

**BOROUGH OF RIVER EDGE
LAND USE BOARD
MEETING MINUTES
ZOOM MEETING
June 10, 2026**

NOTE – Public meetings of the Municipal Land Use Board of the Borough of River Edge will be held in person in the Council Chambers on the second floor of Borough Hall, 705 Kinderkamack Road, River Edge, NJ 07661 unless further notice is provided. Meetings will be held concurrently via ZOOM (Hybrid). Members of the public may attend meetings in person or via ZOOM. To join the ZOOM meeting via smart phone, computer or tablet. The log in information and a link to the meeting will be posted on the Borough’s website at <https://www.riveredgenj.org/landuse>.

Chairman Caslin calls the Meeting to order at 7:30 p.m.

Roll call:

Mayor Papaleo – Present	Chairman Caslin – Present
Ryan Gibbons – Present	Councilman Glass - Excused
Eileen Boland - Present	Mr. Chinigo – Excused
Mr. Gautier - Excused	Mr. Salva - Excused
Michael Krey - Present	Ms. Levine - Present

ALSO PRESENT: Marina Brown, Esq., Mr. Depken (via Zoom), Mr. Costa, Mr. Behrens, Jessica Hall and Lisa Ciavarella (Via Zoom)

Chairman Caslin states that there will be a curfew of 10:00 p.m. this evening.

APPROVAL OF MINUTES

Approval of 5/13/26 mins. - Ms. Brown addressed some revisions. She stated that there were a couple of recesses at that meeting, she just included a note that there was a recess taken due to audio difficulties at 7:41 and noted who was present when the recess ended and put in a note about technical difficulties and also noting that there was a second recess at 7:55. There was a note on page 5 that the applicant was in inaudible but Ms. Brown looked at her notes and included that the applicant was not intending to replace the fence because it was previously approved by the Borough – that is at the second to last sentence of the long paragraph on page 5. She revised the second to last paragraph 5. There were a bunch of numbers that were being thrown around but she revised it to be the final footage numbers to make it clear. Chairman Calin had one clarifying edit – the third line under IAAT (page 2) just to make clear that the comments that were given were from Chairman Caslin not Mr. Leibman.

With those revisions a motion to approve was made by Mr. Gibbons; Second – Ms. Boland. Everyone is eligible to vote except the Mayor and Councilman Glass Motion passes. All in favor aye – motion passes.

Completeness Review

Michael & Melanie Schweiger
265 Adams Avenue
Block 506, Lot 3

Construction of an outdoor living space where none exists.

Ms. Brown stated prior to this meeting, she reviewed the proofs submitted by the applicant and found them to be sufficient for the board to hear the application tonight.

Mr. Costa's microphone was off. Proposal for the exterior covered deck. Okay. Application can proceed. Mr. Depken deemed the application documents were complete to be heard. Motion to deem complete – So Moved Mr. Krey; Second Mr. Gibbons. Roll call Mr. Mayor – yes; Chairman Caslin – yes; Mr. Krey – yes; Ms. Boland – yes; Mr. Gibbons – yes; Councilman Glass – yes; Ms. Levine – yes. The motion passes.

Mellow Bagels & Café LLC
101 Midland Avenue
Block 206, Lot 3

Application for Site Plan Approval for a Retail Food Establishment. No exterior improvements are contemplated except changing the name on the existing signage.

Ms. Brown, the proofs are acceptable. I reviewed them prior to this meeting. There was a slight typo in the Zoom information, but the details of the notice provided sufficient information about how to access and participate in the meeting, so I found that to be acceptable.

Mr. Costa deemed the application complete to be heard this evening. Mr. Depken feels the application documents were complete to be heard. Motion to deem complete. So moved- Ms. Boland; Second – Mr. Krey. Roll call Mr. Mayor – yes; Chairman Caslin – yes; Mr. Krey – yes; Ms. Boland – yes; Mr. Gibbons – yes; Councilman Glass – yes; Ms. Levine – yes. The motion passes.

NEW BUSINESS

Michael & Melanie Schweiger
265 Adams Avenue
Block 506, Lot 3

Construction of an outdoor living space where none exists.

Ms. Brown swears in everyone who's going to be giving testimony. Melanie Schweiger, 265 Adams Ave, River Road, New Jersey. Michael Schweiger, 265 Adams Ave, Sean Scott, of S. Scott Construction, 530 Commerce Street, Franklin Lakes, NJ. Mr. Scott provides the Board with his background and licensure. He has been a licensed contractor in the state of New Jersey since 2008. His license is in good standing.

He has been in the construction business since 2002, Scott Construction was formed in 2008 and he has two degrees in architecture from the New Jersey Institute of Technology. Ms. Brown asks if he is a licensed architect in New Jersey, to which he responds no. His testimony is just strictly as a contractor.

Melanie Schweiger testifies that after purchasing their first home in River Edge in 2014 they moved to Adams Avenue this past September. She would like the Board's consideration of their application, and would like to just provide a little bit of context as to why they believe this is a reasonable improvement to their property, and really the purpose of this project is to create a functional outdoor space for their family. The backyard receives full southern exposure, and the covered deck would provide shade, as well as weather protection needed for them to comfortably use the space throughout much of the year, the proposed deck will be entirely in the rear of the yard, and it will not alter the character of the neighborhood. You will not be able to see it from the front of the house, and it will simply create a safe, functional outdoor space for their family to enjoy. Lastly, they do understand the importance of managing the storm weather responsibility. She testified that they got some information from the engineer on Monday, and certainly that will be a priority for them to comply with those requirements.

Mr. Scott advises the Board of a couple of technical things related to the application, the applicants are in R1 Zone, it's a 6000 square foot lot, 7500 square feet required for R1. Just looking at the surrounding streets, it is one of the smallest lots on the block, and in R1 putting the applicants at a slight disadvantage. Also, the Schweiger's purchased the home last year. It's a new construction, and he believes the applicants were under the impression that they had the room to do this at the time of the purchase. They were surprised to kind of see some of the existing nonconformities that were there, but again, due to the size of the lot, the full southern exposure in the back, this is really path forward that makes the most sense for them.

Questions and Comments from the Board

Mr. Depken agrees it is a small lot. He thinks the big issue is the fact that the deck is enclosed, which would include or be calculated as building coverage and lot coverage, so those are the main issues. The fact that it's 12.5 feet encroaching into the rear yard setback is an issue. He asks the applicants, if they have looked at possibly putting this porch or deck on the southeast side of the building, where it's sort of notched out, you see on the survey. Mr. Scott testified that they did explore that, but there is a garage access there, and it's also slanted on the hill, which is really a flat rectangular spot. The house is on a hill, so there's a garage door that opens to the back there, so we'd probably have to close that door in, there's not really any space there, because it's a unique area back there with some cutouts and entryway to the garage. Ms. Schweiger testified that they evaluated a bunch of different options of where the deck could potentially be covered, uncovered, screened, unscreened, but they found that after lots of discussion and analysis that this really was what worked best for us. She understands that covered is a little bit more of an asterisk, but that's what solves the problem is the southern exposure and having two young children and trying to get the kids to wear hats and sunscreen she'd rather have them stay inside. It's important to have that enclosure, so it's a good place for the family to be outside for family fun and for eating. Mr. Scott believes there are also a number of mechanical things happening in that area, cost prohibitive to move to kind of create the deck in that space, as well as the access to the garage, and the changing topography to the neighboring yard. He further states - don't quote me on this, but I do believe that there's existing stormwater management system in that location that would make it difficult to put anything in that space.

Chairman Caslin repeats what Mr. Scott stated for Mr. Depken. Mr. Depken asks if the applicants

considered a deck with a rollout awning that would eliminate some coverages. Mr. Scott responded that they'd still be over on building. Mr. Schweiger testified that they really did not consider that because they had a louvered roof at their last home and if you get any type of rain you're still can't be out there so we hope to get the full coverage, so you actually, depending little drizzle, you don't have to run back inside. So that was the goal.

Mr. Costa stated basically they're building a deck and they're putting a roof on top, and he thinks Mr. Depken said it, once you put the roof on top, it's considered a structure, it's considered a building, and then that's why you're getting into all the variances. If you put a patio and then you put pavers, you get the 50% reduction, and it doesn't count towards that, but again, this is the proposal in front of the Board. That's the application in front of the Board. The Board has to decide whether or not they meet any criteria for the C variances that they require, and if they don't, then the Board would have to vote as it should. That's really all it is. It's really not an engineering issue so he hands it off to Mr. Behrens for his comments as it is more of a planning issue.

Mr. Behrens states that they don't do the residential so much here, it's a balance, certainly, you have a homeowner, he thinks they currently don't have a rear yard amenity space, and in River Edge, you expect to have some way to enjoy the backyard. We heard the applicant's testimony that it's an undersized lot, and Mr. Costa mentioned the reasons, right? There's reasons that the Board can approve variances. The first reason is what's called the seawater hardship test, you have to demonstrate whether or not there's any hardships impacting your property. If you talked about the undersized lot issue, obviously the house is there and the configuration that it's in. And then you have the public benefit one, which, and it's not an and/or proposition, it could be both. The public benefit is, will the granting of the relief generate any public benefits that way outweighs any detriments, so the variances that are being sought are the rear yard setback variance, there's a building coverage variance, and a lot coverage variance. So that's what's being requested at present. It sounds like you the applicants explored other options as far as trying to come into compliance, as far as the size of the deck. He asks if that is something the applicant's thought about? He believes that it's at what, 22.8 by 15 or so. Mr. Behrens asked if there was any wiggle room there? Mr. Scott responded he thinks for the way they intend to use it, is basically the applicants want to create a living area for the family, a fireplace with TV in it, so they can kind of create that extra outdoor living space and use the yard for most of the season. It's a pretty modest size, considering furniture layout by today's standards. Mr. Behrens states as far as location the house is where it is. It's at the 25-foot setback, so whether it was a patio or a deck, you'd probably end up with something that sticks into the yard by some amount. And the coverages are, you know, what they are in some respect. That the property is currently built with the house, a driveway. He asks the applicants if they know about how wide the driveway is? Okay, so and it looks like they're currently a bit over the coverage as it with the house and the driveway, so yeah, again to have something – Mr. Depken states he believes the driveway was permeable.

Okay, so that would have perhaps then there was a miscalculation in the coverage assessment, not knowing that permeability requirement. Basically, depending on the type of material used, you can get credits for that, so for like pavers or pervious coverage, so those are sort of the planning issues, that the Board has to consider.

Mr. Krey - just to be clear, the driveway is or is not made of the permeable? Mr. Scott stated it's not. Mr. Krey asked if that is something they would consider now? Mr. Depken stated that he was almost certain that it's permeable pavers. Mr. Krey asks if that was entered into the calculation, to which Mr. Scott stated it was treated as 100% pervious so that would help the application. The driveway is 764 sf. Mr. Krey

states just to be clear, the driveway is or is not made of the permeable, it's not. Is that something you'd consider now? Mr. Depken - excuse me, I'm almost certain that it's permeable pavers. Mr. Scott stated that has not been entered into the calculation. Mr. Krey stated it sounds like there's some maybe disagreement about what this driveway is made from, if it is not permeable, would the applicants consider changing and making it with permeable materials. Mr. Schweiger testified that they would consider everything. He further testified that they literally walked to this open house in August, and they liked it, and they put an offer in two days, and they didn't even think about the driveway material at all. Mr. Behrens stated it looks like a brand-new driveway, so as far as ripping it out, that probably would be painful, cumbersome. Mr. Krey stated he just wanted to understand the use of the new enclosed patio/fireplace etc. He further stated that the applicants talked about wanting it to be effectively weatherproof, because they don't want to use an awning, this will get wet. He wanted to understand the difference between that and putting another room onto the house. Mr. Scott responds the walls are screen material, so it's a system called screens, it's basically just a heavy-duty screen to sit out, so transparency to the walls. It's still an outside structure, it's not really a still intended space, just to kind of give you a little bit of protection from bugs.

Mayor Papaleo had a couple of questions. Was this house built before the ordinance change? Because in the ordinance change there has to be a reserve for outdoor amenities, and he assumes that since it doesn't exist, that's what was the case. Mr. Scott responded it wasn't. Mayor Papaleo asked Mr. Depken to elaborate on how this building was approved without the outdoor space. Mr. Depken responded that he thinks what happened is this house was being flipped and when they were trying to get coverages - that is why he remembered the driveway being permeable because they took that into consideration. As far as the amenities in the back he did not have an answer for that. The Mayor states that there should have been multiple variances - the ordinance was changed so there would not be a situation where a homeowner would be coming forward with no backyard and looking to this - so he expects a full investigation of who approved this and how it could possibly have gotten through given the current ordinance. He further stated that this is essentially a one season or a season in a half space - correct to which the applicant responded yes, and it has an outdoor fireplace but during the summer it has southern exposure which means even with a roof it will be somewhat warm - the Mayor asked if an air conditioning unit was going to be installed, to which the applicant responded - ceiling fan. The Mayor states that this is a lot to ask of this Board to push something to 12 feet from the applicant's neighbor, a lot of space and he further states that he does not know how this building was built and this is not the applicant's fault they bought it as is and whoever approved all this needs to explain to this Board and the council. Mr. Depken states that would be him and he did the zoning review, and he would have to research it. He does not know what the existing structure looked like. He further states that the problem with new construction and renovations is they leave the foundation and they build upon that. If there was an addition that is what he would have to look into. The Mayor continues that he understands that it is an undersized lot but it's a lot to ask and he does not know that he could vote yes in its current configuration. He further stated that they have to be concerned about the neighbors, permeable coverage, putting a roof on and there has been testimony that there is already some type of storm water management system in the ground and if the application gets approved the applicant will have to put another storm water management system in and if they don't know where the old management system is, he just has a lot of concerns and he does not know how to address it. Mr. Scott stated that they are waiting on an OPRA request served on the town to see what system was installed. Mr. Costa states that he can pull this in his office, he is sure it went for a soil movement permit. The Mayor suggests that the applicants hold over as there are a lot of questions with this application and he would not want to see them get voted down and then they can't come back. The Mayor states he is not offering advice he is just suggesting. Councilman Glass stated that he concurred with everything the Mayor just communicated. He further

stated that it would be good to understand the record and like the Mayor, he is concerned about the lot coverage it's not in the ballpark of what the Board typically approves when they do approve variances. He is concerned about the rear yard setback; it's going to be very small. When he looks at the aerial the people behind the applicants who will be most affected by the rear yard setback doesn't look like they are more than 12 feet from the property line either with their patio or whatever they have back there. Councilman Glass stated he liked the concept, he liked the outdoor space and it provides a different vibe and ambiance but again he is concerned about the lot coverage.

Mr. Gibbons stated that you cannot see it from the applicant's rear yard neighbor and there is a tall fence between the applicants and uphill. Mr. Gibbons asks if the applicants considered making it wider, and less deep. Mr. Scott responds that there is a couple of different issues. Mr. Gibbons states that he knows that the roof makes a difference so if the applicant did some type of awning and this has to get pushed back a bit then it could potentially be a 75% credit. Mr. Costa states that if they put a patio they can get 50% reduction with environmental pavers. If it's on the ground, he does not think they can go five feet from the property line. Mr. Gibbons states that if they do the deck with the spacing then it's 75%. Ms. Brown states that if it's a deck uncovered it is still would need a rear yard setback variance. Mr. Gibbons states that with the building coverage it doesn't help at all which he still does not understand (there is discussion regarding coverage between members of the Board). Mr. Depken states that building coverage is any type of structure calculated in building coverage, the deck is a structure. Mr. Gibbons asked why is that a structure and not a patio. Mr. Depken responded that a patio would be at grade level and if you had a deck flooring at grade level that would be considered a patio but if you are building it up to above grade then it's considered a structure. Mr. Gibbons asked if that if something that can be changed by ordinance or is that just code. Mr. Depken states it is the Uniformed Construction Code and a deck is considered a structure. Ms. Boland and Ms. Levine concur with the comments that have been made thus far. Chairman Caslin addresses the applicants regarding the Board's sentiments, and he gave them the option of going forward this evening or coming back before the Board at a later date after doing some evaluation and due diligence based on what they find out through their OPRA request. Ms. Brown states that if they ask for a new date this evening, they will not have to re-notice they will put it on the record tonight for another date. Mr. Scott asks if the due diligence is just for the storm water management, lot coverage Ms. Brown states that based on what the Board described her understanding is that the Board would like to know more about what is the existing storm water management on the site, what would they propose and then more support for other requested relief and changes the applicants want to make based on what they heard this evening. Mr. Scott asks something regarding a vote. Chairman Caslin states it's all part of the analysis and that the Board cannot vote one discrete it's all part of the same analysis. Mr. Scott has asked about a 5% (inaudible). Mayor Papaleo stated that they changed the ordinance so that builders could not build in such a way that an applicant would not be deprived of an outdoor amenity. The Mayor further states that Mr. Depken is going to research that and if the applicants decide to come back then hopefully the Board will have some answers for that and he would think that those answers would be somewhat in the applicants' favor because he does not think they are responsible for this. He further states that if the Board were to approve right now his serious concern would be water management and they are on a hill, the property next to them is above and the property on the other side is below and one of the Board's responsibilities is to make sure that water is not being moved into someone else's property because they need to protect all of the residents as the Board tries to be accommodating to the applicants at least from his point of view but there is no obligation for the Board to feel that way. The Mayor would really want to know how much of that backyard already has a water management system, how much can it handle, and is approving this application going to be feasible as currently written with a roof if there is not enough space in the backyard to properly manage the water, and he has serious doubts about that right now. He further states that he doesn't know how the rest of the

Board feels. He states the Board has a dual responsibility to the town and to the applicant and he cannot see how he could vote yes, given what he knows now or what he doesn't know.

Mr. Scott states - just full disclosure, dealing with the engineering comments yesterday, he believes, relatively in stormwater management. So, it's their full intention to make that work for whatever needs to be, he believes the understanding is that whatever was put in was oversized, slightly, however that may not be the case, whatever it is, they fully intend to look at that and address it however it needs to be addressed. He would just note that the increase in impervious coverage or lot coverage is under 5% versus the existing, which he thinks would help the applicant's case, if that was supposed to be a mechanism that was put in place for you, if it's a 3000 square foot house and they are adding slightly more roof, maybe 300 square feet. He doesn't know, it's going to be - he'll do the calculation, of course, the proper way, but he just can't... Chairman Caslin states before they make any determination, let's open to the public for comments. Motion made by Mr. Gibbons; Second - Councilman Glass, all in favor, Aye. There being no one in the public wishing to hear, I'll take a motion to close. So moved. Mr. Gibbons; Second Ms. Boland. All in favor, Aye.

Chairman Caslin advises the applicants that at this time he will leave it up to the applicants as to how they want to proceed, if you'd like the Board to carry your application for you to do this further evaluation. Ms. Schweiger responds yes. Ms. Brown advises the next meeting date is June 24 and there is nothing on the scheduled, and asks if that will give the applicants enough time to do your - yeah Mr. Scott interjects and advises that they filed an OPRA request earlier in the week, so they should have the answers as to what was approved for this whole new construction in terms of stormwater management. Mr. Costa stated that he would pull the file, and he would say he will have an answer for them if they call his office sometime in the morning. Ms. Brown asks for a motion to carry this application to the June 24, 2026, meeting. So moved- Mayor Papaleo; Second - Mr. Krey. All in favor - Aye. Ms. Brown makes notice on the record - The application for Michael and Melanie Schweiger, 265 Adams Avenue, Block 506, Lot 3, will be carried to the June 24, 2026, meeting of the Municipal Land Use Board without further notice. Thank you. Councilman Glass stated that he wished there was a way the Board could make people aware of some of the zoning requirements when they buy a house. Mr. Behrens states that some towns have a handout or like a FAQ, kind of like welcome to our town.

Mello Bagels and Cafe LLC.
101 Midland Avenue,
Block 206, Lot 3

Application for site plan approval for a retail food establishment. No exterior improvements are contemplated, other than a change to the existing signage or name of the sign for the business at that location.

Thomas Barrett, Esq. appearing on behalf of the applicant. He advises the Board that this application is for a simple change the name on the building the same size as the previously approved by the Board, and then internally there's going to be added a griddle with a hood, and then a gas stove that's going to have a second because there is one there already.

Ms. Brown swears in the applicant and his professional. Housam Kayali, address is 92 Darrow Drive in North Haldon, in New Jersey.

Christopher Lee, architect, 111 Grand Avenue Palisades Park. He goes through his credentials for the Board. His license is current and in good standing in New Jersey. Mr. Barrett has the applicant explain his application to the Board. He testifies that they are just adding the griddle and the stove. The hoods are already existing. They are trying to bring in fresh food made in the store, in the location itself, instead of the frozen type. The applicant owns two other locations, one in Parsippany and one in Dumont, New Jersey. They are seeking approval to just change the name and add the griddle and the stove. Other than that, everything is going to be the same. They have the architect plan and are seeking approval for this application. Hours of operation right now, 5 a.m. aiming to stay open until 10 p.m. They will adjust it according to business requirements. They plan on having four employees. They have a contract with a couple of wholesalers, and usually their deliveries are made with regular pickup trucks. Deliveries are made between 9:00 a.m. and 1:00 p.m. Trash and recycling removal is already contracted with a garbage company, which comes twice a week, once for the regular garbage and the other day for recycling,

Mr. Costa states that from the testimony, the applicants are not changing anything. The only thing they are changing is the signage outside, everything stays the same, colors, paint, striping, parking lots, nothing changes. put in a griddle and a hood, which really, again, he states the Board has to think about that, but other than that, there would be no variances or anything. So, strictly it's a change of use. Mr. Behrens inquires with respect to the equipment - will there be any new rooftop equipment for the hood, so nothing new that needs to be screened. The applicant responds everything existing. Mr. Behrens states - so no changes to the exterior of the lot.

Mr. Depken feels as if this is an expansion of the prior use. The applicants are doing a griddle, are going to be doing breakfast sandwiches and things of that nature with the bagels. The hood system itself, it depends upon the type of appliances the applicant is installing, depends upon whether the hood needs to be resized or not, so that might be an issue they may want to look at. There has been concern in the past, we've gotten calls in the office about parking, excessive parking in on other properties. He asked the applicant if they have any information on that.

Mr. Barrett states that at the last application few years ago, after Dunkin' Donuts had moved, and the property owners came in and got approval for the Human Bean, there was a concern that same concern was raised, and there had previously there had been steps from this property down to what is now the Music School and the bank. Those steps were removed, and there was a sign put up. I'm not sure if it's still there, advising patrons that they were not to use the adjoining lot. Ms. Boland asks about the employees and the applicant responded that as of now the four employees is the plan. So, Ms. Boland states that is four of the nine spaces or will the employees use public transportation to which the applicant responded that he does not know exactly right now as they have not hired anyone yet. Ms. Boland asks if there is any issues does the applicant have any other options to which he responded he will see how it goes down the road. Ms. Boland further asked about the soft ice cream sign that was there and the applicant testified that they are taking that down. Mr. Gibbons confirmed that the seating will stay as it is now, to which the applicant responded – yes, exactly the same. Mayor Papaleo asked about delivery of supplies and what time they are usually made, to which the applicant responded anywhere between 9:30-10:00 a.m. until 1:00 p.m. and you said the recycling and garbage you've contracted that time, would they be coming? The applicant responded that he didn't know exactly, but at their store in Dumont they come Tuesday and Wednesday and they usually come in the afternoon. The Mayor continues the last thing is adding the new griddle going to be able to filter out the smells, so that it won't be oppressive to the apartments or to the residents nearby. In other words, you're cooking so, is this system that is currently there going to be able to handle that. The applicant responds that they are using the existing hood that's

there right now. We are just going to upgrade it, change it with something like, you know, a newer, but it's exactly the same, the same location. The Mayor asks will the public be smelling your cooking? To which the applicant states no. The Mayor continues so, the system is designed to filter that out. To which the applicant responds yes.

Mr. Krey would like clarity on the grill and the new oven, he asks if the old business had a grill and oven. The applicant responds the old place, they used to have like an oven in the back, and it has hood also above it, so they are just going to replace that oven with a specific oven for the bagels.

Mr. Krey responds, so this is where he is confused, because he thought that the previous tenant business wasn't doing any food preparation. His recollection is that was what the Board approved was no food preparation on premise. Maybe they were doing it and shouldn't have been doing it. He doesn't know, but is this a change in use? I guess you mentioned that, and that's the question that went through his mind. If the previous owner was in a coffee shop with no food preparation on premise, and now we're talking about running a griddle, doing all these different things, do we have to approve a new use? Mr. Barrett states that either one is a permitted use under the ordinance. Mr. Krey asks if that needs to be addressed and if it's not we end up in the situation next time, where, okay, there's a griddle there and was that okay, and does the Board have to have to approve that since it has not been approved in the past.

Mr. Behrens speaks to that - the ordinance currently provides that there's sort of a hierarchy. One, you'd start with the definitions. We don't define restaurants or different types of restaurants. We define, think, it's retail food establishments, which is sort of a general description. The parking requirements get a little more specific, where I'll give you the different categories. One is restaurants, eating and drinking establishments, and on-site catering. That's one category. Second category is restaurants, campus, cafeteria style, fast food. So, the question would be, does this use depart from, so drastically from what had been there, and whether or not drastically is not really a test, but does it, is it a different type of restaurant than had previously existed that would warrant, you know, begs the question, you know, what would be the be the impact, you know, right? And from an ordinance perspective, the only thing could be potentially, I think, a parking thing, but again, it's really a different type of establishment at this juncture. Ms. Brown states and just to add to that, the prior resolution was a proposal to operate a coffee shop on the property, and the board determined that that was a permitted use in the zone, and the testimony that was provided back then was that the coffee shop would sell custom coffee smoothie and baked goods. The baked goods were delivered or were prepared off site, but I don't know if they were heated up or something. Mr. Behrens asks the applicant to explain their business. The applicant states - basically, we serve bagel shop products, like breakfast sandwiches and lunch sandwiches, plus the coffee and the shakes. So, basically, it's not like a kind of restaurant where people can sit and have their meals it's like only a couple of seats on the premise, and most probably the foods that's going to be served is breakfast sandwiches and lunch sandwiches. The bagels are made on premises. Chairman Caslin states - okay, so you're baking the bagels on premises, and you're also, as an ancillary use, you have a separate griddle where you're going to use for the eggs and the bacon and the stuff. Councilman Glass states that there is another bagel place, like right across the street, almost like literally across the street. The applicant explains that is why they are trying to provide the coffee, the protein shakes, trying to make it a little bit fancier.

Chairman Caslin states - so just to clarify, the only thing that they are actually baking on premises are the bagels, to which the applicant responded yes. He further asks if there is anything else that they are bringing in that's already prepared that they are also going to be serving or offering to customers, to which the applicant stated no that is basically it. The only question Chairman Caslin has is just in terms

of deliveries, could you just elaborate on what size vehicles are making most of your deliveries, to which the applicant responded so basically, it's like a size of a pickup truck, a regular pickup truck. Further Chairman Caslin states because he knows in the past, because of the nature of where the deliveries go in the side of the building, box trucks have parked in the driveway there, and access for people coming in and out has been made difficult. I think that's probably what led to some of the parking challenges that Mr. Depken was alluding to earlier, because people could not get into the parking area, so the parking in the adjacent property. So just be aware of that. The applicant responded that he is totally aware of that. And as he mentioned from his experience from their other stores, they don't have deliveries with big box trucks. It's really basically like a regular size big truck, they deliver, and the other stuff they bring it from Restaurant Depot and the other stuff, it's a regular pickup truck. Ms. Brown asks if the applicant is going to be doing delivery to customers, like somebody could call and say, I want my bacon, egg, and cheese? The applicant responded - not right now. They are not going to deliver themselves right now, but of course, we are going to use the apps like DoorDash, GrubHub, UberEats, those apps.

There being no more questions Chairman Caslin looks for a motion open to the public. So Made – Councilman Glass, Second – Ms. Boland. There being no one in the public. Chairman Caslin looks for a motion to close to the public – So made – Councilman Glass; Second – Ms. Boland. All in favor, Aye. Chairman Caslin asked if there were any further questions or comments from the Board. Ms. Brown stated that the applicant would agree to comply with many of the comments in the Board's Engineer or Planner's report and if there are any issues regarding odors the applicant would work with the Borough to correct that and make sure that delivery trucks don't impede the driveway. The applicant responded - yes. Ms. Brown further states that the applicant will comply with all the requirements from the prior approval that are not changed by this Resolution. A motion to accept the application is made by Councilman Glass and the motion is made with the conditions discussed; Second – Mr. Gibbons. Roll call - Mr. Mayor – yes; Chairman Caslin – yes; Mr. Krey – yes; Ms. Boland – yes; Mr. Gibbons – yes; Councilman Glass – yes; Ms. Levine – yes. The motion passes.

Chairman Caslin states that at this time they are going to move on to the next application, but before that the Mayor and Councilman are excused because of the elements of the next application having a D3 component.

Sweetspot River Edge, LLC
75 Route 4 East
Block 1415 Lot 101

Application seeking amended site plan approval with variance relief for signage.

Ivan Tukhtin, Esq. general counsel for Sweetspot, 1012 Tisely Place, Raritan, NJ 08869. Ms. Brown swears in Ben Herbst managing member of Sweetspot, 151 Cascade Road, Stanford, CT. And then if needed, we also have the property owner, Mr. Philip White, here as well. Mr. Tukhtin gives a brief overview of the application and what the applicants are requesting. The applicant is requesting a handful of variances. They are essentially looking to increase the square footage of signage and also add more signage to the existing location. The original approval by the town said that any sign changes have to come before the Board, regardless. So, whether variance is needed or not, we have to come before you. But essentially, they are looking to add signs to the existing building, which is now a corner lot on Rt. 4. So, depending on which side of the highway you're coming from, you will catch a different side of the

building with the main signage being along the frontage of Rt. 4 they are looking to make that a 50 square foot sign on each side of the building, on either end, to make a 25 square foot sign. And then also, they currently have existing wayfinding signs that have been approved, the four that are in place now. He states he doesn't know if the Board is familiar with this strip. There're three buildings on the shopping center, one being Regency and the other is Ethan Allen. Sweetspot is the last one, and they are kind of egressed, so there is wayfinding signs after the first driveway entrance to tell you to make a right, because the last entrance into the plaza is an exit, so they want to avoid people making a right into there. The applicants are looking for a variance to allow us to have a freestanding sign, which the cannabis ordinance right now does not allow to add that to the existing freestanding pylon sign at the very beginning of the shopping plaza. As soon as you see it, it's where the existing Regency memory center sign is. The applicants are looking to place a sign underneath the existing Regency sign, just to show wayfinding that's even clearer than the existing signs, which are really hard to glance at, given the size of the font and their proximity to the ground when you're going the highway speeds. He further states that this sign also leaves about 8 ½ feet of visibility still underneath it, so it doesn't block anything, and the last thing Mr. Tukhtin states each building in the shopping center has the three buildings, has a pylon sign, Ethan Allen, Regency, and the applicants building is the only one that does not, so adding to the existing sign all the way in the front is really the path of least resistance, and it makes the most sense, since it's the first sign you see, so you'll know to turn right away and not all the way down. Mr. Herbst wants to add a few things. Ms. Brown asks if the document that is being displayed on the screen was that previously provided to the Board. Mr. Herbst states the visuals were, and he just had it done in a presentation form.

Mr. Tukhtin wanted to mention the reason why the applicants are doing this is primary driven by public safety and traffic management concerns. Every day the applicants get customers that say to them that they didn't realize a business operates there, they could not identify the correct entrance to come into, they miss the entrance entirely, and they have to wrap around into the city and come around, and obviously the reason why the municipality put the cannabis overlay zone on Rt. 4 is to not have traffic within the municipality, so signage and making that prominent will help lessen the amount of traffic going within the town itself. He also wanted to reiterate that we are not adding a pylon sign, this is one that's already existing, and they would just be adding on to that. Further, then in terms of their building signage that they are requesting, they just have this 16 square foot sign. The applicants are requesting three, one larger one in the front and two on the sides. The reasoning why this is so important is because obviously people are driving 50 miles per hour and having a sign that 16 square feet is really small. In addition to that, Ethan Allen has a massive pylon sign that blocks the view, so if you're driving down Rt. 4, you just see the Ethan Allen sign, you don't see the applicants building in general, which causes a major issue. Most businesses, you see the building where the business is and the entrance at the same time. They are one of those situations where it's not like that, so having additional signage will not only make it easier for their customers, but it will stop people from, hard breaking on the highway to get across to the exit. The other thing is they have to use the center entrance, and the current wayfinding signs are 2' x 3' that are directly on the ground. It's very hard to see. Basically, there are four signs, and this is purely to help highway traffic and to ensure that there won't be any additional issues. The applicants have spoken with Regency, and met with them. They are totally fine with this. That's not going to be a problem. In addition, he mentions there were a few things regarding lighting on he believes from Tom and Mr. Costa. The lighting will be shielded, it'll be directly pointed at the signs that are on the building itself. It would be no light coming onto the street, and they will put these lights on the same timers that they currently have that turn off at 11 o'clock. They can be dimmable, so if that needs to be reassessed, it can be. He saw there was a comment about that. They are 3000 Kelvin, so they are in line with everything. He further states that there is one other thing to add is that perspective, Mr. White brought it with it, so just to show what the property used to look like with signage. He further states that he does not know if

the Board members remember Liberty Travel, but the signage that was on there was something that was previously approved. So, the applicants are just asking for the front sign, the side sign, and over here they have an existing 16 square foot sign that you can't really see when you're in the car. Another example is Total Wines across the street with four massive signs that you can prominently see on both sides of the highway. If someone is travelling westbound, they will never be able to see the applicant's sign right now. So, all those things they think would not only help the applicant's customers understand what's going on, but truly affect safety on that highway, because it is a very quick turn driving 50 miles per hour.

Questions and Comments from the Board and Professionals

Mr. Costa asks when Liberty Travel was there, did they use your exit as an entrance? Mr. Herbst testified that there was no dedicated situation at that point. Mr. Costa further asks Chairman Caslin if he remembered when the applicants came before the Board last year, the traffic and the patterns and the stop and go around the back, and it was discussed for it, felt like, like hours, he never thought it was going to work in the first place, because you have to enter the property 500 feet away from where you are, by the time somebody figures out where the applicants are, they're in Hackensack and then they're trying to do a U turn to get back to whatever, so they really want to get those gummies to get back to Sweetspot but he doesn't know this sign again is going to help the applicant. Mr. Costa thinks the applicants need to go, maybe also back to the to the chief, possibly, and sit, because he knows a lot of it had to do with Chief Walker and the patterns. I don't remember it was a DOT that got involved. Mr. Herbst states there's a little bit of everything involved in that and they are trying to work on that process, but it is a much bigger process dealing with DOT, as can be imagined. Mr. Costa states that he doesn't know if DOT was ever involved. Mr. Costa asks if the applicants submitted to DOT back then, to which Mr. Herbst responded they had to, they got a letter of no interest, because they didn't change the driveway, they didn't change it, because that's what it was initially, so they are trying to get it to change that as an entrance, because the curb cut is for an entrance still. Mr. Costa thinks Liberty Travel always had that as an entry. Mr. Herbst responded saying – do you think they can do that to which Mr. Costa stated that he is not saying anything because the chief carries a gun, and he doesn't. Mr. Costa continues the bottom line is it's approved, you're there, and there's obviously an issue, and quite frankly, he even knows they are there. Not that he's gone to their store, it's not his thing, so to speak, but it's difficult to see it. He agrees, there's no question. He further states that he understands the applicant's pain, but he doesn't even know if this gets approved tonight, whether that's going to solve ultimately their pain. The applicants state it's a combination of signage, so people can see it, and also fixing the traffic pattern, but that this, for lack of better terms, is the quicker path of least resistance to get signage while we work through the curb cutting entrance. Mr. Herbst asks Mr. Costa if he misunderstood in any way, and that he's telling Mr. Herbst that he only has to go to the police chief to get the change in their building - Mr. Costa responds no, because the applicant has to prove to the Board for those traffic patterns and those, you would have to come back, in my opinion, to this Board and amend your application. Ms. Brown states and get something to show that that's not going to be a problem with DOT. She further states that the applicant might want to go to DOT and say they want to do this and see what they say, and then if so, I have already started that process with DOT to get them to change that into an entrance. Mr. Herbst testified that they have already started that, but anytime you deal with DOT, it could be months and months, and regardless, the signage is an issue, especially if you see them from across the street, and they only have one sign on the building now, and the building is kind of tilted, so when you're coming down, you don't see the main sign on the facade, you'd only see it from coming across, coming down, it's the sign that we're asking to be 25 square foot that faces you, because the building is tilted. Ms. Brown asks if they can show her the photo again of the proposed sign. Mr. Herbst pulls up the photo stating this is the one that's currently here, the 16 square foot one. So, we're getting on the bigger side, this larger one, but again, this is two feet high, so it's just

going wide, and then the side ones, if you're going westbound, that's the only side you really see when you're coming past their building on the other direction, and if you're coming eastbound, because of where the Ethan Allen post sign is, you can't see the front of their building. The only thing you could see is that side, so that's why they want to have that side sign there. And those signs were there with Liberty Travel previously. Mr. Behrens states that he thinks if we break this down, it might help us just expedite the thought process here. He further states - just a question relative to the that driveway that's currently an egress driveway. How many customers you're getting per hour? Let's say, like, your peak hour. Mr. Herbst states he is not sure. Probably getting 150 to 200 if he had to guess. Mr. Behrens states that he is trying to understand the traffic safety issue.

Mr. Costa states that there's no question it's difficult to see your location again, the signs, the directional signs that are west, you can't see it. So maybe what you want to do is, and Tom just whispered in my ear, two-step. If you put a sign further west, the monument sign, or whatever you're saying, hang where the daycare is. Maybe you put that on some sort of a temporary basis, but then try to get your driveways changed, and then put a real sign at that location, so you know where the entry is. Mr. Herbst states that the issue with putting a temporary sign, because I was trying to look at that, is that and he stated he will try anything to help their business. But he thinks the issue is that one, there's like this like cage electrical thing that's kind of right off of the highway barrier that blocks some of it, I wanted to put something there, but we need to have a certain amount of setback from the highway, right, and then there's a water basin thing that goes down that way, which it's not flat, and if you look at the site plan, this thing, you know, obviously I'm not a planner, so I don't know the technical thing, but there's like a waterway here, so that, so it goes very down. He understands what is being said and if the Board would approve, they would obviously love to be able to have this post sign, and then, if they are able to have the directional entrance change, they can get this sign done in two phases, or two frames, the Sweetspot dispensary, and then the right in 100 feet, and then they could just change that 100 foot sign to at the entrance in the front, or something like that. They can figure that out to ensure that it won't cause confusion. I just want to address this. Mr. Costa states that he is just trying to help the applicant. He doesn't vote but he can tell the applicant this, and he will put this on the record. - there's no question, it's where you are in the traffic pattern. It's extremely difficult.

Mr. Herbst states that they are trying to get the commuters enough time to see it to merge, because then there's the link split that they saw under the bridge. So, they feel Regency is the first thing you see once you pass the gas station. Then there's like the creek and a little bit of bushes. He further states as you come through and the gas station, the billboard and the bush, the first thing you see is this pylon sign that exists. So, this would be the easiest, because it's also at your line of sight without blocking it, whereas the signage that was approved as wayfinding before, you really have to look for it, and he did mention temporary wayfinding sign. Mr. Herbst states that he speaks to Chief Walker consistently. I did mention the temporary sign. His concern was that if somebody was leaving out of this entrance - this is an entrance - but if somebody was illegally leaving out of it, that a temporary sign that's not at the same height might cover their line of sight, even though they were doing it illegally, they're going out of an entrance. Mr. Costa states you can't impact the site, of a driver. Mr. Herbst responds that this would be somebody leaving an entrance, that's what he was concerned about. Mr. Costa responds you can't block - especially pulling out onto a highway. Mr. Herbst responds that's why this having it an eight foot six nine feet clearance addresses that. Mr. Behrens responds - my question would be, is this the right spot, meaning you have the two ingress driveways and you have the one wayfinding sign closer to Ethan Allen, it's a tiny little sign, nobody sees it, but this gives, I guess, customers a little bit of warning, right. Mr. Behrens is just wondering what's the best location. Mr. Herbst stated that they are trying to avoid the Jersey Turnpike sign, left lane to right lane. So, it's just giving that warning, because once you pass that sign,

and with the 25 square foot sign, you will be, you can't miss the green roof after, after you blow the second entrance. And this is exactly as Ivan said, just to let people know to go into the right lane, because that's been the biggest problem. That's what people are complaining to us about, and it's kind of scary for people if they're in the wrong lane they have to immediately go into this other one, and they have to go around Ethan Allen, and everything else. So, the thought is, you know, to be frank with you, the entrance is actually 150 feet away from this sign, but I'm saying 100 feet just to get them into that lane, so that they don't rush over, right? Because that's the main thing that we're trying to do is for public safety and for our customers not to feel, rushed coming into our space.

Chairman Caslin asks the applicant to go back to their site plan for a second -there's two proposed wayfinding signage at the entrance. Mr. Herbst explains there's one sign, the wayfinding sign that's here, that's where Regency. It's existing. Chairman Caslin states it says proposed. Mr. Herbst stated this was from the original site plan. He apologized and stated that he just added on to that some of these other lines and things, again he apologized for that. Mr. Behrens asks for clarification as to one other thing. He states, in one of your signage specifications, it shows four wall signs, - Mr. Herbst stated - there's one existing, and they are adding three, so four total. Mr. Behrens responds four total, two on the front, and one on each side, correct. Mr. Herbst stated that if you noticed it's not flat, if there's an indentation, so if anybody's coming west, you're never going to see the current sign, and if you're coming east, you're never going to see it, because that's the only area you'd be able to see our signage, if you're coming down the road, is on the side of the building, because Ethan Allen has a massive post sign that covers up our building.

Ms. Brown asked the applicant if they need the existing 16-square-foot sign if you have the bigger 50 square foot sign in the front, to which Mr. Herbst responded that he would prefer to have it just to have as much signage as possible. He further stated - If you're telling me that I have to make a decision between the 16 foot and the 50 foot. I'll take the 50 foot. Mr. Krey the west elevation, if you're coming east on 4 the right-hand side of that, you're not never going to see until you're right on top of it. So, if anything could be sacrificed, to which Mr. Herbst responded it's certainly not something they are willing to die on a hill over that sign. The main sign on the front being large is really the whole point here. Mr. Behrens thinks if we break it down like wall signs or deliberate and think about that pylon sign, and then recommendation to figure out the driveway, which we're not going to deal with tonight. Mr. Behrens further states to be clear, the applicant needs all five affirmative votes, I mean, just to be yes, this would be considered D variance for the the pylon sign only for public convenience or whatever. Well, that could be just a bit. The ordinance is technically structured where we created this zone, right? The borough created the zone to allow this use in that zone, and created certain conditions, correct? If you don't meet all those conditions, you need a conditional use variance. It's a certain type of variance that requires five affirmative votes. Ms. Brown states that this would be considered a D3 variance. Mr. Behrens states that the ordinance is technically structured where the borough created this zone to allow that use in this zone and it created certain conditions if they don't meet all of those conditions, they need a conditional use variance. It's a certain type of variance that requires five affirmative votes, a majority of the Board which is different than other types of variances with different criteria, Mr. Herbst asks is this purely because this is in the cannabis overlay zone, to which Mr. Behrens responds it's because of the specific conditions that were created for this use, one of which is no freestanding signs, and now they are introducing freestanding signs, more than two sides, so there's two technical issues. Ms. Brown states that there's only five voting members here today, you would need all five of them to affirmatively vote in favor of the application, or the applicant could ask for it to carry until we have the full seven members, but that's your decision. Mr. Behrens states that this is a balancing act because the Board, this was kind of a new use, wanted it to be sort of discrete but also wants it to work. There's no point in going through the

exercise, allowing the use if it doesn't work.

Mr. Herbst states that if anyone's been inside their establishment, they've seen our esthetic. They are not some crazy cannabis dispensary having great designs. Their naming and their branding is very minimal. That's why their sign is just block lettering, nothing crazy, no crazy designs, very earthy esthetics. So, they feel it's in line with, you know, corridor and what you see around. Mr. Herbst personally thinks it's less aggressive than Liberty Travel. And then just also Total Wine is like 110 square foot design sign. (inaudible). Someone asks for them to show the two wall signs again on the screen – Mr. Herbst states its two-foot tall. Everything is basically two feet tall, and the pylon sign is 5 x 14. It would have an 8' 6" clearance, and it would be box lit, just like the Regency sign. The same thing, at 11 o'clock, it would be off, and in talking with them, they would upgrade the interior to make it LED lighting, to make it more energy efficient. Mr. Behrens asks if they get the driveway configuration in the future, would they still need that, to which Mr. Herbst responded he would like to have that, and he would just adjust the verbiage on the bottom portion, because still, if you're all the way in the left lane, and you pass that look, even if you're going right turn, you can't, you have to be closer, and they are the only building on that block out of the three retail establishment that doesn't have its own exit so it's sort of useless by the time you figure it out.

Mr. Costa speaks about the bridge that is being done over, so that should help their business even more down the road. He continues stating that the back in sector of the bridge is being updated. He didn't know if the applicant knew that to which Mr. Herbst stated he did not. that's going to create a little more aggravation to your business.

Mr. Caslin begins to go around through the Board for questions and comments. Mr. Krey states, we got to solve the problems, right, but the one thing that concerns him is the Board gets lots of people who want lots of signage and we tend to be pretty strict about it, and then you know we've got a conditional use here where we make an exception that's pretty large. He's just concerned about the message there, so he'd like to see as minimal impact as possible, and he thinks the west elevation, that right-hand side, he honestly doesn't see how it serves the purpose, because you can't see it until you're right next to it. Mr. Herbst stated that they can take that off – that's right where the entrance is to the space, but he understands what Mr. Krey is saying. Mr. Krey states that the other one you will see a little earlier. Mr. Krey continues to state that he hates being in a situation where the Board makes pretty large exceptions and the Board is accepting the number signs, the square footage signs and then the Board is breaking every rule they have. Mr. Herbst responded that he understood what Mr. Krey was saying but as Mr. Behrens stated this was a new use and the Board has a very aggressive signage ordinance on them and they are in a space where it's very difficult to see us. Mr. Herbst and Mr. Krey continue to discuss the signage. Mr. Herbst states that the Board needs to take into consideration that people driving 50 mph and they have had some motor vehicle instances already because people were trying to go across and they went onto the side road that goes behind and into Hackensack. The main thing is public safety. Mr. Gibbons is not thoroughly convinced that the post sign in front of Regency – he drove to their building twice today and he does not know if he noticed the Regency sign coming up to it. He's not sure that the sign really helps them. He thinks a sign would be better more between the Regency and Ethan Allen because as you are diving that sign comes up pretty quick. He believes people pull into Ethan Allen and then come down to Sweetspot. He understands that the applicant needs signage and the Ethan Allen sign is not helping them at all. Mr. Gibbons is attempting to explain where he believes a sign would be better placed. He states people are driving down and then there is the entrance to Regency and then you drive down and there is a grass island for a while and then there is an entrance and exit between Regency and Ethan Allen and that is where you are expecting people to go to enter into the applicant's business. Mr. Gibbons states that is

logically where a sign should be and he doesn't want to be proposing more signs but that would be the most advantageous spot to have anything. Mr. Tukhtin stated that technically they are not allowed to have a free-standing sign. So that is why they pitched this because obviously it's the first sign you see and it's also existing so it is the path of less resistance. The applicant is open to any suggestions if the Board is saying the applicant is allowed to have a free-standing sign just not in that location. Mr. Costa states that the ordinance does not allow a free-standing sign because of the cannabis. So that use which is an overlay zone on top of the existing zoning. Mr. Costa states that if the applicant meets every condition, it raises the bar to a D3 so anything the applicant does they do not meet the condition it's a D variance. They need five out of seven votes the issue this evening is that there are only five people this evening so they will need five out of five, otherwise they might as well pack up and go home and then they can't take two bites from the apple, unless it is substantially different and then it's up to the Board to make a decision if the applicant comes back is it substantially different otherwise they don't have to hear the application under *res judicata*. Mr. Costa further states that the reality is when you come down Rt 4, there's a gas station, trees and then there is Sweetspot, so he does not know if people are going to be able to see that sign and then figure out 100 feet down the road to make a right, go in a little bit more and then go around the back of the building and then come around to the front. Mr. Costa stated that when this was first before the Board he questioned that and he doubts people do that – Mr. Gibbons questioned it also and when he drove it today it doesn't make sense and he is sure that 99% of the applicant's customers are going in front of Ethan Allen and that can't be controlled and they are going to do what they are going to do. Mr. Herbst stated he would have loved to make that their entrance in the first place. Mr. Costa suggests that the applicant forget the pylon sign and get the other sign if the Board is agreeable and put that up and see if it changes and then come back – then hopefully they come back with a different traffic pattern which he thinks is going to help the applicant. Mr. Herbst stated that he understands and appreciates that but they need more signage because their business needs it. He further states that if the Board is open to a pylon sign in front of Ethan Allen they can come back and do that. Mr. Costa states that they don't even know if they are allowed to do that. Mr. Costa stated that the owner of Ethan Allen was in the audience and they might have restrictions under their lease – but again he stated they control their own destiny according to their lease. Mr. Gibbons states that he does not see how that sign helps them. Mr. Herbst stated that when you are passing by Ethan Allen, Ethan Allen blocks the applicant's entire front of the building so people don't see them until they are directly in front of it. If you were driving 50 feet behind it looking you would see that sign, Mr. Gibbons responds that he cannot turn into their lot anyway. Mr. Gibbons continues that the 50 foot one he will see. Mr. Herbst testifies its more about seeing it, viewing it and the applicants' customers state they didn't even know they were there. Mr. Gibbons states a 50-foot sign would help that person and there will be a better visual pulling into Total Wine and them saying/seeing Sweetspot over there. Mr. Gibbons just personally sees how that sign helps the applicant. He continues that he is not proposing putting a sign in front of the Ethan Allen and the Regency Center but personally he feels that may help the applicant because he would have to imagine that a lot of people are pulling in the wrong way into their business. He looked on Google Maps from 2008, and it was always an out. There was not a sign pointing in. Mr. Herbst countered stating that it was directed as an out but how the curb cut is has always been there – it looks like you can pull in. Mr. Gibbons states that was his concern that people were going to pull in there no matter what. Mr. Tukhtin states that the owner just said his office has been there for 30 years and if you need him to testify as to a use of it as egress and - Mr. Gibbons states he was jut looking back and that he believes it makes more sense to have it as it would make everything a whole lot easier. Mr. Tukhtin states that as soon as he receives the DOT letter of no contest he will be in front of the Board asking for that and hopefully they will get the same response. Mr. Gibbons thinks that makes more sense. Mr. Tukhtin states that in response a prior question why that was originally proposed is because technically it's a corner lot, there is a road that runs this way so that people turning that way couldn't notice the front but could notice it then, so that was the reason. He

further states that similar to what Total Wine is kind of pivoted, they have a sign on this side, a sign on the other side and the main sign on the front. So, if removing the 16-sf foot sign, gives the applicant three signs similar to Total Wine each corner and a main that is their intent. Mr. Tukhtin states they would love to have a sign were Mr. Gibbons is proposing but he feels there would be a lot of pushback with Ethan Allen that would cause a problem. The reason they picked the Regency is the people were very accommodating and had no issue with it and the applicant believes it will help to get people from the middle lane to the right lane and that is the only thing they need to do. Ms. Boland states that there is a question about a pylon but they're not permitted at all so if there is a question it might not be of any use she would rather the applicant not have it if no one is going to see it. Mr. Gibbons states he drives down that road all the time and he believes if that sign were illuminated, has their colors and people are googling and using Google Maps and they see that sign they will know what entrance to go into. He understands that it's not the most visible but it's much better than the signs they have on the ground that no one sees. They are just trying to make it easier for customers to get into the correct lane. Ms. Boland states that if the applicant decides to come back before the Board with a new entrance, she suggests they not consider a second pylon sign. You can't have two when you are not allowed to even have one.

Mr. Tukhtin states – he is not sure how long the DOT process is going to take and what their decision is. Ms. Brown asks if the applicant would be open to - if they get approved from DOT and they come before the Board to amend the application that they will take down the pylon sign to which he responded he would absolutely do that. Mr. Herbst states if the DOT comes back to them in two weeks and says they are good, they are not even going to do this. But if it takes longer and longer and their business is suffering because no one knows where to go or they go in the wrong lane and they say crew it I'll go down Rt. 4 to the next one. That is what they are fighting against, so he understands what the Board is saying and he will take it down and redo it and that would not be a problem Mr. Herbst is just trying to solve the immediate issues right now for their business. Mr. Tukhtin states that makes sense because it being an existing sign so for the applicant to be moved from it or add to it, they are not really changing much to the existing structure. Chairman Caslin stated that he would leave it up to the applicant if they would like to carry it. Ms. Brown states that as of right now the application as it stands the applicant has agreed to remove the 16 sf wall sign so now it will be a total of three wall signs and then if you get NJDOT approval to change the exit only driveway and they come back for additional approvals the applicants will remove the pylon sign on the Regency pole – that is what they are proposing now. If the Board would like, tonight they could break up the variances and vote on the C variances separate from the D variance because she believes there is some consensus on the C variances for the walls signs or if they would like to just take a beat and come back on the 24th and see if they get the information or if they have a different proposal based on what they heard or if they want to wait until they have everybody or six people most likely its up to the applicant. Mr. Herbst thinks it makes sense to split the vote up to doing the building sign and then they wayfinding. Mr. Herbst asks the Board if they decide tonight and say no he can hang the design of it and then that would be okay to comeback. Ms. Brown states that there would have to be a significant change – it probably could not just be a smaller sign on the Regency pole. Mr. Behrens can go over what the relief is because it's not just the number of signs, it's also area. Mr. Behrens states the Board gets practically what they are asking – from a variance standpoint there's the two conditional aspects that deviate; one is the free-standing sign and one is the maximum number of building signs. So, even if they separate them, they still need all five votes. He continues - then just focusing on the wall sign there is the maximum sign area provision where they are allowed 20 sf for a main sign, they have 50, 25 and 25. Arguably they have more if it's a corner lot. Mr. Tukhtin asks if this site technically counts as a shopping center since there is communal parking for three properties. Mr. Behrens stated that he did not think they are managed by the same entity. (Someone stated they managed the whole site) Mr. Herbst states that bumps them to just the variance request is smaller because the main sign on a shopping center is 35 sf

not 20. Mr. Behrens states so, the proposed square footage is 100 sf so whether it's 20 or 35 that's the ask. If they separate the pylon sign the D3 conditional because free standing is not allowed. There is a separate provision of the ordinance that prohibits free standing and then there projecting into a required yard is a C variance, granted it's an existing sign and it talks about it cannot Project into a required yard so in this case there is the front yard distance between the building and the street which is supposed to be 30 feet – its about a foot. Mr. Herbst states it's not facing the street. Mr. Behrens states it's the proximity where the sign exists relative to the lot line – that's what the Board is actually voting on Mr. Hebrst responds understood. Mr. Behrens states – in either case wall signs or freestanding signs you still need a D variance and you need all five votes. Ms. Brown states that it is up to the applicant as to whether they want to ask the Board to just pull out the freestanding sign as a separate vote and everything else would require the five votes. Mr. Herbst asks if what Ms. Brown is saying is that there will be a vote now just for the 3 building signs. Mr. Behrens states they can ask for a vote and then someone would have to make a motion. Mr. Costa asks just for clarity what are they amending to, because he is confused. Mr. Herbst states that basically Mr. Krey asked them to take away the 16-foot sign so they are down to three signs, total square footage is 100 square feet. Mr. Costa continues just so the Board knows and if it is approved or not, Ms. Brown has to prepare a Resolution and they can't approve the plans because the plans are not asking for what they are asking. Mr. Herbst stated he understood and they will do whatever is needed to update them. Mr. Costa's understanding is that the applicant is going to amend the application and only ask for three wall signs, 25 on the east, 25 on the west and 50 facing north. If this Board says yes, prior to the adoption of the final resolution the applicant will revise the plan to show what the Board actually approved or denied. Mr. Herbst asks Ms. Brown – if the applicant says they will pass on the post sign today and they want to appear of the 24th when there are more people here, does he have to re-notice, to which Ms. Brown stated no. Ms. Brown states that the applicants are not amending it to get rid of the pylon sign, they are making the amendment to eliminate the existing 16 foot wall sign. They want the Board to then only vote on the wall signs tonight and then at the next meeting consider the pylon sign. There is much discussion between all parties regarding what to do going forward. Ms. Brown's proposal is that the votes happen either this evening or everything gets carried to the next meeting and have a vote on everything. Discussion continues regarding freestanding signs and the ordinance. Mr. Herbst states that they will go for the vote this evening. Mr. Behrens states that the vote is the three signs – side, front, side, pylon sign being put up only if the applicant doesn't get the okay for the driveway, so that's their proposal and if they get the proposal they will take it down. Mr. Behrens continues that the Board can make a condition that accepts all of that, some of that or none of that.

Motion to open to the public – so moved – Mr. Gibbons; second – Ms. Levine. There being none one in the public a motion is made by Mr. Gibbons; second – Mr. Krey. Ms. Brown states that the applicant is asking that the Board have two votes, both would require five affirmative votes. One would be for all the building wall signs and the other related variance, and the other one would be for the pylon on the Regency pylon. Mr. Gibbons makes a motion to allow the building signs, as discussed and as stipulated this evening; second – Mr. Krey added no 16 sf sign – Ms. Brown states that there is a conditional variance that is required for the number of signs for the signage area and for the projection onto the required yard. So, there is a motion from Mr. Gibbons and second from Mr. Krey. Roll call- Chairman Caslin – yes; Mr. Krey – yes; Ms. Boland – yes; Mr. Gibbons – yes; Ms. Levine – that motion passes. The second motion would be on the freestanding pylon sign with the condition that if NJDOT provided approval for the driveway and new site plan was submitted then that signage would be removed. They would have to submit a new application. Mr. Key makes the motion that the Board approve the variance for the pylon sign with the conditions listed; second – Mr. Gibbons. Roll call- Chairman Caslin – yes; Mr. Krey – yes; Ms. Boland – yes; Mr. Gibbons – yes; Ms. Levine – that motion passes.

Motion to adjourn – Mr. Gibbons; Second – Mr. Krey – 9:36 p.m.