

Date: 7/7/2016  
 Offered: Vignola  
 2nd: Tyler

**Minutes of June 16, 2016**

The Regular Meeting of the Hazlet Township **Land Use Board** scheduled for June 16, 2016 was called to order at 7:30 PM with a Salute to the Flag followed by a Moment of Silent Prayer and a Reading of the Letter of Compliance.

**ROLL CALL:**

**Present:** Mr.Tyler, Mr. Vignola, Mr.Glackin, Mr. Sanfilippo, Mr. Solomeno, Mr.Grossman, Mr.Moore, Deputy Mayor Kiley

**Absent:** Mayor Aagre, Mr. Mann, Mr. Byrne, Mr. Lavan, Mr. Rooke

**Professionals:** Mr. Vella, Esq., Mr. Otto- CME, Mr. <sup>Anthony</sup>Rodriguez-CME, Mrs. Keegan

**Motion:** To approve the minutes of regular meeting June 2, 2016

**Offered By:** Vignola                      **Seconded By:** Solomeno

<b><u>ROLL CALL</u></b>	<b><u>YES</u></b>	<b><u>NO</u></b>	<b><u>AB</u></b>
Mr. Byrne	_____	_____	_____
Mr. Glackin	<u>X</u>	_____	_____
Mr. Lavan	_____	_____	_____
Mr. Tyler	<u>X</u>	_____	_____
Mr. Solomeno	<u>X</u>	_____	_____
Mr. Vignola	<u>X</u>	_____	_____
Mr. Rooke	_____	_____	_____
Deputy Mayor Kiley	<u>X</u>	_____	_____
Mayor Aagre	_____	_____	_____
Alt #1 Mr.Mann	_____	_____	_____
Alt #2 Mr. Moore	_____	_____	<u>X</u>
Alt #3 Mr. Grossman	<u>X</u>	_____	_____
Alt #4 Mr. Sanfilippo	<u>X</u>	_____	_____

**Case# 13-08:** Elegant Properties LLC, Block 66, Lot 1.02. Applicant is requesting a one year extension of site plan approval for 44 Townhomes.

**Mr.Vella:** Explained that this was a request for an extension of site plan approval for the major subdivision which had been part of a court order. There are still approvals that are being attained. The permit extension act is set to expire on June 30, 2016 and

the applicant is entitled to three one year extensions. This extension will expire on July 10, 2017.

**Offered By:** Moore **Seconded By:** Tyler

<b><u>ROLL CALL</u></b>	<b><u>YES</u></b>	<b><u>NO</u></b>	<b><u>AB</u></b>
Mr. Byrne	_____	_____	_____
Mr. Glackin	_____	<u>X</u>	_____
Mr. Lavan	_____	_____	_____
Mr. Tyler	<u>X</u>	_____	_____
Mr. Solomeno	_____	<u>X</u>	_____
Mr. Vignola	_____	<u>X</u>	_____
Mr. Rooke	_____	_____	_____
Deputy Mayor Kiley	<u>X</u>	_____	_____
Mayor Aagre	_____	_____	_____
Alt #1 Mr.Mann	_____	_____	_____
Alt #2 Mr. Moore	<u>X</u>	_____	_____
Alt #3 Mr. Grossman	<u>X</u>	_____	_____
Alt #4 Mr. Sanfilippo	_____	_____	<u>X</u>

**Motion Approved 4-3.**

**Carry Over Case#16-05L:** Smith, 19 Essex Ave, Block 150, Lot 6.01, R-50 zone. Applicant is seeking to retain a 6'x16' shed, 5'x18' wood platform, 22'x40' paver patio and raised concrete patio. Seeking a 0.5 ft. side yard setback where 5 ft. is required for 5x18 wood platform, 0.2 ft. side and rear yard setback where 2 ft. is required for 6x16 shed, a 3 ft. setback between shed and pool where 7 ft. is required, 1 ft. side yard setback where 5 ft. is required for paver patio and 0 ft. side yard setback where 3 ft. is required for driveway.

**Mr. Vella:** Explained that since the last meeting, the applicant met with the construction department and zoning officer and determined that a quick disconnect gas line does not need to be underground. The applicant has decided to modify their plan to remove the shed and replace it with an 8x10 or smaller one on the left side of home that will meet the bulk requirements. They are also removing the gas pipe running from the grill to the stove.

**Mr. Costello:** Questioned whether the shed can be put close to the fence near the house.

**Mrs. Keegan:** Explained that the shed can be near the house as long as it meets the side yard setback. Explained that the plumbing inspector went out to do a courtesy inspection of the gas line. He found that the above ground gas line was not a tripping hazard and was protected.

**Mr. Tyler:** Stated that Mr. Smith had addressed all the issues the board had raised with him and asked for a motion to approve.

**Offered By:** Glackin **Seconded By:** Vignola

<b><u>ROLL CALL</u></b>	<b><u>YES</u></b>	<b><u>NO</u></b>	<b><u>AB</u></b>
Mr. Byrne	_____	_____	_____
Mr. Glackin	<u>X</u>	_____	_____
Mr. Lavan	_____	_____	_____
Mr. Tyler	<u>X</u>	_____	_____
Mr. Solomeno	<u>X</u>	_____	_____
Mr. Vignola	<u>X</u>	_____	_____
Mr. Rooke	_____	_____	_____
Deputy Mayor Kiley	<u>X</u>	_____	_____
Mayor Aagre	_____	_____	_____
Alt #1 Mr. Mann	_____	_____	_____
Alt #2 Mr. Moore	<u>X</u>	_____	_____
Alt #3 Mr. Grossman	<u>X</u>	_____	_____
Alt #4 Mr. Sanfilippo	<u>X</u>	_____	_____

**Mr. Vella indicated the application is approved and he will draft a resolution for next meeting.**

**Deputy Mayor Kiley recused herself for the CVS use variance hearing.**

**Carry Over Case #15-11L:** First Hartford Realty Corp/ CVS; Highway 36 and Laurel Avenue; Block 134 Lot(s) 1, 15, 15.01 & 16, BH Zone and R-70 Zone. Applicant is seeking Preliminary and Final Site Plan & Subdivision approval, Use variance approval and several bulk variances to construct a new CVS store.

**Mr. Vella:** Explained this was a carry-over from 6/2/16 and that the objector's counsel will present two witnesses tonight, Mr. Higgins the planner and Jamie Pavlis a real estate expert.

**Attorney Vella swearing in Mr. James Higgins, planner.**

**Mr. McKenna:** Asked Mr. Higgins to review the variances requested and offer his professional opinion on their impact.

**Mr. Higgins:** Noted that he reviewed the application, zoning ordinances, master plan and has visited the site on a few occasions as well as attended hearings. He explained that there are four different lots that would be combined under the use variance, one commercial and three residential. He noted there are tests to prove: special reasons, positive and negative criteria affecting the zone plan and its effect on surrounding properties. He does not believe this site has particular suitability for a CVS; it could be developed less intensely. He pointed out that the master plan re-examination did identify specific Route 36 areas in need of redevelopment but not this particular site. He believes that what is being proposed here is inconsistent with the re-examination report. It intrudes into the residential zone and eliminates viable residences for a commercial use. The size of the building will have substantial impact on surrounding properties particularly the ones to the east.

**Mr. Vella identified exhibit #O-10 as mounted two pictures of view of subject site from Liberty and view of CVS in Ocean Township.**

**Mr. Higgins:** Explained what the properties will be looking at once the building was up. The vegetation being planted will not mature for years and will still not block the view of the building, causing a substantial visual impact on the residences on Liberty. Additional traffic will be generated on Liberty and by the drive through in the rear. Tractor trailers making deliveries and the trash compactor will create noise issues in these backyards that will not be mitigated by vegetation.

**Mr. McKenna:** Questioned whether the commercial portion of the subject site could be developed without any intrusion into the residential area.

**Mr. Higgins:** Agreed that it could be.

**Mr. McKenna:** Called his next witness, Mr. Pavlis, a real estate expert.

**Attorney Vella swearing in Mr. Jamie Pavlis, realtor.**

**Mr. Pavlis:** Stated that he is a licensed real estate broker and real estate appraiser. Explained that he has visited the site numerous times and is familiar with the neighborhood and with the traffic in the area. His opinion is that the building of the CVS would have a major negative impact on property values, especially to the residences along Liberty, Sidney and Laurel. The roadway being built between the building and the residences will have a major impact.

**Mr. McKenna**: Asked if Mr. Pavlis had come up with a range of impact that this property would have on surrounding properties.

**Mr. Pavlis**: Believes there will be a 25-35% negative impact on those home values. He believes Liberty Place will go from a quiet street to a busy street.

**Mr. Tyler**: Asked Mr. Pavlis how much of a value impact there is for a vacant property being adjacent to residences as opposed to buildings or houses.

**Mr. Pavlis**: Answered that abandoned properties do not have a positive impact on neighborhoods. He suggested that someone else could develop the commercial property and leave the residential area alone.

**Mr. Solomeno**: Asked what steps he thought could be taken by the applicant to mitigate the negative impact on the neighborhood.

**Mr. Pavlis**: Suggested downsizing the building to fit on only the commercial property.

**Mr. Vella**: Asked Mr. Pavlis to clarify how he calculated the reduction of value to the properties.

**Mr. Pavlis**: Stated that location is the most important consideration in establishing value and any unusual properties in close proximity are figured into the appraisal. He feels that the CVS building would be unusual and will generate traffic on the roadway behind these homes. He believes the traffic queues will get longer on Laurel.

**Mr. Solomeno**: Asked Mr. Pavlis to expand on the loss of property value for homes beyond those directly adjacent to the proposed CVS property and whether it would be possible that values would increase for those living several blocks away due to the elimination of an abandoned property.

**Mr. Pavlis**: Answered that the property could be developed on a much smaller scale. He stated he has not looked at the properties any further away than the adjacent ones.

**Mr. Rodriguez**: Asked Mr. Pavlis to explain how he calculated the loss of values.

**Mr. Pavlis**: Explained that they put percentage values on specific things that surround a property and reduce or increase the value by that percentage. He felt the range was from 25-35% with the closest properties being at the higher end.

**Mr. Rodriguez**: Asked Mr. Pavlis his opinion on the impact to property values of the as of right development that was presented by Mr. Simpson at last meeting.

**Mr. Pavlis**: Answered that it would have a negligible impact on property values.

**Mr. McKenna:** Invited Mr. Simpson to correct his testimony as to the dates portrayed on the shade analysis exhibit at last meeting.

**Attorney Vella advised Mr. Simpson still under oath.**

**Mr. Simpson:** Corrected his testimony on the shade analysis that the date he had identified as June was actually December. He corrected the exhibit and brought it to present at the meeting.

**Mr. Vella identified exhibit as #O-11, updated shade analysis.**

**Mr. Solomeno:** Asked Mr. Simpson to clarify the percentage of light loss in the backyards shown.

**Mr. Simpson:** Explained that in the winter when the trees lose their leaves, there would be more light, but with trees that do not drop their leaves then the shade is there year round.

**Mr. McKenna stated he was finished presenting his witnesses.**

**Mr. Gianetti:** Requested a five minute break and then he will cross examine the witnesses.

**Chairman Tyler opened the floor for public comment of the witnesses who testified tonight.**

**No one came forward.**

**Chairman Tyler called for a five minute break.**

**Mr. Gianetti:** Questioned Mr. Pavlis' testimony about traffic and noise issues and whether he was an expert in either of these fields.

**Mr. Pavlis:** Indicated he is a real estate expert and an appraiser.

**Mr. Gianetti:** Questioned what the estimated 25-35% reduction in property values was actually based on.

**Mr. Pavlis:** Explained that he looked at this development as impacting those properties similar to a partial taking or permanent easement. He believes that a roadway built behind the homes will have an impact.

**Mr. Gianetti:** Questioned whether it was actually a roadway. Asked Mr. Pavlis if he had attended previous hearings or had read the testimony of the experts.

**Mr. Pavlis:** Indicated that he believed this was his fifth meeting.

**Mr. Gianetti:** Questioned whether Mr. Pavlis recalled the testimony about how many trucks would be entering the site.

**Mr. Pavlis:** Indicated he did not recall specifically.

**Mr. Gianetti:** Questioned whether the number of trucks using the site on a daily basis would impact his analysis of the property values.

**Mr. Pavlis:** Indicated he considered what a typical CVS would generate.

**Mr. Gianetti:** Questioned whether Mr. Pavlis recalled the testimony about the number of cars that would be using the drive through.

**Mr. Pavlis:** Indicated he did not recall specifically how many cars.

**Mr. Gianetti:** Stated that Mr. Pavlis did an analysis but didn't factor in specifically how many cars.

**Mr. Pavlis:** Stated he believes there will be a lot of traffic at the site. Between cars, trucks and lighting, he believes it will have a major impact on homes on Liberty.

**Mr. Gianetti:** Questioned Mr. Pavlis' statement about the building being 30 feet when it is actually 25 feet in the residential area and 27 feet at the front atrium.

**Mr. Pavlis:** Corrected himself, he thought he saw 27 feet.

**Mr. Gianetti:** Questioned whether there was a report or data collected that could be looked upon to gauge the analysis of the loss of property value.

**Mr. Pavlis:** Indicated that there was not.

**Mr. Gianetti:** Asked what impact a contaminated gas station would have on residential property values.

**Mr. Pavlis:** Indicated that a new gas station built in the commercial zone would be fine. The old gas station is now just vacant land.

**Mr. Gianetti:** Questioned whether Mr. Pavlis had any notes or information on the current values of the homes and how he came up with the 20-25% reduction.

**Mr. Pavlis:** Indicated he did not, the estimate came from his experience.

**Mr. Gianetti called Mr. Simpson.**

**Mr. Gianetti:** Questioned Mr. Simpson's attendance at previous hearings and review of transcripts and plans.

**Mr. Simpson:** Indicated he had been present at 2.5 meetings and had not listened to transcripts from the other meetings but had read transcripts from the last meeting and had reviewed the plans.

**Mr. Gianetti:** Questioned the tree height of the shade analysis. Asked if he recalled the agreement discussed during the first two hearings about providing buffering and landscaping in the area between the roadway and the lot lines and the agreement to work with the engineer to provide whatever landscaping the board felt appropriate.

**Mr. Simpson:** Indicated he was not at the first meeting and had not read the transcripts so could not speak to that testimony.

**Mr. Gianetti:** Asked whether the applicant could agree that the residents could have input as to what kind of landscaping is provided in that area and the ability to control the height of any trees planted there.

**Mr. Simpson:** Indicated it is something that could be agreed to and there is an ability to control the height of the trees but he had not seen any maintenance plan yet.

**Mr. Gianetti:** Questioned exhibit #O-5 showing views from property on Liberty closest to the proposed CVS and #O-7 showing same view but with mature trees. Asked about the setbacks between the buildings and the representation of a chain link fence.

**Mr. Simpson:** Indicated that the distance between the two buildings was approximately 92 feet under the original plan. Under the new plan, the difference would be about 5 feet further back.

**Mr. Gianetti:** Referred to exhibit #A-9 which shows a note proposing a 6 foot board on board fence between the properties.

**Mr. Simpson:** Indicated that at the time their drawings were rendered, the fence did not show on the original plan.

**Mr. Tyler:** Questioned the height of the chain link fence shown on the rendering.

**Mr. Simpson:** Indicated it could be interpreted as a 6 foot fence.

**Mr. Solomeno**: Pointed out that Mr. Simpson had testified to the fact that the fence shown was not the correct one.

**Mr. Gianetti**: Questioned whether Mr. Simpson recalled any previous testimony about the number of tractor trailer deliveries at the site.

**Mr. Simpson**: Indicated he did not.

**Mr. Gianetti**: Asked about his testimony regarding the truck traffic on the roadway behind the store and if he considered the amount of cars using the drive through and the number of truck deliveries in his analysis.

**Mr. Simpson**: Indicated that most numbers are pre-determined and not experiential. He stated it would have a small impact on his planning analysis because the neighborhood is a small lot area and to have a roadway running behind this neighborhood with tractor trailer deliveries would be unusual.

**Mr. Gianetti**: Questioned the rendering showing a conforming alternate commercial development at the site. The driveway shown is closer to the first property on Liberty than the proposed CVS driveway would be. Also questioned the zoning in the B-H zone and offered examples of other businesses that could potentially have a drive thru lane abutting the residences in this location.

**Attorney Vella noted that drive thrus are not permitted in the BH zone.**

**Mr. Gianetti**: Questioned whether Mr. Simpson had reviewed the master plan.

**Mr. Simpson**: Stated he had not but had reviewed the 2008 re-examination.

**Mr. Gianetti**: Pointed out that there had been 14 use variances granted between 2001 and 2006 and so it was not unusual to introduce a use in a zone that was not originally permitted.

**Mr. Simpson**: Agreed and pointed out that none had been granted in the R-50 zone but had been in other residential zones.

**Mr. Gianetti**: Questioned whether Mr. Simpson had reviewed the Bayshore Strategic plan.

**Mr. Simpson**: Remembers the discussions about it and has reviewed it.

**Mr. Gianetti:** Asked Mr. Simpson to read two highlighted sections shown as what is being recommended as part of that plan and the sections referring to specific changes recommended for land use and zoning changes.

**Mr. Simpson:** Read aloud the sections that refer to developing a gateway design for the Laurel Avenue intersection along Route 36 and the Henry Hudson trail and refers to Laurel Avenue as an area to create nodes and activity centers. Also read aloud the section referring to upgrading and encouraging existing commercial business areas along the Route 36 corridor. Read aloud the section about referring and implementing zoning changes along Route 36 to create appropriate nodes and activity centers. Also read aloud the section referring to Route 36 and Laurel Avenue as a congested traffic location that should to be improved.

**Mr. Gianetti:** Questioned whether Mr. Simpson had heard any of the traffic engineer's testimony, including the applicant agreeing to submit a problem statement to DOT to consider fixing this intersection and extending green light times.

**Mr. Simpson:** Did not recall hearing the traffic testimony at the meetings he was present at.

**Mr. Gianetti:** Questioned whether he was aware of any other applications for this property that had proposed the improvements to the intersection that CVS has proposed.

**Mr. Simpson:** Stated he was not aware of any other applications for that site.

**Mr. Gianetti:** Questioned whether there were ways to mitigate the effects (ie size, materials) of the building in the neighborhood.

**Mr. Simpson:** Answered yes there are ways to mitigate its effect and that he had also testified as to the fenestration and scaled openings and elements on the building.

**Mr. Gianetti indicated he was finished with the witness.**

**Mr. McKenna:** Asked Mr. Simpson about exhibit #O-5 and O-7 that had been based on the original plans and whether the 10 foot difference would change his opinion regarding the appearance of the building from the residences.

**Mr. Simpson:** Indicated that his opinion would not change.

**Mr. McKenna:** Addressed the re-examination plan and the fact that none of the variances that had been granted were in the R-50 zone and that the township had specifically made the decision not to rezone this property.

**Mr. Simpson:** Agreed that was correct.

**Mr. McKenna:** Referred to the recommendations in the Bayshore Strategic plan and asked whether it specifically identified this property or recommended rezoning of this property.

**Mr. Simpson:** Indicated it did not from what he read.

**Mr. McKenna:** Indicated there was no specific reference to this property or of a commercial use intruding into a residential zone in order for a node to be built at this location.

**Mr. Simpson:** Agreed.

**Mr. McKenna:** Pointed out that there was a traffic problem at Laurel back in 2008 when the plan was made and nothing has been done to improve the intersection.

**Mr. Simpson:** Stated he is not aware of any improvements to the intersection.

**Mr. McKenna:** Questioned whether there were any guarantees when applying for adjustment to traffic signals at the intersection.

**Mr. Simpson:** Indicated in his experience, there was no way to predict the outcome.

**Mr. McKenna:** Questioned whether Mr. Simpson's opinion had changed with the revisions done to the plans as to size of building and larger buffer area etc.

**Mr. Simpson:** Indicated that his opinion had not changed based on the changes presented.

**Mr. McKenna:** Asked Mr. Simpson if there were any properties shown on the exhibit that currently had a roadway running behind their backyards as would be introduced by this application.

**Mr. Simpson:** Answered that there were not any.

**Mr. McKenna indicated he was finished.**

**Mr. Gianetti:** Questioned whether Mr. Simpson was aware of any specific rezoning request for this property that was considered by the governing body and denied when creating the master plan re-examination.

**Mr. Simpson:** Indicated he was not aware of any.

**Mr. Gianetti:** Asked Mr. Simpson if he agreed that this area was an activity center and invited activity, whether it was a park or a low intensity commercial use.

**Mr. Simpson:** Agreed that it could be.

**Mr. Vella:** Questioned what the word node is actually defined as.

**Mr. Tyler:** Explained that the word was taken from the Bayshore Strategic Plan which was new at the time and we should see how it was defined there.

**Mr. Gianetti:** Pointed out that for the standard of review, it doesn't have to specifically mean a CVS store, only that it would not be substantially inconsistent with a node.

**Mr. Solomeno:** Questioned whether we have the plan with us to look up the definition.

**Mr. Rodriguez:** Indicated he will research that and report back.

**Mr. Solomeno:** Questioned whether we are bound by the Bayshore Strategic Plan as a municipality.

**Mr. Vella:** Indicated we are not.

**Mr. Gianetti:** Pointed out that the master plan re-examination clearly adopts the findings of it.

**Mr. Vella:** Indicated that is not the issue, it is whether this use is particularly suited for this property and whether it is substantially detrimental to the master plan.

**Mr. Gianetti indicated he was finished.**

**Mr. Solomeno:** Asked Mr. Simpson about the section in the re-examination report calling for upgrading existing commercial business areas including the Route 35 and 36 corridors. Questioned whether it says to expand the commercial areas into residential zones or make reference to any use variances.

**Mr. Simpson:** Indicated it did not.

**Mr. Solomeno:** Asked whether a car wash would be considered an upgrade to the existing business area.

**Mr. Simpson:** Answered that compared to the vacant lot there now, it might be.

**Mr. Vella carried the case to July 7 at 7:30 pm to finish cross examination.**

**Mr. Tyler opened the floor for citizen's hearing.**

**Citizen Hearing:**

**Mr. Burlew:** Asked the board about establishing a child care center on his property at 221 Middle Road. He applied for a use permit and was approved with site plan approval required. He questioned whether a full site plan approval is required or if he could do a partial. Asked why he had to get full site plan approval if the area is already zoned for a child care center.

**Mrs. Keegan:** Explained that the property is not set up for a day care facility and therefore needs a full site plan.

**Mr. Vella:** Indicated that he would need an engineer to survey the property and design the elements needed for the child care center.

**Mr. Burlew:** Indicated that the state had approved his request and just needed to know if the town had approved it.

**Mr. Vella:** Indicated that the town had not approved it.

**Mrs. Keegan:** Indicated that Mr. Burlew's grandson stated they wanted to utilize the backyard of the residential property next door for the play area.

**Mr. Vella:** Explained that if any part of the residential lot is utilized for a commercial use, a use variance would be needed and most likely, a subdivision of the residential parcel.

**Mr. Burlew:** Indicated that the state does not require a play area and questioned whether the township requires one.

**Mr. Vella:** Indicated if it is not required by the state, it is not required by Hazlet.

**Mr. Tyler:** Indicated that it could be a factor whether parents would bring their kids to a child care center without a play yard.

**Mr. Burlew:** Explained that the building has been sitting for a few years and it has been difficult to rent the property out.

**Mr. Tyler:** Pointed out that pick up and drop off could be an issue at that location.

**Mr. Tyler pointed out to members that the master plan re-examination is available in the dropboxes for examination.**

**Offered By:** Moore

**Seconded By:** Glackin

**VOICE VOTE:** Yes

**Motion to Adjourn:**

**Offered By:** Moore

**Seconded By:** Glackin

**VOICE VOTE:** Yes

**Next Meeting: July 7, 2016**

**Respectfully submitted: Laura McPeck**