

**Township of Egg Harbor  
Zoning Board**

**February 7, 2011**

**Solicitor:** George K. Miller, Jr., Esquire, present  
**Engineer:** Matthew F. Doran, P.E., present  
**Planner:** Edward Walberg, P.P., Joseph Johnston, P.P., present  
**Zoning Officer:** Patty Chatigny, excused absence

A regular meeting of the Zoning Board of Adjustment of Egg Harbor Township was held on the above-date, 7:00 p.m., prevailing time, Egg Harbor Township Hall, Egg Harbor Township, New Jersey. The Chairman opened the meeting by reading the statement in compliance with the Open Public Meetings Act

**Call to Order/Flag Salute/Public Notice/Roll Call:**

John C. Amodeo, Class IV, present	Norma Lombardi, Class IV, present
Leonard Dagit, Jr., Class IV, 2 <sup>nd</sup> Vice-Chair., engage.	Chrissy Martin, Alt. #I, present
Anthony DiDonato, Alt. #II, present	Andrew Parker, Alt. #III, III.
Beth Epstein, Class IV, present	Laura Pfrommer, Class IV, present
John Haines, Class IV, Chairman, present	Paul Savini, Class IV, Vice-Chair, present

**PUBLIC HEARING(S):**

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| <b>1. V 03-09</b>  | <b>Amended “D” Variance</b>              |
| <b><u>SPPF14-10</u></b>  | <b>Preliminary/Final Major Site Plan</b> |
| <b>Cedar Bay, L.L.C.</b>   | <b>3226/9</b>                            |
| Zone: NB, 41,512 sq. ft. parcel, water/sewer,  | 1178 Ocean Heights Avenue                |
| applicant proposes to construct a 3,713 sq. ft.,   | Waiver of time – <b>Not Granted</b>      |
| five (5) bay automobile facility with 37 parking spaces. Board previously granted “d” variance relief to all for an automobile facility within 87.19’ ft. of a residential zone boundary line as opposed to 100’ ft. Pinelands: c/f (inconsistent) #1987-1338.002, dated May 21, 2010. |  |

**Checklist Waiver(s):**

- 1. Item #3: Surrounding area’s within 2,000 ft. shown on the key map**
- 2. Item #5: North arrow and graphic scale contained on the architectural plans**
- 3. Item #10: Existing contours extending 100’ ft. from the property**
- 4. Item #23a: Location of existing utilities within 200’ ft. of the site**
- 5. Item #26: Location of loading areas and truck movements shown on the plans**
- 6. Item #198-15(E): Egg Harbor Township MUA approval.**

**Design Waiver(s):**

- 1. §94-5(A)3: Providing architectural perspective views**
- 2. §94-8(F): Providing a buffer between uses**
- 3. §94-8(H): Providing the buffer as required in the Neighborhood Business District**
- 4. §94-9: Providing a community impact statement**
- 5. §94-14: Providing an environmental impact statement**
- 6. §94-22(E)4(a): Providing a 10’ ft. planting width around the basin**
- 7. §94-37( c )5: Providing the required number of street trees**
- 8. §94-44(E)1(i)1: Allow basin in front yard setback**

- 9. §94-44(E)1(i)14: Providing a fence around the basins
- 10. §94-44(E)1(j)1(b): Providing the top embankment width on the basin
- 11. §94-44F(3)h(7): Providing a basin perimeter accessway
- 12. §94-55(A)1: Providing public water
- 13. §225-50.6(D): Providing a cultural resource survey

**Variance Relief:**

**Variance - “d”:**

**Amended Conditional Use Variance:** to allow for the previously approved landscaped buffer to be reduced from 15' ft. to 4' ft. on Ocean Heights Avenue; 2' ft. on Virginia Avenue and 2' ft. on the side yard.

**Variance - “c”:**

- Freestanding Sign Area:** 34.99 sq. ft. permitted;44 sq. ft. prop.
- Freestanding Sign Setback:** 25' ft. required; 7 ft. proposed Ocean Heights Avenue  
25' ft. required; 15 ft. proposed Virginia Avenue
- Front Yard Basin Setback:** 50' ft. required; 4' ft. proposed Ocean Heights Avenue  
50' ft. required; 2' ft. proposed Virginia Avenue
- Side Yard Basin Setback:** 20' ft. required; 2' ft. proposed
- Rear Yard Basin Setback:** 10' ft. required; 2' ft. proposed
- Rear Yard Buffer:** 10' ft. required; 2' ft. proposed
- Parking Location:** Parking is to be a minimum of 10' ft. from the building with a 4' ft. landscape strip; Parking is proposed within 5' ft. of the building with no landscape strip.

James E. Robertson, Esq., introduced himself as attorney for the applicant. He advised the project site is located at Ocean Heights and Virginia Avenue’s.

Attorney Robertson asked the following individual’s to be sworn in:  
Rami Nassar, P.E., New Jersey Licensed Engineer, Mays Landing, New Jersey, sworn in  
Robert Conway, principal of Cedar Bay, LLC, sworn in:

Engineer Nassar advised he prepared the plan and application submitted. He referred to Exhibit A1: Ariel of Virginia and Ocean Heights Avenue’s and Exhibit A2: colored site plan.

Engineer Nassar advised the applicant is proposing a 3,100 sq. ft. building for car repair. He indicated access is on Virginia Avenue and it will be one-way in and out. Engineer Nassar advised storm water was difficult. He advised that based on the Pinelands the applicant must propose bio-retention swales. Engineer Nassar indicated with these swales they are proposed along the front of the site, however, the Township Ordinance does speak of basins versus swales so they are looked at as basins. Engineer Nassar stated because of this a certain amount of landscaping is required including trees. He advised the Ordinance would require 105 trees to be planted on site and they will not fit. Engineer Nassar indicated with this site there is some difficulty with the landscaping, site triangles and buffering requirements.

Attorney Robertson asked if Engineer Nassar would confirm this subject property conforms with the

minimum area and bulk requirements of the NB zoning district. Engineer Nassar stated it does. He advised the difficulty is the Township Ordinance only deals with large basins not swales so the 105 trees are difficult to place in. He indicated the applicant will collect storm water to bio-retention swales. He further noted the applicant is exceeding the parking requirements for this zone and there is also signage that must be discussed.

Engineer Nassar indicated the applicant is seeking a checklist waiver for Item #3. He indicated the plans have a small location map, however, the larger one required is not provided. He further noted the north arrow is shown on the architectural plans. Engineer Nassar advised the architectural plan is a conceptual plan, it is not the final architectural. He noted that contours within 100' ft. have not been provided since they did not want to trespass on others property. He indicated the information provided (contours) is only about 20' ft. off site. He also indicated the adjacent parcels to this site are wooded. Engineer Nassar advised there are no utilities within 200' ft. and the applicant has received MUA approval, which has been forwarded to the County for ACUA approval.

Engineer Nassar indicated the applicant will not have any large trucks delivering to site. Board Member Savini asked how trucks will be going in and out of site and what about the removal of trash? Engineer Nassar advised they will be coming in and out off Virginia Avenue. Mr. Conway, principal, previously sworn, advised he has facilities in both Somers Point and Galloway. He indicated trucks coming to the site are about the size of a UPS truck. He indicated there will be no tractor trailers coming to this facility.

Board Member Savini asked about tow trucks coming to site? He indicated he is concerned with the applicant seeking a waiver of truck movement? Attorney Robertson stated the waiver is from outlining it on the plan. Engineer Nassar advised he can place on perfected plans. Board Member Savini asked the applicant to clarify the waiver requested. Attorney Robertson advised the applicant is seeking a waiver from not having a specific detail on the plan. He indicated this is checklist waiver.

Board Solicitor Miller asked if this information is not provided now when will it be? Attorney Robertson stated the applicant is seeking preliminary and final approval. He indicated the Board does not have to grant final approval if they want to see a more perfected plan. Board Member Savini stated he will let the Board Professional's advise him concerning the truck movements.

Board Member Lombardi stated it appears the applicant is seeking an amended conditional use from the 15' ft. to 4' ft. buffer. Attorney Robertson stated he would like to request the checklist waivers first before the rest of his presentation. Chairman Haines stated he wants the applicant to move forward with the conditional use.

Attorney Robertson advised if the Board will recall the applicant sought a buffer of 15' ft. in lieu of the 50' ft. required, now the applicant is requesting a different buffer size. Engineer Nassar indicated when he performed the hard core design. He ran into the situation that the bio-retention swales, landscaping and site triangles fall within the buffer. He indicated when the applicant was originally before the Board the applicant had a conceptual plan. He indicated the applicant had to seek approval for the distance of 87' ft. versus the 100' ft. that is required. Once that was received Pinelands reviewed application for the storm water and they wanted swales.

Engineer Nassar stated the applicant can enhance the landscaping along the parking area and add some between the parking and the street. He advised the landscaping can be spread out in areas versus a continuous flow. Board Member Lombardi asked for clarification. She stated the applicant wants to reduce

the buffer from 15' ft. to 4' ft. Engineer Nassar again indicated the applicant did not believe there would be any bio-retention areas but when the design was actually finalized he had to grade out the site and flatten it.

Chairman Haines asked if the applicant could propose underground drainage? Engineer Nassar advised underground could not be proposed with a bio-retention basin because of the sand bottoms. Attorney Robertson stated the applicant needs variance relief in order to promote the project. Engineer Nassar again noted, the applicant can propose landscaping but not trees.

Board Member Savini asked if since the previous presentation has the distance from the parking changed? Engineer Nassar advised nothing has changed with the parking. He indicated the setbacks are still fine. However, the landscaping can not be continuous plantings. Engineer Nassar stated from the side property line there is a swale, the applicant can place some trees in, per say, but in the rear of the site more can be placed.

Engineer Nassar advised the Pinelands Commission wants a certain type of replacement soil which is sand within the bio-retention basins. He indicated the applicant is proposing a K5 sand, but the Pinelands Commission wants K4 which is a slower rate. Board Engineer Doran advised K4 is a slower rate and it is what Pinelands wants where K5 is a faster sand.

Engineer Nassar stated the applicant complies with all setbacks in accordance with the zoning requirements. Attorney Robertson stated the Board can grant the amended "d" variance without any detriment to the public good. Engineer Nassar stated there will be a buffer. He indicated it will not be a large buffer and in those areas where it can be supplemented trees, shrubs and landscaping can be provided.

Attorney Robertson stated he is finished as far as the "d" variance relief is concerned.

Engineer Nassar advised the design waivers sought are for the site plan due to the designation of the swales being considered basins. He advised the applicant can not place 105 shade trees on the site. He also noted the applicant has provided a preliminary architectural rendering of the site, however, a detail plan has not been provided. Engineer Nassar stated commercial development is a positive impact. He also noted there will be no impact with school children with respect to this proposal.

Engineer Nassar advised as far as providing an environmental impact statement the applicant is seeking a waiver. He advised 50% of the site has been cleared since it was used as a residence. He further noted there is no wetlands or native species on site. Engineer Nassar stated the swales will not have fencing since they are not large basins. Again, the applicant must seek relief for allowing the swales within the front yard. He indicated the ordinance states you can not have a basin within a front yard and the swales are being considered basins.

Engineer Nassar advised the applicant is not able to provide the number of shade trees required. He advised the applicant is proposing 18, but the ordinance requires 105. Attorney Robertson asked how much area would 105 fully grown trees take up? Engineer Nassar stated about 65,000 sq. ft. Board Member Lombardi asked if the 18 trees include the ones asked to be planted across Virginia Avenue? Engineer Nassar stated no, the 18 are just for this site and there may be as many as six (6) more planted across the street. Engineer Nassar noted that because the swale is classified as a basin the applicant is to meet a top width and have a basin access. Engineer Nassar stated the swales are depressions in the ground and these are not needed.

Engineer Nassar stated there is no potable water in the area. He indicated the closest is on English Creek Avenue, therefore, the applicant is proposing a well. Engineer Nassar stated the applicant is also seeking a waiver from the cultural resource inventory. He advised Pinelands had no issue and did not require any, therefore, the applicant is seeking a waiver from providing one to the Board.

Board Member Lombardi stated she would like to have some perspective views from several different vantage points. Attorney Robertson asked if the Board really wanted to move forward. Chairman Haines advised he would ask the Board Members and Professional's. Attorney Robertson indicated there are several "c" variance(s) requested.

Attorney Robertson advised the applicant is seeking a rear yard setback. Engineer Nassar advised the applicant can comply with the rear yard basin setback and the rear yard buffer setback on the main basin. Engineer Nassar advised the side yard setback of the basin will be 10' ft. in lieu of the 20' ft. required and the front yard setback will be required since the swale is classified as a basin.

Attorney Robertson asked where the main basin is located? Engineer Nassar advised the basin sits in the rear and side yard of the proposed site. He advised the swales will be east of the building along the adjacent parcel property, along the front of Virginia Avenue and along the front of Ocean Heights Avenue. He indicated the basin depth will be 2.4' ft. and the swales are smaller at 2' ft., but they move water to the rear basin. He advised the applicant is seeking a waiver from providing a fence along the swales. Engineer Nassar explained there will be piping that connects the basin and the swales together.

Engineer Nassar stated the proposed sign is near the intersection of Ocean Heights and Virginia Avenue's. He indicated the sign will be placed at 20' ft. from the proposed curb line. He indicated if the sign were to be setback 25' ft. it would be hidden by the landscaping. Engineer Nassar stated the sign should be seen coming from both ways down Ocean Heights Avenue.

Board Member Lombardi asked what the height of the sign would be? Engineer Nassar indicated it would be 15' ft. high. Board Member DiDonato asked how far is the sign back from the sidewalk. Engineer Nassar stated it would be 11' ft. Attorney Robertson stated the applicant is seeking an increase to the sign by 10 sq. ft. He explained the applicant has the same size sign as the other sites they own and would like to keep conformity.

Board Member Lombardi asked if the address will be on the sign? Engineer Nassar stated yes. Attorney Robertson stated based on the shallowness of the swales the applicant is reducing the run-off in a 100 year storm by 33%. Engineer Nassar advised the proposed parking from the facility is suppose to be 10' ft. from the building, however, this is a 3,700 sq. ft. building and it is not warranted to have large distances, thus the applicant is seeking a 4' ft. distance. Attorney Robertson indicated the applicant is required ten (10) spaces and the applicant is proposing 37, thus there are trade off's in other areas where the applicant must seek variance relief.

Attorney Robertson asked if in his opinion can "c" variance be granted? Engineer Nassar stated yes. Attorney Robertson asked if the site plan as a whole is a reasonable use for this parcel, in this zone. Engineer Nassar stated yes. He advised if the zone line was not down the middle of Virginia Avenue the applicant would have complied with the zoning requirements.

Board Member Savini asked how many full time employees will be employed at this facility? Mr. Conway

indicated there will be five (5) to six (6). He stated there will be one (1) person on the counter and maybe a person in each bay. He advised there is at least 30 cars a day serviced, therefore, he is seeking a larger amount of parking than what is required.

Board Engineer Doran advised he disagrees with the applicant's engineer. He indicated the swales are a basin and should be counted as one. For clarity the swales are not very deep but they will retain water. He advised he is not stating the swales will not work, but he is advising that variance relief needs to be granted.

Board Planner Johnston advised that anything over 1' ft. in depth from the elevation of a 50 year storm is not allowed within certain setbacks. Chairman Haines asked if the applicant can do anything different than the swales? Engineer Doran stated the bio-retention is a must for clean water. He did advise the applicant can propose a larger basin. Board Member Lombardi asked about snow being pushed into these bio-retention basins? Board Engineer Doran indicated this has been considered in the formula. Board Planner Johnston indicated he does not want to see a basin in the front yard. He advised there are basins on this plan where they should not be. He indicated the applicant previously agreed to a 15' ft. buffer. He advised this was a conditional use variance and the applicant was required a 50' ft. buffer.

Board Planner Johnston indicated that if this applicant was not a conditional use the applicant would still need at least a 15' ft. buffer and the basins would still not be permitted in the buffer areas. Board Planner Johnston advised the more basins on site the more trees needed. He advised if the basin(s) perimeters shrink the less plantings are needed.

Board Planner Johnston advised the Board must decide to reduce the buffer that was agreed upon (15' ft.) and allow the basins to go into the buffered area. The applicant can not provide as many plantings because of the sand required for bio-retention basins. Board Planner Johnston also noted that swales convey water. The applicant's proposal will retain water, therefore, they are basins. He indicated if they retain more than 1' ft. of water they are not supposed to be in the front yard.

Board Planner Johnston stated the Pinelands Commission wants the infiltration of the bio-retention. Chairman Haines advised the applicant came forward with a conceptual design. Now the Board is finding out what the reality is. Engineer Nassar stated the bio-retention is based upon the Pinelands Commission and the State requirements. He advised they want a one (1) year storm to percolate down so the sediment stays in one area and clean water goes into the ground. Board Planner Johnston stated he is not against the State requirements. He is concerned as to the location of where the basins are placed.

Zoning Officer Chatigny advised she was not present when the Board approved the use variance. She indicated she is familiar with the applicant's site in Somers Point where the parking is in the front. She, however, wants to see the vehicles they repair in the back. She suggested maybe eliminating the front parking. She also suggested rather than proposing the sign they are. The sign could be amended by making it higher and moving back. Mr. Conway advised he can work with the Board concerning the sign, however, the parking will be a problem.

Board Member Amodeo asked what is the lowest amount of parking proposed? Mr. Conway advised he based the parking on his Somers Point location, because the Galloway location is tight. Board Member Lombardi asked if there are more parking spaces in Somers Point? Mr. Conway advised there are six (6) bays in Galloway with 22 parking spaces and in Somers Point there are six (6) bays and 37 parking spaces. Mr. Conway advised the Galloway site is long and narrow and it is hard to get in and out. He advised he wants

nice movement at this facility. Mr. Conway indicated there are extra spaces but they are needed. He indicated if he did not need them they would not have been proposed.

Chairman Haines asked Board Engineer Doran if there was anything else he would like to share. Board Engineer Doran advised he does not have any problem with the checklist waiver(s) sought. He stated if the Board wants a diagram for the truck movements it should be a condition. He indicated the basin fence is not an issue because they will be no more than 2.5' ft. deep. He further noted there should be chambers for the filtering system because they will not be doing any work outside. He further noted he would like some additional grades and the applicant should address the technical comments in his report.

Chairman Haines asked what would happen if a car were to leak fluid? Board Engineer Doran advised the Best Practice Manual has this type of facility as a high risk. He indicated if Pinelands does not have a problem then he would defer to them with their requirements.

Engineer Nassar stated the applicant has no objection to increasing the plantings along Virginia Avenue and to make them taller than what was proposed. Board Member DiDonato suggested that by keeping a hedge along Ocean Heights Avenue it would help. He did however note that the height along Ocean Heights Avenue could be an issue with the shrubs, but along Virginia Avenue it would not be. Board Member Lombardi asked what will happen to the 87 trees that the applicant can not plant? Board Planner Johnston advised they would be given to the Township. Board Member Lombardi asked if the applicant proposes sprinklers? Board Planner Johnston stated yes, in all commercial development it is required. Attorney Robertson advised yes, the applicant will have irrigation.

Board Planner Johnston stated the Board must decide if they desire to reduce the buffer even more from what was previously granted. He indicated all setbacks and landscaping waivers have to do with buffers. Board Planner Johnston indicated the Board must consider the advantages and the disadvantages. He further noted he is not in favor of the sign setback variance. Board Planner Johnston indicated the sign should be placed at the 25' ft. setback. He stated whether it is the Zoning Board or the Planning Board everyone wants their sign further up. He indicated all this does is set a precedence.

Board Planner Johnston stated that as long as there are no tractor trailers coming to site then the trash trucks and tow trucks should maneuver properly. Board Member Lombardi asked if fire trucks can enter site. Board Planner Johnston stated a copy of the plan goes to the fire official for review. Should there be a problem they will advise. Board Planner Johnston advised he is not in favor of the waiver(s) sought for the buffers. He advised he does not have any problems with the applicant not submitting a community impact, environmental impact or the cultural survey.

Attorney Robertson advised the applicant is not seeking rear yard setback or rear yard buffer relief. Board Planner Johnston advised the rear basin is still in the side yard which is not allowed, therefore, the rear basin must obtain variance relief for side yard, but the rear yard is no longer needed.

Engineer Nassar indicated the applicant will comply with the sign area requirements. He advised the sign will be a monument and the area will be about 8' ft. in height so that it may be visible above the bottom of the hedge line. Engineer Nassar indicated, however, that the applicant would still like to keep it in the location proposed.

**Motion Amodeo/Pfrommer to open public portion. Vote 7 Yes.**

Allan Oswald, 107 Virginia Avenue, Egg Harbor Township, sworn in: Mr. Oswald advised he would like to revisit the need of this site. He indicated Dave Carman has a repair shop on West Jersey Avenue which is 4.5 miles from the facility, the next site which is Ocean Heights Avenue is Red Rose, and there is a gas station also on Ocean Heights Avenue. He indicated that as far as positive criteria it is bull. He indicated with the size of the property the applicant must have known they could not fit this proposal. He indicated the facility is butting up against a residential area. Mr. Oswald stated it will be a mess.

Mr. Oswald stated he has a question concerning the improvements to the existing r-o-w, will there be any? Engiener Nassar stated when the Shore Memorial received approval they will be required to enhance the r-o-w of Virginia Avenue, but the applicant is enhancing on his side. He indicated this project will not coincide with their improvements. Mr. Oswald stated Virginia Avenue is not straight currently.

Mr. Oswald stated he has a problem with the basins. He indicated they collect water and they collect mosquitoes. Mr. Oswald stated this proposal will ruin the sales value of his property. He advised this application is detrimental to him. He indicated that as far as a customer base there are places that are around the Township that can meet the same needs.

Mr. Oswald stated the applicant should eliminate some of the parking proposed and bring back the buffer. He indicated the applicant has to meet the requirements. He stated this proposal does not work for him as a resident and it will effect his ability of selling his house.

Board Member Lombardi asked if he would allow the applicant to place trees along his property for screening. Mr. Oswald stated he probably would. However, he is concerned with the basins and the collection of water. He indicated it will be a hazzard. Chairman Haines stated it appears Mr. Oswald likes the project but not where it is. Mr. Oswald stated he is not sure he likes the project.

Paul Guyermelli, Ocean Heights Avenue, Egg Harbor Township, sworn in: Mr. Guyermelli stated he was one of the few people that came in January 4, 2010. He indicated he follows the rules and obeys them. He indicated he is concerned to see someone purchase a lot that is too small to fit their needs just to make a buck.

Mr. Guyermelli indicated the site will have toxic hazardous waste that the residents will have to deal with. He indicated that he listen to the Board say they did not know why there was a 100' ft. distance requirement. He indicated gasoline is flammable. He stated a cup of gasoline is a stick of dynamite and a gallon of gasoline is 83 sticks of dynamite. He advised the Board is not protecting the residents and it is not making sense.

Mr. Guyermelli advised the Board asked for a traffic study and the applicant said they would, however, they did not. He indicated this proposal is a money issue since he wants five (5) or six (6) bays. He indicated the applicant does not live in Egg Harbor Township and he has a problem with this. He indicated proposal is horrible.

Mr. Guyermelli advised the applicants Somers Point facility looks like a junk yard. He indicated there are cars all around the site. He indicated he believes the applicant has mislead everyone. He advised there are auto repair facilities down the road from this site. Mr. Guyermelli stated three (3) times he heard the applicant was compliant, so he asked why does the applicant need a variance. Mr. Guyermelli stated the shade trees being reduced is a concern, as well as, there not being any city water in the area. He indicated

the residents have wells and their's will have toxins going into his drinking water. He stated it will be interesting to see what the Board will do.

Darlene Van Oster, 1174 Ocean Heights Avenue, Egg Harbor Township, sworn in: Ms. Van Oster stated she is across the street and she is concerned with the buffer. She further noted school buses for three (3) schools pick-up children at her corner. She stated the water is a concern. She also stated the lighting is an issue going into her bedroom. She stated the lighting will be 18' ft. in the air. Ms. Van Oster stated she believes she is parallel to the building and she is concerned with the noise. She stated she is concerned with the hours of operation, though she had been told they would not be open late at night. She stated that as a Mother and Grandmother she is concerned that the water will drain from the basins and how far will they be (basins) off the street.

Engineer Nassar stated there is a 50' ft. r-o-w that exist. He indicated the applicant will do a physical center line and there will be a widening of Virginia Avenue on the applicant's side of the road. He indicated from Ms. Van Oster's home the applicant is 70' ft. to 80' ft. from the property line. He stated the corner of Virginia Avenue will have curb and sidewalk and the swale will be a depression in the ground. Attorney Robertson advised the bays of the facility will be in the front facing Ocean Heights Avenue. He indicated the bays will not have a through way to the rear. He further noted there will be a compressor on the inside of the building. He indicated no work will be done on the outside of the facility.

Engineer Nassar stated there is one (1) lighting fixture facing the parking lot and it will have a shield on it. He indicated the spill over of the light may be 20' ft., however, it will be contained in the parking lot. He stated the discussions the Board had with the applicant is that they want increased landscaping along Virginia Avenue which will be taller and thicker. He advised the applicant can add more trees to her property

Jerry Van Oster, 1174 Ocean Heights Avenue, Egg Harbor Township, sworn in: stated he agrees with Mr. Guyermelli.. He is disappointed with this Board accepting a lesser criteria. He advised the Board is allowing them to build facility on too small a parcel. He explained to the Board he is a builder and a construction engineer.

Mr. Van Oster stated that going from a 50' setback to a 2' ft. setback is ridiculous. He indicated the basin is 2' ft. deep and they have to place a fence around it. He stated this is a catch basin for water. It is not a natural lake. He indicated this basin is created by humans on a property that will hold a couple feet of water, not all the time, but it will hold water because it is designed to slow down the percolation. He indicated children and adults will be walking around this area and it will be a hazzard. Mr. Van Oster stated the residents do not like an explosive situation in their neighborhood. He stated they do not need Galloway Tire in their neighborhood. He indicated if the residents could have a 50' ft. buffer it would be fine, however, the applicant did not purchase enough land to do so.

Marsha Barth, 178 Huntzinger Road, Warnersville, PA, sworn in: Ms. Barth advised she has owned the adjacent parcel (lot 8) for 35 years. She indicated this parcel was purchased for the creation of a garden center. Ms. Barth stated she is not a lawyer nor an engineer and she is not here to sell her property. She indicated she is tired of the double talk. Ms. Barth stated she was in attendance at the last meeting and her issues are the same as the resident's. She indicated the applicant is trying to create a facility that the property can not handle.

Ms. Barth stated she applauds the applicant for coming back, however, she believes they have insulted the

Board and community. She stated promises were made and everything was conditional and it was not met. She indicated there is a difference between a conditional use and a permitted use. She advised the conditional use was for the protection of the property owners around the facility. She stated the only conditional use for this zoning district is their proposed use and it should not be compared to a permitted use.

Ms. Barth stated this is a high pollutant use, noise is a concern, and they may be doing work inside the facility but bay doors will be open. She stated if someone were to purchase her property for a restaurant no one will want to hear the compressors. She indicated this is why the applicant did not turn the building toward the neighbors.

Ms. Barth stated the last time the applicant was before the Board they made promises and they were welcomed. She indicated they have now come back a year later and the positive criteria versus the negative criteria has been shot in the foot at this meeting. Ms. Barth stated as a conditional use they have a right to use property. However, to seek relief that was instituted to protect the surrounding property owners is contrary to the zoning.

Ms. Barth stated if you can not meet the criteria then do not buy a pair of shoes that do not fit. She indicated if the Board looks at the minutes from last year the applicant knew they would have to do bio-retention and they would have to landscape. She indicated the applicant also went from a 50' ft. buffer to a 15' ft. buffer that will now, not be, and there was also underground recharge that was proposed, again, all the positive criteria has been shot. She stated she has been to Township meetings and she has never seen someone come in and say they are changing things they promised to do. She indicated every "I" should have been dotted. She indicated the applicant does not deserve any waivers. Ms. Barth advised they sought special reasoning. The applicant has indicated this parcel is not an undersized lot, however, he can not meet the standards. Again, if the shoe does not fit then get a bigger shoe.

Ms. Barth stated the Board Engineer indicated he has concerns, however, the applicant proposed swales and not any underground storm water management. She stated the Board needs to consider if this proposal is a proper use. Board Solicitor Miller indicated the motion of the Board will include the increase of landscaping to the site to make up for the buffer. He indicated the applicant can not make a dense buffer based on the proposed basin(s) location.

Ms. Barth asked what the two (2) weirs are for? Engineer Nassar stated they are for overflow. Ms. Barth indicated she is not an engineer, however, when you have a pitcher of water and a thimble to catch it, how can the applicant believe the water will not go onto her property especially when the weirs are 2' ft. from the common property line? She advised this is a detrimental use of the ordinance. Ms. Barth stated the applicant promised they would have underground recharge because of the impervious coverage and the potential of the water flowing over. She indicated they promised and it should be done. Ms. Barth advised the applicant should come in with a plan that meets the requirements of the ordinance, the Board and the public. She indicated she has lost trust when the applicant goes from 20' ft. to a 2' ft. proposal and there will be drainage on another's property.

Ms. Barth explained that by going from a 50' setback to a 4' ft. setback is a concern. She asked how many violations can the applicant seek because there is a number of them. She indicated she does not believe the intent or purpose of the ordinance was to have a 50' ft. buffer and then give plants away. She indicated if 100 trees are too much to plant then the applicant should propose underground. Ms. Barth stated the precedence they set would be unfair to the community. She indicated anyone can come in say this applicant

was allowed, so why can we not do so. She indicated there is substantial detriment to the zoning, the community and the positive has turned into a negative. Ms. Barth stated the plan she reviewed was unclear and confusing.

Ms. Barth also asked why should the neighbors not have an architectural perspective of the actual building being constructed rather than what exists somewhere else. Also, why is the applicant not providing contours. She stated she does not have a problem with the applicant's professional coming onto her property. Ms. Barth stated this would help so that the applicant would not place an acre of water onto her property. Again, she indicated this proposal is a negative.

**Motion Lombardi/Pfrommer close public portion. Vote 7 Yes**

Attorney Robertson asked Engineer Nassar to address the technical questions raised by the last public speaker. Engineer Nassar stated the weirs that are adjacent to (lot 8) are located where the natural flow is, which is west to east. He indicated this is a requirement of the State and of the Pinelands Commission. He indicated the applicant must reduce the amount of run off and there needs to be a point of discharge so that no erosion problems occur. Engineer Nassar stated overflow structures are needed. Chairman Haines asked if the applicant's professional can guarantee there will be no run off onto Ms. Barth's property. Engineer Nassar stated yes, based on the requirements. Board Member Lombardi asked why have weirs? Engineer Nassar stated the run off requirements say they must be placed in.

Chairman Haines advised there are basins in the Township that do not work and there are problems with water. Engineer Nassar advised the proposed basin(s) meet the design requirements. He explained the Department of Environmental Protection has required the depth of a 100' year storm to be 2" to 3". They have certain models in place and they are obtained through a computer program.

Engineer Nassar advised when the applicant came in for approval for the conditional use he did consider underground storage of storm water. Chairman Haines advised he does have a concern. He indicated when the applicant came before the Board last year he conceptually discussed the site plan, however, he still feels the applicant needs underground storm water management.

Attorney Robertson stated Engineer Nassar is familiar with Cedar Bay's operations in other locations. He asked what is planned for the fluids from this facility. Engineer Nassar stated everything will be kept inside and they will be handled properly. Board Member Lombardi stated the Van Oster's mentioned the corner is a school bus stop. She stated the applicant could have 2' ft. of water in the basin and anytime. She advised she would like to see some decorative fencing around the basin because she can see kids walking in it. Chairman Haines stated he has some major problems with the site and Board Member Lombardi does bring up a good issue.

Board Solicitor Miller indicated the applicant summed up the special reasons, believing there is not a negative impact. When the members are asked their opinions each should give a reason as to the positive and negative criteria.

Board Solicitor Miller indicated there has been some discussions concerning conditions, however, not all have been addressed. Board Solicitor Miller advised the applicant has agreed to donate the remaining trees to the Township that are not planted or given to the neighbors. The sign issue still has not been resolved, the landscaping to be provided along Virginia Avenue is open ended, basin fencing must be decided, the

Board Professional's have agreed that a "swale" is a basin, and there will be no tractor trailers coming to the facility.

Board Member Lombardi indicated she must say Mrs. Barth had a great presentation and thanked her for calling things to the Board's attention. Board Member Lombardi advised there are rules and regulations, but when an applicant comes to the Board it is because they can not meet the requirements of the ordinance and the Board must adjust things.

Board Member Lombardi advised this Board does not adjust only for the applicant before them. It is also the Board's role to adjust for the community and the neighbors. She indicated she was not in favor of the use, however, the applicant has come a long way since then. She indicated the special reasons and the positive nor the negative criteria has been addressed.

Board Member Lombardi stated she is concerned with the type of landscaping they will be working on. She also advised she would like to see some renderings and perspective views. She indicated she does not see the landscaping being dense. She advised at this particular time she will be voting against the application.

Board Member Epstein stated she would like to thank everyone for coming out. She indicated she wanted to comment that the professionals on behalf of the applicant are not here to deceive. She indicated the applicant is an upstanding member of the Atlantic County Business Community. She further noted his business has been a benefit to the area.

Board Member Epstein advised she also agrees with Board Member Lombardi with respect to issues concerning the children. She advised this needs to be addressed. She went on to say that the Pinelands Commission often changes their requirements. Board Member Epstein stated the Board sometimes finds out at the same time the general public does. She asked Engineer Nassar when he found out the bio-retention was needed? She asked if it was in between the time the use was approved and now? Engineer Nassar advised a couple of years ago the Pinelands changed their requirements. He indicated they wanted to see underground, but then did not require. He indicated that Pinelands Commission just began requiring the K5 and K4 sand. The Pinelands have their own regulations and they interpret them.

Board Member Epstein stated the intent of what the applicant wants to do, she supports, however, at this time she would like to see some adjustments to accommodate the neighbor's and the children. Board Member Epstein advises she feels the applicant can rectify.

Board Member Martin advised this is a beautiful project. She asked what is the percolation rate with the sand? She asked how long would it take for the water to go down? Engineer Nassar stated less than 24 hours. Engineer Nassar indicated if the water stays longer than three (3) days then there is a problem. Board Member Martin stated everyone keeps saying landscaping. What will the landscaping be. Engineer Nassar advised it would be shrubs, trees, etc..... Board Member Martin advised she would like to see something go up so that children can not get into the basin. Engineer Nassar advised he can place landscaping along the basin. Board Member Martin suggested a hedge.

Board Member Martin stated she would be in favor if she actually could see the plantings used for the safety of the children. She also stated the water will not be rushing onto the adjacent neighbor's property.

Board Member Pfrommer stated the original site plan was conceptual. She indicated neighbor's have to be

taken into consideration and this is not the same plan that was originally discussed. She indicated the building is nice and the neighborhood is in a transition, but she will be voting against.

Board Member DiDonato stated this is a nice project, however, some things have to change.

Board Member Amodeo stated that what has been presented there will be an impact.

Board Member Savini stated there has been a challenge concerning whether a swale is a basin. He indicated there are options the applicant has. One is looking at the number of parking spots they were proposing. He indicated the six (6) bay facility does not need as much parking as proposed.

Board Member Savini stated the 15' ft. buffer was a condition of approval that needs to be addressed. He indicated when he asked if a basin is a swale the Board Professional's indicated there is no difference since it retain waters. Board Member Savini advised there is a lot of passion from the neighbors. He indicated he is a small business owner in Egg Harbor City and he has dealt with the Pinelands and there are ways of getting the basins fixed. He advised he would be voting no on this application as it is presented tonight.

Chairman Haines stated the Boards decisions are based on positive and negative criteria and the Board's duties and purpose are clear. He indicated based on what he has heard this evening he does not believe the applicant met the requirements. He stated he can not support this proposal. Chairman Haines stated he believes there are other ways the applicant can do things and the project should be redesigned. He also suggested that maybe the applicant try to purchase more property.

Chairman Haines thanked the Board for their thoughts.

Attorney Robertson stated that at this time he would request the application be adjourned. He advised the applicant will try to fix some of the concerns and come back with another presentation. Attorney Robertson advised the applicant and his professionals will sit down and discuss the opinions given. He indicated he understands the Board is not against business and the applicant wants to do the proper thing.

**Motion Savini/Pfrommer to adjourn application. Vote 7 Yes:** Amodeo,, Epstein, Lombardi, Martin, Pfrommer, Savini, Haines

**MOTION Lombardi/Epstein TO ADJOURN AT P.M.: VOTE :** Amodeo, Epstein, Lombardi, Martin, Pfrommer, Savini, Haines.

Respectfully submitted by,

Theresa Wilbert, Secretary

