

ROBBINSVILLE TOWNSHIP ZONING BOARD OF ADJUSTMENT MEETING
ROBBINSVILLE TOWNSHIP, MERCER COUNTY, NJ
WEDNESDAY, JANUARY 11, 2012 7:30 P.M.
MINUTES

Present: Chairman Shennard, Mr. Patel, Mr. Siekerka, Mr. Gibeault, Ms. Rogers, Mr. Daniel,

Absent: Ms. Appelget, Mr. Caputo

Also Present: Mr. Herbert, Esq., Board Attorney; Mr. Wisner, PP, AICP, Consultant Planner; Mr. Citerone, PE, PP, Consultant Engineer; Mr. Wilson, NCARB, AIA, PP, Architectural Consultant; Ms. Post, Board Secretary

Roll call for the above Board members was called and the Flag Salute took place.

Chairman Shennard read the following sunshine statement: "Adequate notice of this meeting has been provided as required under Chapter 231 P.L. 1975 specifying the time and place with such notice being sent to the *Times of Trenton*, *Trentonian* and the *Messenger Press* and posted on the Municipal Building Public Notice Meeting Bulletin Board".

CORRESPONDENCE

Chairman Shennard asked Ms. Post if there was any additional correspondence. Ms. Post answered there was no new correspondence other than what was in the Board's packet. Chairman Shennard asked the Board members if they had any questions regarding the correspondence in their packet. Mr. Siekerka requested to have a later discussion about e-mails in regard to the Open Public Meetings Act and how that affects communication.

PUBLIC COMMENT

Chairman Shennard opened the meeting to public comment. Seeing no member of the public present in the room, he closed to public comment.

BOARD COMMENTS

No Board comments were made at this time.

MINUTES

October 12, 2011 – Chairman Shennard asked if there were any comments on the minutes. No comments were made. Eligible to vote: Mr. Patel, Ms. Rogers, Mr. Caputo (absent), Mr. Gibeault, Ms. Appelget (absent), Mr. Daniel and Chairman Shennard. A motion was made by Ms. Rogers and seconded by Mr. Daniel to adopt the minutes as written. All of the eligible Board members voted in favor of adopting the minutes as circulated.

November 9, 2011 – Chairman Shennard asked if there were any comments on the minutes. No comments were made. Eligible to vote: Mr. Patel, Mr. Caputo (absent), Mr. Gibeault, Mr. Daniel and Chairman Shennard. A motion was made by Mr. Daniel and seconded by Mr. Gibeault to adopt the minutes as written. All of the eligible Board members voted in favor of adopting the minutes as circulated.

BUSINESS TO DISCUSS**Application ZB11-10-02 – D & D Realty Holdings, LLC****Block 20, Lot 2****1383 Route 130****Zoning: HC****Request for Use Variance, Bulk Variance and Preliminary/Final Site Plan – Public Hearing**

The applicant is seeking site plan and variance approval for the expansion of a pre-existing non-conforming use for the Karl Mey's Automobile Collision Paint Shop for an addition to the building to be used for a paint booth and auto body preparation area.

Mr. Herbert noted for the record that he had reviewed the Affidavit of Service and that proper notice had been given and the Board had jurisdiction on this application.

Henry T. Chou, Esq. from the firm of Hill Wallack stated that he was representing D & D Realty Holdings, LLC, which is the Karl Mey's Auto Body Shop. The applicant is requesting approval of a D-2 variance for the expansion of a non-conforming use, bulk variances, waivers and preliminary and final site plan. The property, which operates as an auto body shop, was previously zoned OC-1. Recently, the zoning for the area has changed to the HC Zone, which has rendered the property a prior non-conforming use. What is triggering this application is the need to put in a paint booth and the need to switch to a water solvent base from an oil solvent base, which would be better for the environment. This is an effort to get out from DEP regulations, which will be coming in the future.

Mr. Herbert asked Mr. Chou if he had witnesses.

Mr. Chou listed the witnesses as follows:

- Charles Dey, Owner and Applicant
- George Fett, AIA, Architect
- Rob Korkuch, PE, PP, Engineer and Planner

Mr. Chou stated that they have received a number of review reports from the Township professionals, which they have reviewed.

Before proceeding further, Mr. Herbert swore in the applicant's professionals as well as the Township professionals, Mr. Citerone, Mr. Wisner, and Mr. Wilson.

Mr. Chou introduced Charles L. Dey. Mr. Dey testified that he is the co-owner of this business. He has been in business for fourteen years and has owned the collision and repair business for eight years. There are fifteen employees including his partner and himself. The hours of operation are from 8:00 a.m. to 6:00 p.m. on Monday through Friday and from 9:00 a.m. to 12:00 noon on Saturday. He explained that the nature of the change is for a better product. Research and development prove that polystyrene paint is better for the environment and things of that nature. In California, there has been a mandatory change as well as in Canada. Probably, within the next three years, New Jersey will be second on the list as to making this mandatory. The paint booths are self contained and vapor free from the outside. It will be a safer work

environment for the employees. He briefly described the paint process. When the car is painted, it is painted with a base coat and a clear top. Fifty percent of what is sprayed on the car will be environmentally friendly.

Mr. Chou asked Mr. Dey to clarify his business address. Mr. Dey answered that the property is in Robbinsville Township, but it is located in vicinity of Windsor Village.

Mr. Patel asked when the project would be completed. Mr. Dey replied that if the application is approved, he would give the plans to a contractor. If he breaks ground in the spring, the project should be completed by the end of spring. Once the structure is constructed, the paint booths can be put in very quickly.

The next witness, George A. Fett of AIA Architects, cited a brief background of himself. He lives in Robbinsville and his office is located in Yardville. He graduated from the University of Arkansas. He has appeared before this Board several times as well other Boards. Mr. Fett was accepted as an expert witness by the Board.

Mr. Fett introduced **Exhibit A-1- New Paint Booth Addition for Karl Mey's Collision Repair Specialists**, dated September 12, 2011. This exhibit showed floor plans and elevations of the proposed project. He pointed out the existing building, which has a small amount of office space. Most of the repairs are done in these three bays. There is an additional bay over here. Small repairs are done in this area. The addition has been setback 35 feet. They want to keep the existing windows for the natural light. This addition is its own separate building with its own four walls. There will be a flat roof, which spans forty to forty-five feet. The existing building has a stucco finish on the front side and a green stripe on top of the front side of it. The green stripe will continue along the side of the building. Mr. Fett testified that the addition will be painted to match the finish and colors on the existing building. The green stripe will be added to the north and west walls of the addition.

Mr. Fett reviewed the list of waivers for the architectural elements required by ordinance in Remington & Vernick's review memo of January 6, 2012.

- **Page 7, §142-23 H. requires a three-dimensional architectural rendering be submitted as part of a site plan application.** Mr. Fett explained that the three sided rendering with a flat roof would cost the applicant a minimum of \$1500.00 to produce. Typically, a three-dimensional architectural rendering is done for a new building. It is used later for the project to sell it and obtain funding. Waiver requested.
- **Page 7, §142-23 H.(2) Building Massing and page 8, §142-23H.(6) Flat Roof.** Mr. Fett said that with big buildings, you do these low slopers. For every 12 feet in height, you go up 3 feet, thereby, adding 6-7 feet of volume to the structure. When you build per square footage, you pay for the volume. For this project, there is no reason to build this extra volume because there would be nothing in there. To build a decent slope, it should be at least 8 and 12 feet. Instead of 16 feet here, it would be 32 feet here. Waiver requested.
- **Page 8, §142-23H.(7) Mechanical Screening.** Mr. Fett testified that there would be two exhaust stacks on the roof, which would be painted a light grey. It would be hidden from

the street view because of the existing trees. An equipment screen, if constructed, would be even bigger. Waiver requested.

Mr. Herbert noted that the applicant has an existing one story building with a flat roof with very bland architectural features. In respect to the building massing, exhaust fans, facades, exterior walls and store fronts, etc, the applicant is continuing what already exists and will have it blend so that it will appear as one building. Mr. Fett said that is the goal. Mr. Herbert stated that the waiver application is for the continuation of the pre-existing non-conforming use. The need to violate the ordinance requirements is shown because the applicant wants to keep what is already there. Mr. Fett agreed. Mr. Herbert stated that if the applicant put in certain architectural features to make it look more in keeping with other structures on the highway that would be a great expense and hardship to the applicant. Mr. Fett agreed. Mr. Herbert said that a lot of these features are obscured by the trees on the property. Mr. Fett agreed. He said that there is a row of Evergreen trees in the front, which can be seen on the site plan. Mr. Herbert stated that this is basically a functional building for those spray booths and there is no need for these various architectural features. Mr. Fett agreed with Mr. Herbert's statement. Mr. Herbert stated that the applicant would have a hardship if he was required to comply with these ordinance requirements because it would make the project economically unfeasible. Mr. Fett agreed. Mr. Herbert noted that the pedestrian circulation and things like landscaping were all pre-existing non-conforming situations there and the applicant is just continuing on with the same functioning of the site. Mr. Fett agreed.

Mr. Herbert and Mr. Chou agreed that the above summary took care of the architectural waivers.

The Board was comfortable with the testimony as presented.

Mr. Patel asked about new lights. Mr. Fett answered there will be exterior lights at the entry doors of the addition (fluorescent lighting) and no other façade lighting is proposed.

Mr. Herbert asked Mr. Wilson for comments regarding the architecturals.

Mr. Wilson commented that Mr. Herbert summarized it very well. Mr. Wilson said that he would have a different approach if the building was razed and starting over. Then, a lot of these regulations would apply. He felt that Mr. Fett had performed a good job to make the addition appear as part of the existing building so that it will blend in. The Evergreen trees will remain in place and will screen the building. Mr. Siekerka noted in Mr. Wilson's review report that the same materials and color will be used to match the existing building. Mr. Wilson said that the applicant will repaint the east façade and the addition will have the green stripe too.

Rob Korkuch of Act Engineers cited his qualifications. He is a professional engineer and planner, who has testified before this Board many times as well as other Boards throughout the state. Mr. Korkuch was accepted as an expert witness. **Exhibit A-2 – Site Aerial Exhibit for Karl Mey's Collision Paint Shop**, dated January 9, 2012 was marked as evidence. This aerial shows the penciled in addition and helps to understand the site plan also. Route 130 is at the bottom, the existing building is in the center of the property and the property itself is outlined in yellow. The proposed building addition is shown in black. Paint booths will be inside this

structure. It will be a one-story building. People who drive by the site on Route 130 don't really know what is behind this façade and the fence because of it being completely screened. From Route 130, you can see the parking spaces where some of the cars are parked now. This is parking for customers who come in to obtain estimates. There are gates here. The employees park behind those gates. Cars that are waiting to be worked on or be delivered are parked there too. One of the items raised was the compacted gravel surface, which is impervious. He has completed the impervious calculation. Adding this building to the site does not change the impervious because whether it is compacted gravel or a building it is all the same. The water still runs off.

Mr. Herbert asked Mr. Korkuch if he sees this as exacerbating the stormwater flow onto the neighboring properties. Mr. Korkuch answered that it will be exactly the way it is today. All water drains to the rear, which all woods and fields.

Mr. Siekerka asked if that is a widely accepted standard that compact stone is considered impervious, and therefore, you are not adding any additional impervious to that site. Mr. Korkuch responded yes. Mr. Chou interjected to say that the Township ordinance considers it to be impervious.

Mr. Korkuch stated that there is another building to the rear of the site, which is all part of the applicant's operation as well. It is a pole barn type of building used to store materials and parts.

Mr. Korkuch presented **Exhibit A-3 – Site Plan for Karl Mey's Collision Paint Shop**, dated October 21, 2011. The parking is free form around this area. It is not in delineated areas. What is shown on the site plan in the grey colored bars are parking areas. There is no formalized parking and it is not a paved surface. It deviates substantially from the ordinance requirements. They need one parking place for each of the fifteen employees. There is additional parking for visitors. The ordinance suggests four spaces. Five spaces are located out front here outside the gate. They need space for each piece of equipment that is owned and operated by the facility, which are four to five tow trucks. That adds up to twenty-three spaces. There is plenty of room on the site. They are not choosing to formalize it in some way to stripe that out. It does not make sense to do that with this type of facility. The visitor parking area has delineated spaces and is paved. Twenty-three spaces are needed here not the fifty-four required by ordinance. The yard area of the site is fenced and not accessible to customers. If the public was going to go back there, it would be needed, but they won't. The addition does not change the existing parking features.

Ms. Rogers said that from the aerial picture, it appears as if the proposed addition will encroach into those ten spaces. Mr. Korkuch said that the spaces are covered over. Currently, the area is used to store vehicles or park, but that area will be displaced and will not longer be available. You can see from the site plan that there is plenty of room for parking on the site. Fifty-four spaces can easily fit on site. Ms. Rogers had a concern that if there was an abundance of cars, then those cars would be parked in the grassy area, which would create a bad visual view. Mr. Korkuch said there is actually a fence here that doesn't show up very well on the plan. No cars will be parked in the grassy area.

Mr. Wisner said the black and white plan had a random display of cars on a surface that was not paved. When they had their review, they did not have benefit of this aerial, which absolutely explains what is happening on the site. What Mr. Korkuch said in terms of why it is the way it is and why they would prefer not to conform to the lengthy ordinance requirements makes all the sense in the world to us.

Chairman Shennard agreed with Mr. Wisner.

Mr. Korkuch asked if there were further questions regarding the site plan. If not, then he will address the variances. This is a non-conforming use and they are proposing to expand, which is why it is requiring a D-2 variance. Previously, the OC-1 Zoning did allow the expansion. However, the zoning changed to HC so it is no longer an allowable use. The use can continue, but by adding this building expansion, it becomes this type of variance. There are two bulk variances for the project as well that are also pre-existing. The front yard setback in the HC Zone requires a 75 foot setback and the existing structure is setback at 43 feet. The proposed expansion is behind that 75 feet so it not exacerbating the situation. The impervious coverage for the site is not being changed. It is currently at 0.79 percent and the ordinance requires 0.65 percent maximum impervious surface ratio.

Mr. Korkuch testified to the positive and negative criteria. He introduced **Exhibit A-4 – HC Zone Aerial Exhibit for Karl Mey’s Collision Paint Shop**, dated January 10, 2012. This exhibit shows the Route 130 corridor. The orange outline encompasses the HC Zone. The project is outlined in yellow. The 2007 Master Plan Reexam reports the basis of the zone change to HC. He briefly talked about one of the element of the goals in the 2007 Master Plan Reexam, which is Section 5.2. Commerce Goal. He read the following statement: *“Encourage new commercial development and redevelopment projects in designated areas of the community thereby balancing new development and ratables with the needs of the community”*. The intention here is to develop a ratable for the community. One of the objectives under the goal is that the Township should create sustainable economy for itself by taking steps to assure that housing development is balanced with new commercial development. One of the concerns in New Jersey is that the residential development outpaces the commercial development. Mr. Korkuch read the purpose and intent of the HC Zone Ordinance into the record: *“The creation of this HC District is part of a cohesive economic development plan intended to improve the primary commercial corridors within the Township and help to achieve a better balance between residential and commercial development. The Master Plan calls for the creation of a HC district within the area delineated as this zoning district in order to facilitate and stimulate commercial development along Route 130. The Master Plan further recommends appropriate planning designs, uses, and architectural review in order to maximize benefits and minimize negative externalities and impacts”*. The word “development” is a significant theme here. He further read into the record: *“The intent of the HC Zone is to provide commercial uses that serve Township residents as well as residents of the surrounding municipalities”*. As stated in the 2007 Master Plan Reexam and Land Use Element, Mr. Korkuch said the following types of uses are not the intended types of uses for the HC Zone; new or used sales or rentals of motor vehicles; motels, adult book stores; adult movie theaters; drug paraphernalia stores; junkyards; massage parlors; tattoo parlors and body piercing studios. The permitted uses in the zone are in broad ranges, which include designed shopping complexes; retail stores; service activities;

business offices, restaurants; indoor and outdoor recreational uses; combination office service and/or retail sales; and hotels. Those are great plans for a HC area. He applauds the Township for planning for this vision. They are asking for deviations from the Township standards as it applies to this building, which is about 3300 square feet added to an 11,200 square foot building, which is relatively small in scale as projects go. There are several reasons why these deviations are beneficial to land use in the Township. Mr. Korkuch said that he would go through those elements in the Municipal Land Use Law (MLUL).

- §40:55D-2.a. *To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare.* Mr. Korkuch stated the auto body repair is a necessary service. It can not be exported and it can not been done somewhere else. It has to be done locally. It promotes the area's trade and skills that need to be developed and used. It is important to a significant part of our society to utilize these skills. It provides commerce and it is a beneficial source of employment. It is not listed as an undesirable business in the HC Zone. Mr. Herbert said that Mr. Korkuch should add under the public, health and safety welfare argument the switch over to the water based paint, which is better for the environment.
- §40:55D-2.g. *To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens.* Mr. Korkuch said this is a successful location for a business. This is not the type of business that discourages allowable uses in the HC Zone. If you look at what is developed along the Route 130 corridor, this establishment is not the reason why Route 130 is not developed or won't be developed. There is also a requirement for a compatible business as well. Mr. Dey just reminded him that the reason he is putting in this equipment is because he knows he has to comply to be competitive in this business and he has to be able to operate in an environmentally beneficial way.
- §40:55D-2.i. *To promote a desirable visual environment through creative development techniques and good civic design and arrangement.* They are not expanding the site. It is already there. They are upgrading the equipment to be competitive.
- §40:55D-2.j. *To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the State and to prevent urban sprawl and degradation of the environment through improper use of the land.* This is an existing site. It already has mature vegetation on it, which also provides screening. It actually has a little storefront to it. People who drive by this property can't really discern what is happening behind that storefront because it is so well screened and not very visible from the road.

Mr. Korkuch said those four aspects promote the zoning purposes in the MLUL. As far as detriments, there are no detriments to the surrounding properties. This operation of auto repair is already there. Adjoining this site to the north is a vacant property and to the south are two commercial buildings.

Mr. Herbert asked Mr. Korkuch if to his knowledge if any of the neighbors have expressed any opposition to this application. Mr. Korkuch replied he is not aware of any objections. Mr. Dey said that the neighbors have no objection to his proposal.

Mr. Korkuch said this application would not be a detriment to other businesses who want to develop in this area. As far as negative criteria, there is no detriment to the public good, safety or environmental issues as a result of the proposed building addition. In fact, it would be environmentally enhancing. This use is not specifically discouraged. This project is not compromising the adjoining properties' ability to develop in the HC Zone.

Mr. Korkuch pointed to the exhibit that shows the boundary of the HC Zone. The plan shows relatively large expanses of depth in some locations. He pointed out that the location of the subject property is relatively very shallow compared to other developments.

Mr. Korkuch mentioned earlier what the bulk variances are. The bulk variances are both existing conditions, which are not being changed or more detrimental to the property. For reasons stated earlier, the purposes of the MLUL section§40:55D-2.a., g., i. and j. also apply for the bulk variances. There will be no detriment to the existing surrounding properties as to the impervious coverage. There will be no additional runoff and no impact to the neighboring properties.

Mr. Chou stated they have touched on all waivers requested as to architectural, landscaping, parking access, sign, lighting and signage.

Mr. Herbert reiterated that it is a pre-existing non-conforming use except for the addition. The applicant is not adding any new signage on the property, and the landscaping is what currently exists. The trees already block it. In respect to trash and garbage pickup, will there be any change as to what already occurs out there? Mr. Korkuch said the final decision to relocate the trash area has not been made yet. However, he would suggest that it be located to the rear corner of the property. Mr. Herbert asked if the trash area would be enclosed. Mr. Korkuch stated that the entire perimeter is already enclosed by the fence. Mr. Herbert said that it should not have any effect on the neighbor to the south. Lighting was addressed earlier.

Mr. Herbert asked Mr. Citerone if he had any comments on the application. Mr. Citerone asked for a clarification on the existing septic system and whether there is a public water source. Mr. Korkuch replied it is a public water source and the Health Dept. suggested identifying the existing septic system on a plan. Chairman Shennard added that any existing or abandon well should be identified on the plan as well. Mr. Dey said there is no abandoned well on the property. Mr. Citerone asked if the applicant has applied to NJDOT for access or a "Letter of No Interest". Mr. Korkuch said that they could certainly do that. He added that there will be no greater traffic generator for this property with this addition. Mr. Herbert asked Mr. Korkuch if he will obtain a "Letter of No Interest". Mr. Korkuch said that they can although it is not needed. Mr. Citerone commented that the criteria that NJDOT is looking for is the increase of trips at peak hour and also the increase of daily trips by ten percent. Given the testimony presented tonight, it was explained how the site operates.

The Board was comfortable with the testimony as given.

Mr. Wisner stated that the applicant did an excellent job going through their report and explaining the issues to their satisfaction. On page 3 of the Remington Vernick report, there are a number of instances where the Robbinsville Board of Heath had issues in a letter that they issued on

December 1, 2011. He thinks that the applicant should be on the record regarding their intention as to those recommendations in that letter. Mr. Korkuch responded that they expect to satisfy them or satisfy that it is not needed by giving them enough information or that they will abide by the recommendations. Mr. Wisner said that on page 3 under engineering plans, items 1 and 2, the applicant agreed at TRC to make those items a condition of approval. Mr. Wisner asked Mr. Korkuch to restate that for the record. Mr. Korkuch said that the construction cost estimates will wait until after site plan approval. Mr. Herbert mentioned that is a typical condition of approval of most applications. Mr. Wisner said that on page 6, it says that at the TRC Meeting, it was noted that there were discrepancies or errors on the plan. At the TRC, Mr. Korkuch indicated that he would submit a corrected plan, which they have not received yet. Mr. Wisner requested this be made a condition of approval. Mr. Korkuch said the plan showed a setback of 45.4 foot, however, it is 45.3 foot. The impervious coverage is 0.79%. Mr. Wisner said that other than that in terms of positive and negative criteria from a planning standpoint, he would concur with the items that were laid out and he thinks that the Board does have sufficient information to make a determination on the application.

Chairman Shennard asked Mr. Wilson if he had any further comments to add.

Mr. Wilson had two questions. At the TRC Meeting, it was agreed that the site plan would be revised in two ways. The Evergreen trees would be shown more to scale than they were originally. Also, a note would be added to the plan stating that the Evergreen trees would remain after construction. Mr. Korkuch stated that they are leaving the Evergreen trees in front of the proposed building addition. The trees are just shown as a stand and not to scale. The trees will be shown to scale on the revised plans. Mr. Korkuch marked the next plan as **Exhibit A-5 – Site Plan with Green Colored Landscaping, dated January 10, 2012**. The stand of Evergreen trees was colored in green on the plan.

Mr. Patel asked if the new sewer system is in that area yet. Mr. Korkuch said there is no public sewer down there yet.

Mr. Herbert said to the Board that they have an application before them for various variances and waiver relief for the expansion of a pre-existing non-conforming use.

Chairman Shennard opened the meeting to the public at 8:35 p.m. Since no one from the public came forward, the public comment portion of the meeting was closed at 8:36 p.m.

Chairman Shennard asked for Board comments.

Mr. Gibeault stated that it was a simple structure and it is an extension of a non-conforming use. It is in keeping with the scale of the structure. It is not over burdensome on the site. It is an extension of a successful business that he thinks they would like to see continue operating in that location. From that standpoint, he has no issue with the application as presented.

Chairman Shennard agreed. He thinks the applicant did a good job and the professionals did a good job explaining the details as to what was going on. He thinks it is a cut and dry application.

Mr. Siekerka made a motion to approve ZB11-10-02 for use variance, bulk variances, waivers and preliminary/final site plan with the conditions as stated. This motion incorporated all the conditions contained in the Remington Vernick report and Mr. Wilson's report as well as the other attached reports. Ms. Rogers seconded the motion.

ROLL CALL:

AYES: Siekerka, Patel, Ms. Rogers, Gibeault, Daniel, Shennard

NAYS: None

ABSTAINS: None

There being six (6) aye votes, no nay votes and no abstains, the application was approved.


OTHER BUSINESS

Mr. Herbert commented on how the Open Public Meetings Act applied to e-mail communications between members of governing bodies constituting a quorum. In his e-mail to the Board, he said that various prosecutor offices are now interpreting the Open Public Meetings Act to say that if an e-mail is transmitted by a Board member and other Board members respond to it where everyone is getting the reply that constitutes a public meeting. By doing that, it is a violation of the Open Public Meetings Act because it has not been noticed. Mr. Herbert cited an example. If he sends an e-mail regarding what happened in litigation, he would ask that everyone just reply to him directly and not to other Board members so that it does not become a discussion item. Discussion occurs at the meeting not in cyber space. This Board has always been great and not a problem. He just wanted the Board to be aware of it. Mr. Siekerka said his concern was if it could be taken to an extreme. When Ms. Post sends out the notice asking who is going to attend the meeting, Mr. Siekerka said he only replies to Ms. Post. Mr. Herbert said that Ms. Post uses the outlook function (acceptor reply) for the Board to reply and that keeps it out of the Open Public Meetings function. He wishes his other Board Secretaries would do the same because that way there is no problem. Mr. Patel said the outlook function puts it on his calendar too. Mr. Herbert stated that any e-mail you put out there is public domain. If it is private, call Mr. Herbert.

ADJOURNMENT

Since there was no other business, a motion was made by Mr. Siekerka and seconded by Ms. Rogers to adjourn the meeting. All in favor. Meeting adjourned at 8:50 p.m.

Respectfully submitted,



Elide M. Post

Zoning Board Secretary

ADOPTED: FEBRUARY 8, 2012