

September 18, 2008

Board Of Adjustment

Township Of Chatham

CALL TO ORDER AND STATEMENT OF COMPLIANCE

The meeting was called to order at 7:30 p.m. and the Statement of Compliance was read into the record.

Roll Call:

Mr. Lawrence Dalziel	Mr. Parker Godwin	Mrs. Therese Hough
Mr. Glen Nelson	Mr. Tom Quinn	Mrs. Francine Alcorn
Mr. Karl Schmidt	Alt.#1 Vacant	Alt.#2 Vacant

Also Present:

**Kali Tsimboukis, Secretary; Steven Shaw, Board Attorney;
Mr. Ruschke, Board Engineer; Joanna Slagle, Planner**

Minutes of July 17, 2008

A motion made by Mr. Nelson, seconded by Mrs. Alcorn, accepting the minutes as submitted. All in favor.

Stephan/Wendy Kuppenheimer
316 Lafayette Ave.
Block: 106 Lot: 13.

Calendar Boa 07-106-13

Attorney - Steven Schaeffer

Steven Schaeffer- as you know Lafayette runs east and west and the property is located on the North side of the street in an R3 zone. We were last here on May 22nd where we introduced this application and had a site visit in the beginning of June which I will address. One of the key things in this application is that the minimum lot area is 20,000 sf and this lot is double the size. The project is to replace a pool house, which is in a dilapidated condition. It is an old archaic structure, which is no longer habitable with the house that was totally redone in 2003. We started this in May and I submitted a letter to the board in September. At the site visit, the members of the board that were present raised 2 problems/issues that they were concerned with that we wanted to work with and go back to the drawing board. The first issue had to do with the location of where the pool house was originally suggested would have meant the loss of two massive oak trees and the members who visited the site were very concerned about that and did not feel that it was a good idea and suggest relocation to save those trees. The other thing the members expressed concern about was the variance (C2) for accessory structures (150 sf. max). When we first proposed it in May the pool house was 505 sf. it's now reduced to 366 sf. which is 28% less than what was proposed and is also several sq. ft. less than the existing structure (388sf). We have an existing pool structure

with a footprint of 388 sf which has been reduced to 366 sf and we are now saving 2 oak trees. We will have testimony from the arborist tonight. We are moving the pool house up and reducing its size. While we are doing that, I want to go through what we reflected in my letter. We are making improvements to the property from the zoning standpoint.

- Those are:
- 1) we decreasing the amount of the existing accessory structure from 3 to 2.
 - 2) Three required variances that are existing will now conform and make it 2
 - 3) The pool house and one shed -The side yard setback where the existing pool house is a deficiency that will be made conforming.
 - 4) There is a side yard deficiency on the one shed remaining and we are going to rotate that shed so that side yard deficiency goes away.

And again, as I said, the limit in the ordinance for an accessory structure of 150 sf. we are reducing the existing it from 388 to 366 and from what we proposed down from 505. One other benefit from the revised proposal is that we are decreasing the area of disturbance to about 45%.

I have several witness here tonight – the engineer who prepared the site plan, a licensed planner, a tree arborist from “save a tree”, the architect and the client who will answer any factual questions about the property. Lastly, the neighbor who is most impacted on the side year will make comments. Having said that, I would like to have John Hansen, the Engineer/Planner sworn in.

Mr. Dalziel swore Mr. Hansen in. Mr. Hansen, a principal in Ferrera Engineering, then listed his qualifications for Engineering/Planning.

Mr. Shaw asked that the site visit report of June 7th be read into the record (A36).

Mr. Hansen – just for the record this plan is of 316 Lafayette Ave, it is a 40,000 sf lot in a 20000 sf zone. It is long and narrow and is developed like the properties adjacent to them. The house is located approximately 55 ft. from the right of way, the rear yard extending back. A wooded area approx 250 ft is about the last 250’ of the property. Colony pool is located north adjacent to it. The principal structure has a garage under type configuration. There is a pool located generally in the center of the property. Currently there are 3 structures on the property; 1 is approximately 90 sf right off of the paved driveway; 1 is approx 6 sf located to the northwest of the pool and another structure which is the current pool house which is 296 sf located just northwest of the pool. Also there is the principal structure. As we discussed when we were here in May our original plan had a 505 sf pool house to replace the two structures in the back. We have gone to great lengths to reconfigure the size and the shape of this pool structure so that we could save more trees and limit the amount of disturbance and make this project less of an impact on the environment. We met in the field several times with the applicant and the tree consultant and we have designed the structure in the footprint in a way so that we could construct it and save all the trees except one. The previous plan showed the removal of 7 trees – we now have made it so that we save all the trees except one fruit tree located in the footprint of where this needs to go. The electric is already out there so it will be serviced with electric. There will be no fill that will be brought into the site or removed. It has been designed so that basically it will fit into the small hill that is there. We have provided an area where we can spread some of the excavated material that comes out. The existing pool house is located about 10 ft. back from where our proposed pool house (296 sf) sits.

Mr. Schaffer – there is a side yard setback with an existing deficiency. Is that correct.

Mr. Hansen – there is. The ordinance requires a 15ft. side yard setback. Currently the shed is just off the driveway at 7.6' side yard setback. Part of the proposal is to rotate that so it will comply. The pool house will certainly comply to the setback. We have also revised the grading and the roofline of the pool house so that we no longer require the height variance.

Mr. Schaeffer – please point out to the board the shed that is being removed so that the existing non-conforming condition of 3 accessory structures will be reduced to conforming too.

Mr. Hansen – certainly the pool house will be replaced and the sheds removed.

Mr. Dalziel – is the 388 sf - is that the existing area of all 3 accessory structures?

Mr. Hansen – No - the 388 is basically the 296 plus the 86. I think the 386 is off a little bit. From my numbers it's around 378-80.

Mr. Dalziel – how big is the other one, which is not included in that area.

Mr. Schaeffer – I would like to correct the record... I said that the existing pool house was 388 and I now realize that the combination of those two combined is 366.

Mr. Hansen – the total sf of accessory structures combined is 480.7 sf. What we propose post development, including the shed we are rotating will be less - 465.7 sf. Just a few other things to note – we are reducing the total impervious coverage by 591 sf. We have reduced the land disturbance from 8,570 sf to 2560 sf. Also we have retained the drywell. There will actually be a reduction in storm water runoff in post development.

Mr. Schaeffer – you talk about impervious coverage – with the addition there are no impervious coverage issues with regard to the lot/building coverage.

Mr.. Hansen – correct – we are still significantly under the maximum permitted by ordinance. (allowed impervious coverage 10,000 sf whereas we are just over 1800 sf.)

Mr. Schaeffer – the design of the house itself, would it be accurate to say that it is designed so that it will not be used as a residency.

Mr. Hansen – said that was correct. There is electric out there now because of the pool filter. There will be no water/sewer connection so there is no way/intention for it to be used as a residence.

Mrs. Hough – there is electric there now... is it just for equipment or does it go to the pool house.

Mr. Hansen – it goes to the pool house and the filter now.

Mr. Hansen – as to the buffering, etc. The lot is presently maliciously landscaped. The plants/trees/wooded area – the elevation of the pool house will be hidden from view from the

neighboring properties to the north and from Lafayette Ave. The previous plan shows the pool house with a more expansive patio, which stepped down to the pool itself.

Mr. Godwin - on the accessory structures you (zone chart) have got 150 sf. required – You go onto existing and proposed. Both of those are a combination?

Mr. Schaeffer – as I read the ordinance its 150 max.

Mr. Shaw – we were just looking at it and actually the pool is also an accessory structure but you are not restricted in the number of other accessory uses. Its only buildings that you are restricted the number of accessory uses.

Mr. Hansen - I think you are correct with your question. Yes it is 150 sf max. Per structure. So you could have 2 (300 sf. of accessory structure) on your property variance free, other than a detached garage, so the zone table may not be as clear as I would like it to be but we tried to combine it because we wanted to show what the totals were.

Mr. Godwin - but on your chart the existing 480.7 and the proposed 465.7 – those are combined?

Mr. Hansen - correct - the largest structure is what we propose is 386.

Mr. Schaeffer – one other question – is the structure meant to be used for kids playing and storing. Is there another alternative, at least in regards to storing the kid's things and playing.

Mr. Hansen – we looked at what we could do for storage area that would be variance free Mr. Hansen referred to exhibit (A42) a colorized plan showing a detached garage and patio area. What I prepared was another alternative of what could be done on the property under ordinance max. permitted for a detached garage equaling 500 sf. We wanted to show what that would look like and what the benefits/detriments could be and although it conforms to the ordinance, it would need a variance to construct it. It would certainly create some congestion, be much closer to the neighbor and be about 40 ft. where our construction is about 125 ft. It would certainly be visible from Lafayette Ave. It also would be higher. In my opinion, although it would be a way to provided storage I think it would not be advantageous from a Planning standpoint.

Mr. Schaeffer – lets put your planning hat on and discuss positive/negative criteria.

Mr. Dalziel – before you go switching from site to planning, I have a question. Maximum lot cover by building impervious surface. You existing and proposed – the difference is 277 sf. How do you get 277?

Mr. Hansen – we are removing 2 structures and building one and we are also building over a portion of what was already constructed – concrete patio. By moving it forward it enables us to overlap the proposed/existing coverage thereby reducing the increase.

Mr. Dalziel – do you know off hand the size of the current pool building.

Mr. Hansen – the current pool building 296.

Mr. Shaeffer – asked Mr. Hansen to comment on positive/negative criteria.

Mr. Hansen – this is a C2 variance and a Flexible C variance. As I look at this plan and compare it to what detached garage plan and what is there now I think we have certainly a number of benefits in this proposal. We talk about architectural compatibility versus the structure/removal of the third accessory structure. We are bringing it further into conformance. We have compliance with the side yard requirements, moving the structure to the rear of the yard allows activity associated with the noise etc.. There are 3 purposes of Municipal Land Use that would be advanced with granting of the variances requested. Providing light, air and open space - as I mentioned before the location of this building will achieve this with screening and appropriate setbacks, not only from the street but the existing principal structure on the subject property and also the adjacent property. It promotes a desirable visual environment with creative development techniques. The building will be compatible with the principal structure – it will be modern/usable as opposed to the combination of unusable structures presently existing. As far as the negative criteria in this application I see no substantial detriment to the zone plan/ordinance. These are minor deviations. I think this has merit and should be granted under the C2.

Mr. Dalziel – you show a detail for the retaining wall on your plan. Is there a retaining wall.

Mr. Hansen – because we are setting it into the grade a little bit in the back – the 2 dark lines that you see will be very small retaining walls. Maximum would be 2 ft in height and will be built with modular block, which requires very little disturbance.

Mr. Dalziel – the one in front of the house it says top of the wall 491.20 but the grade next to it is 492.37 – how does that work?

Mr. Hansen - as you walk it comes down to grade ... the high point is approx. 1 ft. They are very small landscape type walls. Basically makes 2 steps up to the pool house.

Mr. Dalziel – any landscape proposed

Mr. Hansen – we don't have anything shown on the plan.

Mr. Schaeffer – applicant will speak to that.

Mr. Dalziel asked for any questions from Board/Audience. There were none.

Mr. Schaeffer – called his next witness – Jody Huxter, Certified Arborist from “Save the Tree” Mr. Huxter, having been sworn listed his qualifications.

Mr. Huxter - said he had examined the plan and met with all interested parties. I see very little, if any affect on the trees with the precautions that I have recommended. Actually with some of the proposed work and the pruning additional root feeding the trees may actually improve by putting the pool house there. Precautions recommended was the construction of snow fencing to provide a safe buffer around the roots of the trees to avoid compaction by construction equipment, which would probably be minimal at best considering the small type of equipment that would be used. We also recommended root feeding for the tree to help stimulate the tree to put on new root growth for some roots that may be damaged. That feeding would be ongoing. These are 2 huge black oaks and with the area they have to grow

behind the pool house – the trees have been established for approx 100-120 years old – I have no real concern.

Mr. Dalziel – the installation of the drywell won't impact

Mr. Huxter – when you typically look at a tree you are looking at 2/3 of the root zone, comparing that two 1-2 roots that may be damaged its very small.

Mr. Dalziel asked for questions from the board/audience. There were none.

Mr. Schaeffer – introduced his architect – Mr. Daniel Dubinett, Dubinett Arch., Short Hills, NJ. Mr. Dubinett was sworn and listed his qualifications.

Mr. Dubinett – said he was involved with the original remodel of the home. The concept behind the pool house is to mimic the style currently has (material, pitches, roof lines etc). We worked hard to reduce it in size so it will be 366 sf, we eliminated the need for the height variance (the peak of the roof will be at 12.5'). This pool house is not designed for any sort of residence. The purpose was for storage of the patio furniture and pool tools as well as a place to retreat because of the grade of the property most of the living space off the house is on the deck. It is very difficult to go from kitchen to deck, down across the driveway to the pool. It would be more of a staging area.

Mr. Dalziel - building dept. data sheet will need to be amended for max. coverage if it's to be consistent with testimony of the engineer. The engineer testified that we now have 465 sf of accessory buildings. These numbers reflect the 2 being removed and the one being replaced.

Mr. Schaeffer – it will be revised as I notice some inconsistencies.

Mr. Dalziel – what kind of light fixtures will be installed.

Mr. Dubinett – no flood lighting. Just architectural sconces (approx. 75 wtt) on either side of the French doors and some low voltage (15 watt) landscape lighting around the patio so there is very minimal lighting. We have not looked into the type of sconces. We will check the ordinance about lighting.

Mr. Shaw – you would accept as a condition that you would check with the ordinance for lighting compliance. Applicant agreed.

Mr. Dalziel – any particular characteristics you want to expand on as to the size of the building? How you chose 14 x 19 for the main room as opposed to 12 x 16, etc.

Mr. Dubinett - I believe we wanted as much room as possible. I basically use as a minimum 15 x 18 as a nice size gathering space. It was nice that we were able to take the two structures in the back and make it less.

Mr. Dalziel asked for questions from the board/audience. There were none.

Mr. Schaeffer – submitted a handout (A43) which is a 2 page called “Anatomy of a successful C2” because I know the board is very cognizant of what a C2 is. I believe this

case fits into the C2 criteria as well as most successful cases. Its considered a broadened C variance and what is key to it is to allow the variance to be granted even if there is no hardship. I think we had that testimony from the planner. The variance can be granted without substantial detriment to public good - we gave that testimony. That the advances of the deviation substantially outweigh any detriment- I believe we addressed that. That the variance will not substantially impair the purpose of the zone plan. I feel we have addressed that.

This application showed advancement to the zone plan; we have not set any precedent; we are bringing into conformity 3 non-conformances; for those reasons I think the board would be justified in granting the relief requested.

Mr. Dalziel – asked for questions.

Mr. Schmidt – question of our counsel - just given the existing 296 sf footprint of the dilapidated pool house would a variance be required to repair that.

Mr. Shaw – it's a pre-existing structure they could improve that structure without variance. Is the number 388 or 378.

Mr. Schaeffer – the number is 382 is the combination of the 2 being removed.

Mr. Ruschke - the change in the grade is not very substantial. The only recommendation I would make is for silt fencing to be installed on the down grade side.

Mr. Shaw – so rather than the lot grading plan they just need to install silt fencing.

Mr. Ruschke – they essentially have a lot grading plan here and adequate tree protection. The silt fence on the downgrade is to prevent any negative impact on the neighbor during construction.

Mr. Dalziel – asked for comments from board/audience.

Mrs. Livell – live at 312 Lafayette Ave., and I wanted to let the applicant know that my husband and I support their application. We are please to see that the structure will be in proportion to the property and we consider it a definite improvement from what is already there. They have been great neighbors and have done nothing but improve the property and we are confident that the building and use of the property will be positive for us.

Mr. Dalziel asked for further comments from the public:

Wendy Kuppenheimer, applicant wanted to clarify that they had met with the Environmental Approach Landscaping and we planned to put evergreens on the east side to shield their house.

Mr. Schaeffer – Mrs. Kuppenheimer is just addressing the question previously raised.

Mr. Dalziel has attached information from “Home & Garden” information. The note on the plan (not current plan) says to install 6-7 american or dragon lady holly and some other planting. Is that your intent?

Mr. Schaeffer – if the board wishes that to be a condition than so be it but to me that is an intent that may or may not be necessary.

Mrs. Hough did not feel that there needed to be a condition for plantings. Just to make a statement/comment I do think the applicant met their burden. There is not a negative impact on the neighborhood or the zone plan unlike some other application we have had. I think the fact that they have mitigated some non-conforming conditions is positive and I think the fact that the size and depth of the lot can accommodate the increase.

Mrs. Alcorn - They have done a fine job along with their architect. The buildings are attractive.

Mr. Nelson – I am glad to see that they have moved the structure forward and are saving those 2 big trees.

Mr. Dalziel – I would agree that the amended plan is definitely an improvement.

Mr. Dalziel asked for any further comments. As there were none the public portion was closed.

Mr. Dalziel asked for a motion.

A motion was made by Mrs. Hough to approve the application with conditions requested. Motion was seconded by Mr. Godwin.

In favor:

Mr. Lawrence Dalziel, Mr. Parker Godwin, Mrs. Therese Hough, Mr. Glen Nelson, Mr. Tom Quinn, Mrs. Francine Alcorn. Mr. Karl Schmidt

Mr. Shaw noted that the Majistro application #O8-62-79 has been carried to the October 16th meeting without further legal notice. A motion was made by Mrs. Hough seconded by Mr. Nelson to carry this application to the next meeting. All in favor

**Village Super-Markets, Inc.,
641 Shunpike Road.
Block: 48.23, Lot: 126.04**

Calendar Boa 08-48.17-126.04¹

Jay Delaney, Attorney

Mr. Delaney - asked if the site visit minutes had been marked

Mr. Dalziel said that they had.

Mr. Shaw said they were entered in at the July 17th meeting.

¹ Tape reading 01:00:29

Mr. Delaney - we are here on behalf of the applicant. We had our floral manager testify. Unfortunately she has come down with the flu so she is not with us this evening. We will be calling Mr. Enzo Pavese, our planner/architect, who has been qualified and Mr. Weinstein, the assistant store manager.

Mr. Pavese – previously sworn, said he was at the site visit a few months ago. He has read the site plan report and as a result has submitted revised plans. Referring to exhibit A19 - SP102 the revised drawing (rev.date 6/30/08), which is colorized to better, describe the area. Based on the site visit and comments of the board members it appeared that the biggest concern was in regard to safety of vehicle being so close to the outdoor area. We have decided to provide a buffer area along the north curb that separates the vehicular traffic with the pedestrian traffic. A 4 ft. buffer area will be landscaped with evergreen, which will be permanent. The sidewalk directly behind that..... connecting the sidewalk to the east of the floral area all the way to the west of the pedestrian walk. The sidewalk is of paver material, which will match the existing paving adjacent to the area. The outdoor floral area is 572 sf so it is a little smaller than the previous submission. We have also added an area that is adjacent to the building between a railing area where there is an exit door and the existing floral area to the west of it. It is 99 sf. There will also be displays on carts similar to the carts that exist today with the landscaping adjacent to the building. We do still have the same trellis area for hanging plants to get more natural sunlight and also we have provided some permanent landscaping along the perimeter to the building with evergreen material. Basically that is the concept.

I have reviewed the Chatham Township Planner's revised report. The report is dated September 15th, which I just received. The comments are in regard to the plant material. I have no problem working with Mr. Banish's suggestions. In regard to the impervious coverage... the sidewalk area is really the only additional impervious material. We are replacing the floral area is mulch area now and will remain so. The sidewalk area is 157 sf and is minimal in size in comparison to lot area.

Mr. Dalziel – so even though you show it as this nice greens cape its not going to be green but brown.

Mr. Pavese – it is brown now but will also have green and colorful flowers.

Mr. Delaney – to clarify you are a licensed Planner in the State of NJ and you have been previously qualified – correct. He asked Mr. Pavese to clarify why this application is appropriate under the land use law.

Mr. Pavese – in terms of positive criteria – it promotes an aesthically pleasing environment in the corner of the building. It's an area that is very quiet and away from the entrance of the building where there is a lot of activity. It's a good use of space. It compliments the existing supermarket and the outdoor sales area, which is now under canopy. We are trying to get some of that outdoor sales area into the sunlight and what is proposed allows us to do that. I have been involved since 1986 when we initially expanded the store into the westerly side of the building so I have done many renovations over the past 20 years. I think that shifting the sidewalk further to the south provides a better, safer pedestrian walkway. In terms of safety and aesthesis I think it's an improvement over what is there.

Mr. Godwin - if one of the reasons for having this is to pull out the plantings from the existing coverage why then would you ask for additional coverage?

Mr. Pavese – it's very crowded in that area and plants are kind of all over the place so we could actually use some of that area for additional plant material. We just felt it was a good use of space. There was basically nothing there.

Mr. Godwin - so you want to expand it all the way across?

Mr. Pavese – we are continuing the same carts that we have in these areas to this area. It was a suggestion that one of the Board members had made.

Mrs. Hough – are you putting shopping carts there?

Mr. Pavese – no – the carts the plants are being stored on. The shopping carts are closer to the entrance of the building.

Mr. Pavese – in respect to the zone plan. As I mentioned, I think this is a limited area with limited material. Its live plant material so I think aesthetically it will be very nice and I feel granting this variance will not have any substantial detriment to the public good and will not impair the intent of the zone plan/ordinance. It's a good use of the space. What is proposed is consistent with our other stores. We always try to provide an outdoor sales area both under canopy and outside of the canopy.

Mr. Dalziel – have you done any kind of solar shade studies to determine exactly how much sun will reach this spot. This is on the northern side of the mall.

Mr. Pavese – we really haven't – in conversations with Vicky she felt this would be a perfect area and the sun does come around when it comes up high. It does light up the area. But I have not done any of those studies.

Mr. Dalziel – so you don't know how many hrs./min. of the day that this actually receives the sun that you are looking for.

Mr. Pavese - I have not but I can.

Mr. Dalziel - I am curious about the choice of height of the trellis. I know Vicky is not very tall but is there a reason you've chosen the height that it is. It seems like it might be awkward to navigate.

Mr. Pavese – in terms of the trellis

Mr. Dalziel – You have stated that it is 6'3" to the top of the trellis w/2 x 6 beams. Think it might be difficult to walk around and pick out a plant. It looks like a potential head banger liability to me but I am also not looking for a taller structure.

Mr. Pavese – basically some of the dimensions that Vicky had requested in terms of height, terms of being able to hang things manually rather than anything else ... we can make it taller... it is still well below the façade of the building. Again, this is what Vicky had requested in terms of height. It appears to be low with hanging plants – 8-10 inches below

that point, you would then have approximately 5' to the underside of the plants. The perimeter would not be a problem; the inner plants would be more of a problem for access.

Mrs. Hough – that whole trellis proposal that you have – I have a problem with that. I am not so sure --- is there no other way to display the plant material so you don't have to have them hanging like that. I think it's going to be a terrible look. Also, I am not so sure how safe the whole thing is.

Mr. Pavese - in terms of the structure – it's a safe structure.

Mrs. Hough - I just don't like the look...

Mr. Schmidt – is this consistent with your other stores?

Mr. Pavese – we have some stores that have trellis areas, mostly hanging rods, almost similar to what was previously there.

Mr. Hough – are the further away from the parking areas - this one is quite close. I know I am in that parking lot quite frequently and although there are pedestrian pathways people constantly dart across there with kids in shopping carts, strollers, etc. – its just a constant barrage of traffic in that parking lot and I thing this will generate pedestrian traffic in that corner with people walking across to get to the plants.

Mr. Pavese – in the many times that I have been there this area seems to be very quiet.

Mrs. Hough – now because there is nothing there for people to look at or buy but what about when there are plants, etc.

Mr. Pavese – it is still quite separated – there is a sidewalk area that wraps around as well as a sidewalk area in front.

Mr. Dalziel – your plans show designated pedestrian crossing zones but not one associated with this area.

Mr. Pavese – there already designated areas.

Mr. Dalziel - I am looking at your site plan. Your site plan has 3 designated crossing areas from the parking to the building to the sidewalk. There is none associated with this area.

Mr. Pavese... we can add one in that area and bring this sidewalk area straight across.

Mr. Dalziel – some of this planning thought is not incorporated in your plan. Especially how you've heard this testimony before about safety concerns.

Mrs. Alcorn - in other Shop Rites' is there more area in terms of area square footage around the outdoor hanging plant area, where you have different kinds of displays, etc. It just seems like this corner, without a pedestrian pathway and in an already crowded parking lot, is only going to generate a lot of people darting across.

Mr. Pavese – many of our other supermarkets have larger sidewalk areas so some of the sidewalk areas are under canopy and some parts not. This particular case the sidewalk is limited in size and that is why we are proposing to inject into that landscaped area. Many of the others are in newer buildings.

Mr. Dalziel – how tall is the inside soffit of the existing walkway?

Mr. Pavese - the soffit of the canopy is approximately 8 ft.

Mr. Dalziel – and the grade drops away just a little bit towards where your trellis is - right?

Mr. Pavese – it drops approx. 2 ft. from the south portion of where the sidewalk is to the curb.

Mr. Dalziel - You don't show an elevation in relation to the building, so I don't get a sense of the scale of the structure in relation to the overall building structure. The canopy is 8ft to the underside and this is 6 ft. to the top and you have at least a two story structure to the south – this will look very squat and out of proportion. It goes to aesthetics... this is going to be an awkward thing. You really haven't shown us like a graph - here it is in place. We need a rendering or something, which will show us what it really will look like.

Mr. Pavese – I can superimpose that on a photo of the existing center.

Mrs. Hough - is there no other alternative way that you could display these plants.

Mr. Pavese – we had hanging plants all along the canopy and that was not so good.

Mr. Shaw – would it assist you in making a decision if they provided some sort of rendering.

Discussion ensued regarding the traffic flow both vehicle and pedestrian. Comments were exchanged as to the safety of the proposed. Comments were also exchanged as to the appearance of what was proposed.

Five minute break taken so the attorney, applicant and witness could regroup.

Mr. Pavese – we discussed the possibility of eliminating the trellis altogether and just leaves the designated in green as area for plants that sit on the ground. We would agree to eliminate the trellis area. The area against the building we would like to have a combination of carts and store plants as they are in other areas. We would also propose poles that would go across for the hanging of plants against the building. During plant season some areas would be poles, some areas carts and some a combination. That would satisfy our use for the floral area. We would also agree to extend the walkway adjacent to the sidewalk across over to the landscape island on the opposite side.

Mr. Dalziel – asked for comments from the Board.

Mr. Nelson – we would like to see the plan before considering it.

Mr. Pavese – said he would revise the plans.

Mrs. Alcorn – asked for clarification on the walkways.

Mr. Pavese – basically similar to the existing walkways - it would provide a break.

Mr. Dalziel – the existing walkway – is that an actual material change?

Mr. Pavese – I believe it is painted on the blacktop.

Board Members - felt that they were pavers.

Mr. Pavese – said they would do exactly what is there.

Mrs. Hough – because she shops in the shopping center a great deal commented on the lack of consideration given to the pedestrians. Because of that she was still concerned about an additional walkway.

Mrs. Alcorn – taking down the trellis is a plus but she too was still concerned about the traffic.

Mr. Dalziel – rather than throwing out ideas as what can be done he suggested that the applicant come up with a workable plan.

Mr. Delaney – asked to carry the application to the next meeting.

Mr. Dalziel – said the application could be carried.

Mr. Shaw - in addition to the potential continuation of the same type of conditions that are currently governing the site, if you could give some thought as to what sort of enforcement mechanism that might be appropriate so the board doesn't find itself in an enforcement situation.

Mr. Delaney – we were going to provide testimony to that point

Mr. Ruschke – one comment - my recollection re: current site plan approval a variance was given for impervious coverage. The additional sidewalk will trigger a variance for impervious coverage. Procedure wise it will have to be properly noticed.

Mr. Shaw – does the application have the language “such other variance that may be discovered”. I think this is a type of variance situation, which evolved during the process of the application, and I think the catchall language would be appropriate for it.

Mr. Ruschke – in answer to Mr. Dalziel's question – the last time they went to the Planning Board they asked for an increase, which was approved.

Mr. Dalziel – confirmed that the application would be carried to the next meeting.

**NEW YORK SMSA Ltd.
Partnership – d/b/a Verizon Wireless – Chatham 2,**

Calendar Boa 08-48.21-179 ²

² Tape 01:30:25

**529 Green Village Road,
Block: 48.21 Lot: 179**

Richard Snyder, Attorney

Applicants provided their own stenographer. Copies of said minutes will be submitted to the Board.

**Raj & Tejaswini Maganti
42 Mountain Ave.
Block: 39 Lot: 13.01.**

Calendar Boa 08-39-13.01

Mr. Dalziel – my apology to Mr. Osmun and the Maganti's. Ten minutes turned into more than 10 minutes. I don't think we are going to get to you tonight. You are welcome to stay. We can carry you ... I don't want to keep you hear if we are not going to get to you. But as you can see this is not what we thought it was going to be.

Application carried

Motion to adjourn by Mr. Schnidt seconded by Mrs. Hough all in favor. Meeting was adjourned at 11:00 p.m.

Respectfully submitted,

Mary Ann Fasano
Transcribing Secretary