

**FRANKFORD TOWNSHIP LAND USE BOARD  
JANUARY 23, 2008 – 7:00 P.M.  
MINUTES OF THE REGULAR MEETING**

**CALL TO ORDER**

This 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, Mr. McDowell, Mr. Bennett, Mrs. Fountain, Mr. Gstattenbauer, Mr. Sutphen, Mr. Shelton, Mr. Larson, Mr. Romania, Mr. Dolan, Mr. Capalbo, and Mr. Nadolny. Also present were Mr. Clark, the board attorney and Mr. Pellow, the board engineer.

Those absent were: Mrs. Albanese (excused).

**MINUTES**

The Minutes of the October 2, 2007 Office of Smart Growth Meeting with Frankford Township were reviewed. A Motion was made by Mr. Gstattenbauer and seconded by Mr. Larson to approve the Minutes of the October 2, 2007 Meeting with the Office of Smart Growth and Frankford township. All were in favor, except Mr. Ayers, Mr. McDowell, Mr. Bennett, Mrs. Fountain, Mr. Sutphen, Mr. Shelton, Mrs. Albanese, Mr. Dolan, Mr. Capalbo and Mr. Nadolny, who abstained.

It was noted that the November 28, 2007 Minutes and the December 19, 2007 Minutes were not yet completed.

**RESOLUTIONS**

**Mark & Carole Vogel – LUB 07-24 – Block 266, Lot 7 – 44 Bonning Road – “C” Variance:**

The Resolution was reviewed. A Motion was made by Mr. Ayers and seconded by Mr. Gstattenbauer to approve the Resolution for Mark and Carole Vogel for a “C” Variance.  
Roll Call:

YES:           6       Ayers, McDowell, Gstattenbauer, Larson, Romania, Dolan

NO:            0

ABSTAIN:    0

The Motion was carried.



**BOARD BUSINESS**

**Sussex County Farm & Horse Show:**

A letter was received from the Sussex County Farm & Horse Show indicating that they had to appear before the board to update the site plan for a new building. They had requested that the fees for the site plan application be waived due to the fact that they are a non-profit organization.

A Motion was made by Mr. Gstatenbauer and seconded by Mr. Larson to recommend to the township committee that the site plan application fees be waived. All were in favor. The Motion was carried.

**ZONING OFFICER'S AGENDA**

There was no Zoning Officer's report for January.

**PUBLIC PARTICIPATION**

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

There was no public participation.

A Motion was made by Mr. Sutphen and seconded by Mr. Ayers to close this meeting to the public. All were in favor. The Motion was carried.

**APPLICATIONS CARRIED FROM PREVIOUS MEETING**

**Sana Enterprises – LUB 07-15 – Block 65, Lot 23 – Route 206 – Preliminary Major Site Plan & “C” Variance:**

A letter was received from the applicant to carry this application without further notice to the February 20, 2008 Land Use Board meeting.

A Motion was made by Mrs. Fountain and seconded by Mr. McDowell to carry this application without further notice to the February 20, 2008 Land Use Board meeting. All were in favor. The Motion was carried.

**John T. Carrasco – LUB 07-22 – Block 162, Lot 4 – 5 Stehr Street – “C” & “D” Variance:**

Mr. McDowell and Mr. Sutphen stepped down from this application and left the meeting.

Appearing before the board was the applicant, John T. Carrasco, his attorney, William Haggerty, and his engineer, Mr. Bach. Mr. Carrasco and Mr. Bach were still under oath from the previous meeting.

Mr. Haggerty referred to Mr. Pellow's report dated January 23, 2008 which states:

“1”: Application approved by the Frankford Township Zoning Board of Adjustment on November 17, 1982 for a 1,250 sq. ft. single-story dwelling. Mr. Haggerty indicated that in the Resolution it states building plans that show a two-story, having a 30' x 42' dimension and having 1,250 sq. ft. on the first floor. He further stated in the 1981 Resolution, he could not find the plans for this; however, the house approval was 37' x 36'. He was not sure if this was an approval for a one story or two story. It did have an attached garage with side yards of 10'.

**APPLICATIONS CARRIED FROM PREVIOUS MEETING CONT.**

**John T. Carrasco – LUB 07-22 – Block 162, Lot 4 – 5 Stehr Street – “C” & “D”**  
**Variance cont.:**

Mr. Bach indicated that this lot slopes gently from the road down to the lake. He further indicated that the garage is slightly at grade, but it is below the filled area of the septic system, approximately 4'. He indicated that the septic area is entirely enclosed with a retaining wall and the back side of the retaining wall is approximately 4' high on the right side that abuts the driveway and there is space between the retaining wall and the garage. He indicated that the elevations on the engineering plans show an 8' clear basement. The applicant has dropped the first floor elevation 1 foot in order to get at 7' clear basement. He indicated that the height of the home actually from the first floor is 28'.

Mr. Shelton indicated that in reading the previous resolutions and approvals, the surrounding owners were concerned about runoff on this lot. Mr. Haggerty indicated that the applicant could have built a bigger footprint ranch home. They have adhered to the side yard setback of 15' on one side yard and they have 12' on the other measured to the garage so the building is condensed as compared to a ranch house. They could place a 30' x 50' ranch on this lot to meet the setbacks. By building a cape house as proposed, and having a partial second story, they preserved more open space and more yard area; there is less lot coverage, which should be a benefit in terms of the slopes. They are not dealing with significant slopes and the yard does not pitch to the sides. Mr. Bach agreed. Mr. Shelton questioned if the new development will change the grade. Mr. Bach indicated that the grade changes will be ½ a foot to a 1 foot in the driveway area along the retaining wall which would not cause any significant affect on the neighboring yards. Mr. Bach further indicated that the driveway pitch is straight back towards the lake and the runoff on the driveway should drain straight down the driveway to the back. He further indicated that the driveway will be an asphalt driveway.

Mr. Clark questioned the applicant as to what is in the basement. Mr. Carrasco indicated it is strictly going to be used for storage and the heating unit. Mr. Ayers indicated that in Mr. Carrasco's testimony last week, he stated that the reason he needed a basement is because the last time he was before the board, they would not allow an outside storage unit. Mr. Ayers indicated that the garage has approximately 500 square feet and there is only one door on the garage, therefore, half the garage can be used for storage. He feels if the applicant eliminates the basement, it brings the FAR much closer to where it should be and there would be storage in half of the garage. Mr. Carrasco indicated that the oversized garage is designed for vehicle oriented equipment and yard maintenance. Mr. Gstatenbauer indicated that he also has a problem with the FAR.

Mr. Larson questioned the applicant as to when the tax bill changed for taxing him as a buildable lot to an unbuildable lot. Mr. Carrasco indicated that in 2006 his taxes were reduced and stamped as a non-buildable lot, prior to that it was considered a buildable lot.

Mrs. Fountain questioned the applicant how close would the FAR be if they eliminated the basement as Mr. Ayers suggested. Mr. Pellow indicated that item 4 of his report dated January 23, 2008 explains this scenario: "The current application is for 2,296 sq. ft. on the first and second floors, and does not include the garage or basement area as per the architect's drawings. Total floor area allowed by FAR is 1,680 and with the basement, 3,598 square feet is proposed." Mrs. Fountain indicated that since there will be storage in the garage; she feels that they should eliminate the basement.

Mr. Dolan questioned the applicant if there is a central water supply. Mr. Carrasco indicated that there is a central well that services this area.

Mr. Haggerty summarized the application and indicated that the architectural plan prepared by Charles Schaefer is for a cape style home with a partial floor. There is a

**APPLICATIONS CARRIED FROM PREVIOUS MEETING CONT.**

**John T. Carrasco – LUB 07-22 – Block 162, Lot 4 – 5 Stehr Street – “C” & “D”**  
**Variance cont.:**

septic system that is raised on the roadside so the garage will be partially concealed. He indicated if you look at the front elevation, the roof line is very attractive from the road; it matches nicely from the garage into the porch area. On the lake side they have created a shed dormer for the second floor so that visually compresses the height of the mass of the home as a view to the lake. The basement level is dug in. They are proposed a 7' height in the basement which they are willing to deed restrict so they could not use it for residential occupancy. The basement would be used strictly for storage and the furnace. The applicant has a very limited attic area for storage and they are not proposing a storage shed. The plans provide for a driveway turnaround which is unique on Stehr Street. There is a modern septic system which will be located as far from the road as they can. There was a series of prior approvals, one for a two story home for this lot; they just never went through with the project. He feels it is a good plan; it is a very attractive plan which will upgrade the area. This is a lake style type home as proposed. It is only a two bedroom home consistent with the septic design. The side yard setbacks are 12' and 15' and are within keeping with the houses in the area. The applicant did provide photographs of homes in the area. This home would be a nice amenity and upgrade in the area. He requested from the board if they are against a deed restriction of the basement, he would appreciate knowing because they may be able to redesign the plans. He feels it would be difficult to shrink the house. He feels it is better to have a partial second story, then to have a ranch house that would take up more lot area and constitute more lot coverage.

Mr. Romania indicated that the only reason the basement is included in the FAR is because it has a walkout basement. Therefore, the applicant has two options to reduce the FAR: 1) Eliminate the Basement or 2) Eliminate the walkout capability of the cellar. Mr. Haggerty indicated that they could close up the basement; however, they would still like to have the basement accessible from the outside. He further indicated that the applicant would be willing to change the height of the basement; however, they would not prefer to put in a bilco door. He indicated that the applicant would be willing to lower the height of the basement to 5' so they would not have a crawl space. He feels that 5' would not have any affect on the appearance of the house and it would not affect the neighbors and it gives the applicant a space for storage.

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

Appearing before the board was James Lowen of 19 Center Street. His ex-wife owns the property next door to the applicant and he still has some interest in the ex-wife's home. Mr. Lowen had an objection to the septic system design. Mr. Clark indicted to Mr. Lowen that this board had no jurisdiction to the septic system design on this application. Mr. Haggerty questioned Mr. Lowen if he is on the deed to the property. He indicated that he was not on the deed; however, he has a financial interest in the property. He indicated that he was concerned about the height of the retaining wall and the level off the property off the street is approximately 38" and with the retaining wall 4' off the property line will put the house height at an elevation of about 5 1/2'. He is concerned with the run off onto to his property.

There being do further public participation, a Motion was made by Mr. Dolan and seconded by Mr. Shelton to close this matter to the public. All were in favor. The Motion was carried.

**APPLICATIONS CARRIED FROM PREVIOUS MEETING CONT.**

**John T. Carrasco – LUB 07-22 – Block 162, Lot 4 – 5 Stehr Street – “C” & “D”**  
**Variance cont.:**

Mr. Larson indicated that he was concerned with the FAR. He further indicated that he does not feel that it is going to affect anyone's view of the lake. He is concerned about the basement from a storage area. He noticed when he did the on site inspection that the neighbors all have outside sheds. He feels that the applicant should be allowed an outside shed since everyone in the area has one for storage. He would agree to dropping of the height of the basement.

Mr. Bach indicated to the board that the finished elevation will be approximately 1' above the street line. The way it lays out with the walls around the septic and garage is already dropped 4', it really is not aesthetically pleasing and he does not feel the applicant wants to drop his finished floor down below the elevation of the roadway because it is only a foot above it now. He feels if they did not go with some kind of tall crawl space or some kind of walk in basement, they would still have the same foundation put up and the back of the house would be just a blank concrete wall 7' out of the ground. With the walkout basement, it may exceed the FAR, but there will be the same structure built. Mr. Romania indicated that they could step it down without concrete, it could be siding.

Mr. Shelton indicated from his on site inspection, he feels it is too much house for the lot.

Mr. Larson indicated that he liked the layout of this house because it was only 28' as opposed to a ranch house.

Mr. Ayers indicated he would like to see the FAR at 2100 square feet. Mr. Shelton feels the size should be downsized. Mr. Gstattenbauer indicated that the basement should be eliminated to reduce the FAR and the house should be redesigned to reduce the FAR.

A Motion was made by Mr. Shelton and seconded by Mr. Gstattenbauer to carry this application to the February 27, 2008 Land Use Board meeting without further notice. All were in favor. The Motion was carried.

**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:**

Appearing before the board was the applicant's attorney, Richard Tilton, their engineer, Stuart C. Challoner, their traffic engineer, Ken Fears, and the applicant, Felix Bruselovski. Mr. Challoner, Mr. Fears and Mr. Bruselovski were sworn in by the board attorney.

Mr. Tilton indicated that this is a piece of property located on Route 206 at the intersection of Route 519. He indicated that the property is located in two different municipalities of which 44,500 square feet is located in Branchville Borough in the HC Zone and 59,000 square feet is located in Frankford Township in the AR Zone. He indicated that the proposal is essentially to take down the remains of the gas service station that exist at this site and to make it into a new gas station and new 2500 sq. ft. of a mini mart store. There will be a new canopy, 3 gas pumping islands and parking facilities. The property received a Use Variance approval and Preliminary & Final Site Plan approval from Branchville on September 13, 2007. As a condition of that approval the applicant's must obtain a Use Variance and Site Plan approval from this board.

Mr. Pellow reviewed his report dated October 17, 2007 with regard to completeness:

**APPLICATIONS CARRIED FROM PREVIOUS MEETING CONT.**

**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 cont.:**

Item 3: Certification of Taxes, liens, assessments paid. The copies of the property tax records are dated as of December 28, 2004. A new certification is needed. Applicant indicated that these were paid and will submit confirmation to the board.

Item 28: Existing structures within 200 feet (200') and distance to property line. Existing structures outside the limits of the properties in question have not been shown. The applicant agreed to provide this.

Item 43: Location of existing railroad, bridges, culverts, drainage pipe, water and sewer, utility poles. The locations of all drainage pipes along Route 206 should be included on the maps. Other additional feature along County Route 519 and Route 206 should also be provided. This includes existing guide rail, utilities, signs, roadway striping, etc. Mr. Pellow indicated that this was acceptable for completeness. Mr. Challoner indicated that they submitted revised plans in November and this did show these items.

Item 44: Natural features including existing vegetation, wet areas, watercourse, flood plain limit, rock outcropping. Existing vegetation has not been shown on the plans. Mr. Pellow this is something that can be added to the plan.

Item 49: Earthwork summary. A summary needs to be added to the plans. This will be submitted.

Item 70: NJDEP Letter of Interpretation regarding the presence/absence of wetlands on property and within 150'. If wetlands are present, line verified by NJDEP and transition area established. NJDEP reference number on plan. For minors only, a delineation is needed and an absence/presence letter to determine buffer width. An LOI- Line Verification was obtained for the site and provided to the Borough of Branchville during the application hearing process. A copy of this LOI should be provided to the Township of Frankford in support of this application. Applicants will submit this information.

Item 80: A statement of legal brief which clarifies why the variance should be granted. No such brief has been provided. Mr. Tilton indicated that they will provide this in testimony this evening.

Mr. Pellow indicated that he feels the application can be deemed complete because none of the completeness items are major and can be submitted later for review.

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

Mr. Challoner gave his qualifications to the board and was accepted as an expert witness.

Mr. Challoner submitted to the board Exhibit “A-1” which was a Colored Rendering of the Site Plan dated August 7, 2007 with the latest revision date of November 12, 2007. He indicated this Exhibit identifies a lot which is on the corner of a State Road, Route 206 and Newton Road, which is a County Road. The property is located on the southwest corner of this intersection. Currently there exists a small residential structure close to the intersection and a vacated service station, service garage and old pump islands. He indicated that the pumps have been removed, but the tanks are still installed in the ground. He indicated that the back portion of the property which has been cleared and has gravel was used for storage, which most items have been removed by the applicant.

**APPLICATIONS CARRIED FROM PREVIOUS MEETING CONT.**

**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 cont.:**

Mr. Challoner further indicated that what the applicant is proposing is to eliminate the residential use entirely and removing the structure, and removing the structure that services the service garage, take out the pumps and the existing tanks and construct an entirely new facility with pump islands, new tanks, and provide a small mini mart store approximately 2500 square feet of which 2000 square feet would be used for mini mart and 500 square feet would be used for office and storage. The project will have self contained on site parking, fully compliant with the Branchville requirements. They will have access onto Route 206 that is restrictive on what they can do with that access based on their DOT letter of no interest requirements. There is currently a driveway access on Newton/Branchville Road. This driveway access will be enlarged to be fully compliant with current design standards of a 24' wide isle width and they will provide a secondary access so cars will be able to go back out onto to a controlled intersection before entering onto Route 206. The property will be self contained to provide on site detention, even though the site today does not have any detention or any stormwater management in its existing facilities. The applicant has provided a full on site detention to ensure that all runoff will be provided for water quality and on site detention above and beyond what would normally be required since the site is already disturbed. The back portion of the property, which is the property that is located in Frankford Township, has no access onto Newton Road. This portion of the property only has access onto Route 206 and this access is inaccessible because there is a large drop off of approximately 30' from Route 206 to this property. The rear portion of the property in Frankford Township is located in a wetland area and these wetlands have received a LOI from the DEP. A small portion of the wetlands was granted a Preliminary Resource Value, which does not require any buffering and the remaining portion of it is Intermediate Resource Value, which requires a 50' buffer, which are shown on the site plan. He indicated that a third of the building and approximately half of the detention basin is located in Frankford Township. They are proposing a septic system that is in the back portion of the property. They have met with the Sussex County Health Department and obtained approvals for the test pits in this area. He indicated that once they obtain their approvals from the boards, they will be applying to obtain septic approval from the County.

Mr. Romania questioned as to the green area of Exhibit “A-1”. Mr. Challoner indicated that this is the area that is currently the gravel area and will be disturbed by the development and put back into a landscape lawn area. He further indicated that the two residents that are in Frankford Township, was a discussion at the Branchville meeting which they expressed a concern of having visibility and they asked us to provide a solid fence and landscaping buffer along this portion. As part of their review process in Branchville the applicant has agreed to do this. He indicated that some other conditions that Branchville required was solid flat vinyl fencing around the propane tank and some parking reconfigurations, which the applicant has complied with. Mr. Romania indicated that Frankford Township’s Fence Ordinance does not allow the applicant to put a fence right on the property line in order for the applicant to maintain both sides of the fence. Mr. Pellow indicated it should be 4 or 5 feet. Mr. Challoner indicated that this would not be a problem since this is not an area they are planning to develop. He referred to sheet 5 of 11 of the site plan which is the landscaping plan which list all of the plants and trees to be installed.

**APPLICATIONS CARRIED FROM PREVIOUS MEETING CONT.**

**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 cont.:**

Mr. Pellow continued reviewing his report:

**3. ZONING COMMENTS**

- a. The portion of the property in question (Block 604, Lot 2) is located within Branchville Borough is located in the HC – Highway Commercial District.
- b. The portion of the property in questions (Block 19, Lot 2) located within Frankford Township is located in the AR – Agricultural Residential Zone.
- c. The proposed fueling station and convenience store are not permitted in the HC District within Branchville Borough or the AR Zone within Frankford Township. Use Variances will be required to permit the proposed use in the HC District and the AR Zone. Mr. Pellow indicated that Branchville Borough has approved the Use Variance.
- d. The area and yard requirements for the HC District in Branchville Borough and the AR Zone in Frankford Township, and the two lots in question are as follows:

<b>Description</b>	<b>Branchville HC District</b>	<b>Proposed Block 604, Lot 2</b>	<b>Frankford AR Zone</b>	<b>Proposed Block 19, Lot 2</b>
Minimum Lot Area	40,000 SF	44,500 SF ±	5 Ac.	59,000 SF ± *
Minimum Lot Width	200 ft.	400' ± (Rte. 206) 135' ± (CR 519)*	300'	220' ± (Rte. 206)*
Minimum Lot Depth	200 ft.	100' ± *	300'	100' ± *
Minimum Front Yard Setback	50 ft.	68.76'	75'	0' **
Minimum Side Yard Setback	20 ft.	20'	60'	60'
Minimum Rear Yard Setback	50 ft.	0 **	75'	113.2'
Maximum Building Height	35 ft.	23'	35'	23'
Maximum Impervious Coverage	N/A	45%	10%	8%

\* Non-Conforming Existing Condition  
 \*\* Variance Required

- e. The plan contains a note that the Frankford Township ordinance states that if a lot splits two different zones; it may utilize the adjoining zone within 100 feet of the zone line. While this is the case for individual properties within Frankford Township, the site in question consists of two separate lots: one in Branchville and one in Frankford. Due to the fact that two individual lots exist; the zoning requirements for the Frankford AR Zone should be utilized for the proposed improvements on the Frankford lot. Mr. Pellow indicated that the applicant has complied.
- f. With the proposed building crossing the Frankford Township line, it will have no setback. A variance will be required to construct the building as proposed and have no front yard or side yard setback. The board attorney should comment on the type of variance that will be required. Mr. Clark indicated that there is a special interpretation when you are dealing with property in 2 different municipalities and 2 different zones. He indicated that the board is to look at the predominant tract for the use and you are supposed to in your deliberations take this into your consideration in granting the relief that is needed. This is considered a hardship situation.

**APPLICATIONS CARRIED FROM PREVIOUS MEETING CONT.**

**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 cont.:**

4. SITE PLAN COMMENTS.
  - a. The majority of the site work now being proposed will be constructed on the Branchville Borough property. The items that will be constructed on the Frankford Township property include: a portion of the building, a portion of the stormwater detention basin, and the septic system.
  - b. The site plan currently proposed is significantly different from the site plan that was originally proposed. The Applicant should explain why the site plan has been modified to the current layout and explain the advantages of this proposal. Mr. Challoner indicated that originally they had an application that had separate access drives off of Route 206 and they had the pump islands centered between those. The DOT came back and indicated that they were not allowed to alter the access onto Route 206. Therefore, they had to reconfigure the property and provided access that would have the pump island more directly in front of the access drive and give access back out to Newton Road. They moved the mini mart that segregated from the pump service facility and based on Mr. Pellow’s review at the Branchville Borough, they also showed this further away from the pump islands so there were not any cars being backed out into the large opening out onto Route 206. This was basically derived because of the DOT.
  - c. The Applicant is currently proposing to retain the two existing entrances along Route 206 for ingress and egress. The use of these openings as they are proposed will allow ingress and egress from each of the two openings. The entrances along Route 206 should be reconstructed to provide one ingress and one egress with an island between the two openings. This will eliminate some of the driver confusion that may be caused with having two driveways to enter and exist from. *Note: A condition of the approval by the Branchville Borough Planning Board/Zoning Board was for the Applicant to work with our office and the NJDOT to revise the entrance as needed.* Mr. Pellow indicated that there was a letter from NJDOT allowing the use of the two entrances and they do not want any changes.
  - d. The driveway entrance along County Route 519 is very close to the adjacent property which is partially in Branchville Borough and partially in Frankford Township. It is recommended that this entrance be shifted closer to Route 206 to provide an additional buffer from the adjacent residential dwelling. *Note: This recommendation was also a condition of the approval by the Branchville Borough Planning Board/Zoning Board.* Mr. Challoner indicated that they agreed to check with the County if they would allow them to move this entrance, the applicant would move it.
  - e. The parking lot area in front of the mini-mart store should be revised so vehicles are not backing into vehicles that are entering directly from Route 206. The parking stalls along Route 206 should line up with the stalls along the front of the building. Mr. Pellow indicated that this has been revised.
  - f. The applicant is proposing to have a propane gas refill facility on site. The tank is located along the western side of the mini-mart store. The applicant should provide testimony regarding this proposal and describe what regulatory agencies will be involved with this process. Mr. Challoner indicated that the propane tank will be fully compliant with fire recommendations in terms of space in between

**APPLICATIONS CARRIED FROM PREVIOUS MEETING CONT.**

**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 cont.:**

buildings. It is located on the left side of the building; it has a sidewalk access to the front and also has a loading area for people to pull up with their cars. It is fully enclosed with a chain link fence. They agreed with Branchville that the chain link fence would be black vinyl.

**5. TRAFFIC COMMENTS.**

- a. The applicant is currently in the process of attempting to obtain a “Letter of No Interest” from the NJDOT that will allow them to construct the site as proposed without obtaining a full major access permit. It is my understanding that this request for a “Letter of No Interest” has been denied by the NJDOT and that the Applicant must apply for an NJDOT Major Access Permit. The Applicant should provide testimony regarding the status of this application.
- b. The NJDOT is currently classifying Route 206 in this area as Access Level 2. According the NJDOT State Highway Access Management Code, lots having frontage on a road other than a State Highway, no direct access shall be allowed. If the proposed site plan does not obtain a “Letter of No Interest”, the NJDOT may require the driveways along Route 206 be closed. The closing of these driveways will drastically impact the potential for this site to be developed as service station and mini-mart store.

**5. DRAINAGE/ENVIRONMENTAL COMMENTS**

- a. A Freshwater Wetlands Letter of Interpretation – Line Verification was obtained for the two properties. Based on a review of this LOI, it was found that a 50 foot buffer is required along the wetland points A5 to A10 located along the Frankford property’s northern property line. The remaining wetland points A1 and A4 require no buffer. The plans reflect the requirements listed in the LOI.
- b. A Phase I Environmental Site Assessment Report was submitted to the Branchville Borough Planning/Zoning Board as part of the application to that Board. The Applicant should provide the Frankford Township Land Use Board a copy of this report.
- c. The environmental assessment report that we have in our possession, reports, the following environmental concerns:
  - i. Underground Storage Tank Field Associates with Former Service Station
  - ii. Hydraulic Lift within Former Service Station
  - iii. Aboveground Storage Tank in crawl Space of Residence
  - iv. Floor Drain within Former Service Station
  - v. Leaking 55-gallon Drum Containing Engine Oil
  - vi. Shop Sink Discharge to Previous Surface

The applicant should provide testimony regarding the findings in this report and explain the steps that will be taken to provide the proper clean up of any contamination that may be found on the site. Mr. Tilton indicated he will have the owner/applicant testify with regard to this issue.

**APPLICATIONS CARRIED FROM PREVIOUS MEETING CONT.**

**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 cont.:**

Mr. Pellow the following items d-h are engineering comments which can be worked out with the applicant's engineer:

- d. The Drainage Report indicates that the required recharge for this site shall be achieved without the use of structural methods. In accordance with N.J.A.C. 7:8-5.4, stormwater recharge is not required for areas of high pollutant loading such as the service station proposed. Therefore, the lack of stormwater recharge is acceptable as presented.
- e. “Outlet Structure Detail #4” shows a 6 inch deep seat for a safety grate. The proposed grate will block the weir which is also 6 inches below the top of the outlet structure. The weir must be allowed to function without any interference from the grate. A new design for the structure will have to be submitted.
- f. The Low Impact Development Checklist (Appendix A of the NJDEP Best Management Practices Manual) must be submitted for approval.
- g. A Maintenance Manual in accordance with N.J.A.C. subchapter 7:8-5.8 and per the guidelines (chapter 8) of the NJDEP Best Management Practices Manual must be submitted for approval.
- h. The minimum elevation of the top of the berm of the basin to be one foot above the 100-year water surface elevation in the basin, with all primary outlets blocked, and the emergency spillway flowing at the design depth.

**7. LANDSCAPING & LIGHTING COMMENTS**

- a. The Applicant is proposing a 6 foot high stockade fence with Giant Arborvitae along the County Route 519 driveway and the adjacent residential dwelling property. While this will help buffer the driveway from the adjacent property, it is still recommended that the driveway be shifted toward Route 206 and additional trees be planted in the area that remains. Mr. Pellow indicated that this will have to be worked out with the County.
- b. The applicant has proposed to plant 6 foot height stockade fence and 6 to 8 foot height evergreen trees along the property line shared with the residential properties in Frankford Township. The addition of this fence and the trees was added to the plans during the Branchville Borough Planning/Zoning Board application hearing at the request of the neighbors that attended the hearings.

**8. TRAFFIC COMMENTS**

- a. The pump islands are proposed to have 24 foot spaces between islands. The traffic engineering investigation recommends that the island be moved closer together (22 feet) to prevent vehicle pull-throughs between fueling vehicles or moved further apart (30 feet) to accommodate the pull-throughs. I would agree with this assessment. Mr. Challoner indicated that they have complied with this.
- b. The prepared traffic engineering investigation illustrates that the trips generated by the site will be approximately 69 trips in the morning peak hours and 67 trips in the evening peak hours.

**APPLICATIONS CARRIED FROM PREVIOUS MEETING CONT.**

**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 cont.:**

- c. Under NJDOT criteria, the proposed development is not considered to be a significant change in the traffic because it does not increase the trips at the DOT access point by more than 100 trips per hour.
- d. The NJDOT access permit will be required to permit the construction of the new driveway entrances along Route 206.
- e. Sussex County approval will be required for the driveway entrance along County Route 519.

**9. SIGNAGE COMMENTS**

- a. The architectural drawings and site plan drawings illustrate that a number of signs will be proposed for this site. Mr. Pellow indicated that all of the signs are in Branchville Borough. The signs are as follows:
  - i. Building Signs. Five signs are proposed on the front of the building, with a total area of 100.2 square feet.
  - ii. Free-standing Sign. One large free-standing sign is proposed near the intersection of Route 206 and County Route 519. The sign consists of three signs: one Citgo sign, one gasoline price sign, and one additional sign for the convenience store. The total area of signage proposed is 84-square feet. The total height of the sign is 21 feet.
  - iii. Canopy Signs. The detail provided for the canopy illustrates that one “Citgo” sign will be provided on the front of the canopy. The sign will be approximately 2’ x 10.5’ and will be a total of 21 square feet. It is assumed that no signage is proposed for the sides or rear of the canopy.
- b. Section 123-14 of the Branchville ordinance permits one 60 square foot sign for each building. The number and area of signs far exceed what is permitted within the HC District. Variances will be required for the signs that are proposed.
- c. The Frankford Township ordinance does not permit signs for commercial uses within the AR Zone. Due to the fact that the convenience store will be located mostly within Branchville Township, a variance will be required to permit the number and size of the signs that are proposed.

**10. PARKING COMMENTS**

- a. Section 97-15.F of the Branchville Code requires that 1 parking space be provided per each 300 square feet of leaseable area. Following this criterion, 9 parking spaces would be required for the 2,500 square foot mini-mart store. Fourteen parking spaces have been proposed.
- b. Section 97-15.F of the Branchville Code also states that the parking spaces should have an area of not less than 180 square feet. The proposed parking spaces are 10’x18’ and meet this requirement.

**APPLICATIONS CARRIED FROM PREVIOUS MEETING CONT.**

**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 cont.:**

- c. The Frankford Land Use Ordinance requires 1 parking space for over 200 square feet of floor area for commercial uses (C-1 Commercial Zone). This would result in the need for 13 parking spaces. As stated above, fourteen parking spaces have been proposed.
- d. The Branchville Code and the Frankford Land Use Ordinance both require one off-street loading area for the proposed commercial building. A loading area is proposed on the plans.

Mr. Pellow indicated that Branchville has a different requirement than Frankford Township; however, the applicant has gone along with Frankford's 10' x 20' parking spaces. He further indicated that both the Branchville and the Frankford Ordinances require 1 loading space, which the applicant has shown.

**11. MISCELLANEOUS COMMENTS.**

- a. Trailers, fencing, tire piles, and debris exist on the site near the southwest corner of the Block 19, Lot 2 property. These items should be removed from the site as part of this application.
- b. The architectural plans now propose a gable style roof structure for the proposed mini-mart store. The applicant should bring a color rendering of the structure to the hearing for this application. Actual color samples for the building should also be presented to the Board.
- c. The following additional approvals are needed:
  - i. Branchville Borough Planning/Zoning Board which has been obtained.
  - ii. Sussex County Planning Board
  - iii. Sussex County Soil Conservation District.
  - iv. Sussex County Health Department
  - v. New Jersey Department of Transportation.

Mr. Challoner reviewed the Architectural design of the site, which was marked as Exhibit “A-2”. He indicated that the red roof is only the front portion of the front gable and the rest of the roof is gray. The majority of the roof is asphalt shingle and the small gable over the entrance is going to be gray seamed metal roof. The canopy for the gas pumps is a black canopy with red lettering. With regard to the lighting it is all directed downward.

Mr. Shelton questioned the applicant as to the hours of operation. Mr. Challoner indicated it will be a 24 hour operation. Mr. Clark questioned the applicant about the signage for the gas prices and if they will be electronic. Mr. Challoner indicated that this will not be electronic. He indicated that the electronic pricing is hard to see during the day. It will be freestanding shoe box lighting which is located adjacent to the residential building and shining towards the project, not shining onto the residential and there is downward lighting from the canopy. Mr. Pellow indicated that the main freestanding sign is 20' in height.

Mr. Bruseloski, the owner of the property, indicated that the nature of the site is going to be a mini mart and gas station with diesel and kerosene. Basically the store is going to be packaged goods, coffee, etc. The service station will accommodate vehicles and diesel

**APPLICATIONS CARRIED FROM PREVIOUS MEETING CONT.**

**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 cont.:**

Vehicles, kerosene and propane. He further indicated that the convenience store will have one person per shift and possibly one or two attendants for the gas portion of the site. He further indicated that going into this project they knew there were some issues to face with regard to the underground tanks. He indicated that by law any tank that is removed from underground, they need to do soil samples and report it to the state as to whether it is contaminated or not. If the soil is contaminated, then they will have an environmental company take over and work out a clean up along with the DEP. He indicated that he will provide a copy of the testing to the board when it is completed. He indicated that in Mr. Pellow's report it states that there are items from the site that need to be removed which he will do once they have all of their necessary approvals.

Appearing before the board was Ken Fears, the applicant's Traffic Engineer. Mr. Fears gave his qualifications to the board and was accepted as an expert witness by the board. Mr. Fears referred to his report dated January 23, 2007. He indicated that in Mr. Pellow's report dated October 17, 2007 in item "8b" it states: "The prepared traffic engineering investigation illustrates that the trips generated by the site will be approximately 69 trips in the morning peak hours and 67 trips in the evening peak hours." He indicated that these were customer trips which are two way trips which mean each customer represents one entry and one exit movement. Therefore, the total trip activity is 69 entry trips and 69 exit trips in the morning peak hours and 67 entry trips and 67 exit evening peak hour trips. He indicated from the DOT numbers, it was very hard to anticipate how the traffic was going to split between Route 519 and Route 206. He indicated on a Friday Evening or on a Saturday Morning when the primary flow is very strongly northbound in the summer, he would anticipate that you will see people turning left into Route 519 from Route 206 northbound into the site and then going out Route 519 to continue their northbound trip. However, on a Sunday afternoon or evening, you will see primarily a southbound customer on Route 206. Not knowing how they were going to split, he made the most conservative possible assumption, he assumed that everything would use the Route 519 driveway and he did his analysis, then he put this aside. Then he assumed that everything would use the Route 206 driveway and he did his analysis. He found that no matter how it is split, there is plenty of capacity of the driveways so no matter how it divides or how it splits, there will be capacity for these driveways to function satisfactorily.

Mr. Fears indicated that driveway design has been the most significant traffic issue for this application. He indicated that Route 519 gets back up from the signal. The backup will go beyond this driveway location. It is good engineering design to locate that driveway as far from the intersection as possible. They did so, however, he does not feel a shift of 10 to 20 feet in this driveway makes any difference in the ability of people to negotiate this driveway relative to the queue on Route 519. However, this approval will have to come from the County. He referred to the Route 206 driveway. He indicated that he approached the DOT to change the driveway entrance. He indicated that Route 206 is designated as an access level 2 roadway, which means that DOT is trying to maximum mobility and minimize access. There regulations state that if you have a site with alternative access, in this case Route 519, you are not permitted to have driveways on the highway, no matter what use it is. However, if you have an existing use and you are not generating a significant change in the site, you're permitted to continue to use those driveways, as long as you don't change those driveways within 50' of the highway. He did appeal with the DOT on this situation and lost. They indicated that they can keep the driveways where they are, however, if the applicant moves them, you loose them. For this site and this roadway condition, he does not feel it would be appropriate considering



