It is also important that this board understands the difference between managed storage of anything and merely self storage. The managed storage consumer is typically of a higher economic status than the typical self storage consumer. They pay for an expect a higher level of service and care of their stored goods. The storage facility whether it’s a warehouse for household goods or a marine dealer accepts a higher level of liability and responsibility for the proper care of the goods stored. Managed storage of anything from antique automobiles to boats or household goods can not be compared to the “self storage” of anything. The self storage consumer is a totally different than the managed storage consumer. The managed storage consumer purchases service, the self storage consumer purchases nothing but space. The storage racks that Mr. Cecchini request this variance for are required equipment for the property and secure storage of boats and are part of the overall service he provides to his customers and this community. Winter boat storage and all the services associated with it are part of Off Shore Marine’s business and the service it provides to its customers. They are traditional and customary services provided by any marine facility and are not unique to Off Shore Marine. For this board to deny Mr. Cecchini this variance would do irrevocable financial damage to Off Shore Marine because higher end boat customers that are accustomed to a certain level of service would certainly go to another marine dealer to purchase their boats if they could not get the full service that they are not only accustomed to but expect because they are customary and reasonable in the industry. For these reasons I respectfully ask this board to not only approve Mr. Cecchini’s variance for his racks but to use restraint in the future when considering challenges to his right to conduct business honestly and in the fashion that he has been doing so for 20 years in this township without incident or challenge. Off Shore Marine is not only a valuable resource to our community, its recreation and tourism but is also a valued employer that this township should support and encourage. This township cannot afford to lose Off Shore Marine. I again respectfully request that this board grant Off Shore Marine the variance before you because it is required for his business to remain competitive and viable so that he may continue to provide the high level of honest reputable service our county’s boating community has grown to expect and enjoy.”

There being no further public, a Motion was made by Mr. Martin and seconded by Mr. Zappile to close this matter to the public. All were in favor. The Motion was carried.

A Motion was made by Mr. Zappile and seconded by Mr. Martin to carry this application without further notice to the November 28, 2007 Land Use Board meeting. All were in favor. The Motion was carried.

ADJOURN:

A Motion was made by Mr. Ayers and seconded by Mr. Risdon to adjourn the meeting. All were in favor. The Motion was carried.

Respectfully submitted,

SHARON M. YAROSZ
Land Use Administrator