

**Borough of Highlands  
Planning Board  
Regular Meeting  
October 11, 2007**

Mr. Stockton called the meeting to order at 7:42 pm.

Mr. Stockton asked all to stand for the Pledge of Allegiance.

Mr. Stockton made the following statement: As per requirement of P.L. 1975, Chapter 231, notice is hereby given that this is a Regular Meeting of the Borough of Highlands Planning Board and all requirements have been. Notice has been transmitted to the Courier, The Asbury Park Press and The Two River Times. Notice has been posted on the public bulletin board.

**ROLL CALL:**

**Present: Mr. Manrodt, Mr. Kovic, Mr. Mullen, Mr. Schoellner, Mr. Stockton,  
Mr. Harrison, Mr. Cefalo**

**Absent: Mayor O'Neil, Mr. Bahrs, Mr. Nolan**

**Also Present: Carolyn Cummins, Board Secretary  
Jack Serpico, Esq., Board Attorney  
Catherin Britell, P.E., Acting Board Engineer**

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**PB#2006-1 Fleming, Daniel  
Block 26, Lot 12 – 127 Highland Avenue  
Approval of Resolution**

Mr. Stockton stated that Mr. Serpico has prepared a draft Resolution for this evening. He is not sure if the board is ready to adopt the Resolution this evening because the board may have comments on this Resolution. He stated that he had comments about the resolution that he sent to Mr. Serpico.

Mr. Mullen stated that he had comments with regard to the draft Resolution and he to has forwarded them to Mr. Serpico.

Henry Wolffe, Esq., Attorney for Fleming stated that he has discussed this with his client and he is authorized to agree to carry the Fleming Resolution to the next board meeting.

Ms. Britell stated that she does not feel that a Developers Agreement would be required for this type of application but it is listed as a condition in the Resolution.

Mr. Stockton stated that a Developers Agreement may be a way to cover some of the conditions of approval and recommended that that condition remain in the Resolution.

Mr. Manrodt offered a motion to carry the adoption of the Fleming Resolution to the November Meeting Agenda, seconded by Mr. Schoellner and approved on the following roll call vote:

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**ROLL CALL:**

**AYES:** Mr. Manrodt, Mr. Mullen, Mr. Schoellner, Mr. Cefalo, Mr. Stockton  
**NAYES:** None  
**ABSTAIN:** None

Mr. Stockton advised the public that the approval of the Fleming Resolution has been carried to the November 8, 2007 Meeting.

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**Approval of Minutes**

Mr. Manrodt offered a motion to approve the August 9, 2007 and September 13, 2007 Planning Board Meeting Minutes, seconded by Mr. Kovic and all eligible board members were in favor.

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**PB# 2007-5 Balland, Thomas  
Block 91 Lot 1 – 14 Huddy Avenue  
Application Review & Set P.H. Date**

**Present:** Thomas Balland

**Conflicts:** Mr. Mullen stepped down for this application

Mr. Balland stated that this is a corner lot and he wants to subdivide and build a house on and he needs a couple of variances. The house will be constructed on pilings as required.

The Board reviewed the application documents with the applicant and the following comments were made.

1. The Board requested that the applicant have his surveyor provide a topographic map and list the flood elevation.
2. The Board also stated that it would be important based on the number and types of variances being requested that the applicant have a Professional Planner provide testimony with regard to the positive and negative requirements.
3. The Board requested that the applicant correct the applicants name on the subdivision map to Balland.
4. The Board advised the applicant that the requested information must be submitted to the board at least 10-days prior to the board meeting.
5. The applicant was also informed that he must provide public notice.

Mr. Manrodt offered a motion to set a public hearing date for the Balland application to November 8, 2007, seconded by Mr. Kovic and approved on the following roll call vote:

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**ROLL CALL:**

**AYES:** Mr. Manrodt, Mr. Kovic, Mr. Schoellner, Mr. Harrison, Mr. Cefalo,  
Mr. Stockton  
**NAYES:** None  
**ABSTAIN:** None

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**PB# 2007-4 Knox 400, LLC  
Block 108 Lot 2.01 – 460 Highway 36  
Unfinished Public Hearing**

**Present:** Henry Wolffe, Esq.  
Erin Rupnarain, P.E.  
Katherine Franco, A.I.A., P.P.  
Mr. Leckstein, Esq. Representing Objector Paul Mazzello

**Conflicts:** Mr. Stockton stepped down for this matter due to a conflict of interest.

Mr. Kovic chaired this portion of the meeting.

Mr. Wolffe stated at the last hearing we heard testimony and cross examination from the applicant and that was concluded. This evening he has Erin Rupnarain who will testify about the site plan. He then wanted to confirm the marking of plans into evidence.

The following documents were marked into evidence during the course of the hearing:

- AA-1: Major Site Plan consisting of 8 sheets plus 2 sheets of Architectural drawings;
- AA-2: Lighting Plan prepared by Goldenbaum Baill & Associates dated 9/27/07;
- AA-3: NJDOT Letters dated 5/30/07 RE: Access Application A-36-C-0022-2007;
- AA-4: Erin Rupnarain of Goldenbaum Baill & Associates Report letter dated 9/28/07;
- AA-5: Six 8 by 10 Sheets with photographs on them;
- AA-6: Large Arial Photo of traffic pattern of the site;
- B-1: 7/6/2007 Letter from T & M Associates;
- B-2: 10/8/07 Letter from T & M Associates;
- B-3: Photo copy of portion of sheet 6 of AA1.

Mr. Serpico swears in Eric Rupnarain.

Mr. Rupnarain stated the following during his testimony and response to questions from the board:

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1. He is a licensed Civil Engineer in the State of New Jersey and is currently employed by Goldbaum Baill & Associates. He then described his Professional background to the board.

Mr. Wolffe then offered Mr. Rupnarain as an expert witness in the subject of civil engineering.

Mr. Leckstein then questioned Mr. Rupnarain about his professional experience. He then asked Mr. Rupnarain if he had taken any specific courses as to traffic or traffic circulation.

Mr. Wolffe objected to this question because Mr. Rupnarain is not being offered in the subject of traffic circulation, he did the engineering plans and that's it.

Mr. Serpico – so noted.

Mr. Leckstein stated that he wanted to know if there was any expertise in this area because he is assuming that the engineer will lay out certain parking and circulation patterns on the site and he wants to know if he has any expertise in this area.

Mr. Serpico – questioned raised and objection is noted for the record, proceed.

Mr. Rupnarain continued his testimony as follows:

2. He prepared a site plan in connection with this application.
3. He described sheet 2 describing the existing site layout.
4. The size of the land is .63 acres.
5. The existing first floor consists of a restaurant and then on the second floor is a residential apartment. There is a cell tower on the site which he further described. The existing restaurant is a drive in restaurant.
6. He then described sheet 3 of 8 which shows the existing features to remain in addition to the additional improvements that are being proposed. The expansion of the existing building and also the reconfiguration of the existing parking lot.
7. The applicant's proposal is to renovate the existing structure and also to construct an addition. The addition is going to be approximately 5600 square feet. It's a two story addition, the first story will be an expansion of his gym and the second story will consist of a multi-purpose room which will have a basketball court for half court basketball, in addition to that there will be volleyball and other types of exercise classes conducted on the second floor.
8. Curbing – the plans propose to add curbing along the easterly property line and also the entire frontage of Ocean Avenue will be curbed.
9. Route 36 Access & Egress – currently there are two driveway openings on Route 36 for the existing Stuarts facility. This plan eliminates one of the driveway access and they will construct a new entrance. The new entrance will be for both ingress and egress and will be approximately 26-feet wide and consist of a mountable curb concrete island.

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10. Ocean Ave Access – there is also access on Ocean Avenue. The new access on Ocean Avenue will better delineate what’s already out there which he further described.
11. Landscaping – on sheet 5 shows the landscaping that is being proposed for the site. Along the parking lot on Ocean Avenue they are proposing a hedge row, similarly on Route 36 they are proposing same hedge row. In addition to the hedges they have isolated trees that are being planted throughout the property. Along the building façade itself along the easterly and the northerly side they have shrubs and also ground covers. Also along the westerly property line there are many existing trees and all of those trees will be preserved because they are not proposing any removal or disturbance of those existing trees.
12. Lighting – the lighting plan which was marked as Exhibit AA-2 is the proposed lighting plan for the site which is a totally new lighting plan which consist of 15-foot high pole mounted fixtures and also building mounted fixtures. He then described the lighting plans as being designed in accordance with the design standards with the exception of some design waivers for the lighting intensity at both driveway locations of a maximum of .5 foot candles at the property line and the currently lighting plan exceeds that which he further described. There are two spots along the westerly side of the property in the vicinity of the existing building, there is a building mounted light that will be done as part of the architectural that is shown on the architectural and that lighting was not taken into account for the lighting plan that his office generated. That area shows it to be completely dark. In addition to the easterly property line we have a few low spots, the ordinance requires a minimum of .3 candles throughout the entire area and there are places where there are .2 foot candles so we are asking for a design waiver for that. The location of where the lights are mounted if we were to increase the lighting or the height of the fixtures or increase the wattage of the fixtures themselves we are going to have too much light spillage onto the adjoining property. The lights will be turned off by the applicant after business hours.
13. Parking – this plan shows 39 parking spaces, two of which will be reserved for employee parking, those are located to the northerly side of the cell tower. They have two different types of parking spaces. The majority of the spaces are 9 feet by 18 feet long and we have some compact parking spaces which are 16 feet long by 9 feet wide. This plan does not distinguish what is supposed to be for the cell tower or not. We do have the location along the side of the cell tower which we are reserving for employee parking and in any event if the people for the cell tower need to utilize the them then the employees will move their vehicles and allow the cell tower personnel to park there. According to the applicant there is nothing that he has that indicates that the cell tower requires two parking spaces. In future revision to the plan we will actually assign the two parking spaces that are reserved for the apartment.

Mr. Wolffe stated that the cell tower was previously approved by this board.

Ms. Britell stated that the T & M letter refers to the 5/5/1998 Zoning Board Resolution.

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Catherine Britell, P.E. of T & M Associates was sworn in.

Ms. Britell – she explained that the applicant received approval for the existing unmanned cellular facility with equipment shelter and antenna structure under the Zoning Board Resolution dated 5/5/1998.

Mr. Rupnarain continued his testimony as follows:

14. Drainage – almost all of the water from the site drains in an easterly direction onto lot 2.01 Block 108 and what they are proposing is that curbing will be installed along that property line which will prevent any water from draining onto adjoining property. Along southerly corner we will install a trench drain which will pick up all of that runoff and from that trench drain there is a pipe which connects to the existing storm drain system in Ocean Ave. All of the runoff from this property will be collected within that trench drain and will be directed toward Ocean Avenue into that existing storm drain system.
15. Grading – the majority of the grades there will remain the same. The applicant is not proposing to do any significant changes to the parking lot other than repairing any distressed areas and sealing the cracks. They are going to utilize the existing pavement as much as they possibly can to minimize the cost of the project. The only area where they have grading is a slight widening that will be constructed along the easterly property line to provide parallel parking space between the existing building and the parking lot.
16. Fire Hydrant – they did obtain the approval from the Fire Department to install a fire hydrant along the easterly side of the driveway on Ocean Avenue as shown on sheet 4.
17. Variances – on sheet 3 there is a zoning chart they are asking for a variance for lot coverage, if approved it will be reduced from the existing 99% lot coverage will be reduced to 82% which is still 2% above what the ordinance allows. This application also requires a parking variance which he further explained.
18. A small school bus could not park on site but could drop off. There are no parking spaces on the site for this type of vehicle.

Mr. Kovic stated that he has a list of activities that will be held on the site and it's quite an active program for such a small parking lot. He then submitted Exhibit B-3 into evidence.

Mr. Rupnarain continued his testimony as follows:

19. He described the on-site traffic circulation on sheet 3 of the plans. He stated that the isle width meets the ordinance requirements. They do have two driveways that allows for both ingress and egress and that allows for better circulation throughout the property. He stated that if someone were to enter onto the site from Highway 36 and if there were no available parking spaces then they could exit the site through Ocean Avenue and likewise if someone were to enter onto the site from Ocean Avenue they would be able to enter the

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site and exist from Route 36. If someone was parked on the facility they would have the option of exiting the site from either of the two directions. He then described how vehicles could turnaround on the site.

20. Outdoor Living Requirements – the ordinance requires 200 square feet of outdoor living space for the residential apartment and currently the existing tenant does not have any outdoor living space and the applicant is not proposing to change that or propose any outdoor living space so we are requesting a variance for that.
21. A sign variance is required for the pre-existing non-conforming structure. They are proposing to reuse the existing sign that is already there.
22. With regard to Section B of the T & M Associates letter dated 10/8/07 pertaining to the seven off tract items. Item 1 which are improvements to the highway they have already made an application to the NJDOT for the access permit which his client has received which was marked as Exhibit AA-3 and the only thing that has to be done is that his client has to sign the permit and return it to the State and then the permit will be issued to them. The department wants us to construct handicap ramps along the driveway entrance. He then submitted Exhibit AA-4 to the board which was a written response to the T & M letter. He stated that there is no striping proposed within Ocean Avenue except for the stop bar at the entrance within Ocean Avenue. The existing inlet that they are tying within along Ocean Avenue DEP has a new grading that they require and they will include those details on the plans. Paragraph 4, the new driveway entrance on Route 36 there is an existing type curbing and our new entrance goes across the inlet and we include details on the plan of how DOT requires us to modify it. Paragraph 5, the concrete island along Route 36 will be constructed of mountable curb and a portion of the island itself will be depressed which he further described. Item 6, the existing driveway, they are asking for a design waiver the plan proposes 13 feet. Sidewalks, they are asking for a waiver for both sidewalk construction. Currently there is no sidewalk along either property frontage. They would agree to make a contribution to the Borough's sidewalk fund. Section C, Item 1 – they have already secured DOT permit or will secure it shortly.
23. Paragraph 2, this facility will not be that busy and under the current ITE Standards the maximum peak hour trips to this facility that we are expecting is 19 per hour which is slightly less than one trip every three minutes. Assuming that anyone parks in those two parking spaces by the highway they may have to wait a couple of seconds to clear that area so that they could proceed. The ITE is the Institute of Traffic Engineers and is accepted.

Mr. Leckstein objected to Mr. Rupnarain testifying about parking requirements. He stated that he is not qualified in this area testimony.

Mr. Kovic – stated that he felt that the witness was reading from a State Traffic Report and that he wasn't voicing his own opinion.

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Mr. Leckstein and Mr. Kovic spoke about the objection. Mr. Kovic advised Mr. Rupnarain that he can only read the states traffic report but not make any comments on it.

Mr. Wolffe explained how Mr. Rupnarain he referring to the ITE Report.

Mr. Serpico stated that he does not have a problem with the witness testifying to the content of the DOT report.

Ms. Britell asked if anyone considered using the two parking spaces as employee spaces.

Mr. Wolffe explained that the plan is to use the two parking spots by the cell tower as employee spots.

Ms. Britell – stated that she raised the issue because of Mr. Rupnarains testimony about those two parking spaces where there could be a wait. The problem is that when someone is backing out of those two spots they could meet with incoming traffic off of Route 36.

Mr. Rupnarain continued his testimony as follows:

24. This particular site does not propose any loading zone so we are asking for a waiver. The applicant has provided testimony that anything that has to be brought to the site he will bring it himself so he doesn't need a loading zone.
25. We are also asking for a waiver on the parking set back the ordinance requires a five foot setback for the parking spaces from the property line which he further explained.
26. Item 6, we agree that we will provide the appropriate signage for the residential spots.
27. Item 7, compact parking spaces the ordinance does not require specific requirements for compact parking spaces and those compact spaces are there because we can't provide the full depth. He stated that a lot of single people that will come typically drive the smaller cars.

Mr. Leckstein objected to this comment because there is no foundation that the witness is familiar with what kind of people come to a health facility in Monmouth County.

Mr. Serpico – the objection is noted for the record.

Mr. Rupnarain continued his testimony as follows:

28. He has seen ordinances where standard of portion of cars are compact and not compact where it is sometime it can be 33% , 30%.
29. Item 7, they will comply with Board Engineers letter that if the application is approved that the plans will indicate the signage.
30. They will show the site distance for Route 36 on the plans.



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31. The applicant has indicated that his operation will generate about two trash bags and he is proposing to store them within the facility itself to eliminate the outdoor trash storage area that we have.
32. Item 10 of the T & M letter is the same issue.
33. Item 11 Emergency Access – we have received approval from the Highlands Fire Department for this site and fire hydrant location.
34. Item 12 Electric – we are providing overhead electrical service to the facility and we will clarify it on future revisions.
35. Item 13 – the plans will be revised to show the concrete wheel stops for the compact parking spots.
36. Grading & Drainage – where ever curbing is proposed top and bottom curb elevations will be provided.
37. The structural calculations for the pipe capacity will be provided to Ms. Britell.
38. Number 3 under Drainage – the DOT permit did include drainage since the Ocean Avenue storm system connects into Route 36 which he further explained.
39. Landscaping & Lighting – rubber pavement will be labeled accordingly and they will replace the trees with something that is more appropriate and install street trees along Ocean Avenue and Route 36 as required.
40. Item 4, we will replace the dead cherry tree.
41. Buffering of the Cell Tower Support Building – they are not proposing anything in that area.
42. Item 6, All trees along the westerly and northerly property line will be saved and it will be noted on the plans
43. Item 7, there is no system proposed.
44. Item 8, yes they will accommodate this comment by putting in some plants.
45. Item 9, Exhibit A-2 which is the revised lighting plan that shows the point plot. They are asking for a couple of design waivers for the lighting plan, mainly the lighting intensity along both driveway entrances which he further explained. Ms. Franco advised him that they do have a building mounted light which is located along the westerly side of the building and his lighting plan did not include that light but he will revise the plan to include the effects of that light. He further described the proposed lighting for the site. Ms. Britell suggested that they use a lower intensity light. Mr. Rupnarain stated that in order to accommodate the Board Engineers concerns they will revisit the lighting plan to lower the intensity of both entrances.
46. CAFRA Permits – they will submit to the DEP and if need they will make an application or obtain a letter of no interest.
47. They will revise the Handicap sign to include the correct penalty, they will also note the handicap spaces are van accessible and signs will be installed.
48. The existing sanitary sewer – as we indicated on the plans they will televise it to ensure that it is adequate and will function correctly once the facility is constructed and those results will be submitted to the Board Engineers office and the AHHRSA.
49. All construction will be in accordance with the A.D.A.
50. They will provide the appropriate spot elevations to indicate the handicap parking spaces.

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Michael Leckstein then cross examined Mr. Rupnarain and the following testimony was provided by Mr. Rupnarain during cross examination:

1. He visited the physical aspects of the site and the only way to reduce the amount of lot coverage to the 80% would be to remove some parking which would probably amount to one parking space or to perhaps elevate the concrete path that they have to the sidewalks.
2. The proposed two story building is approximately 6,000 square feet and the size of the addition is based on the applicants needs.
3. The parking requirement is directly related to the square footage.
4. The parking variance and lot coverage variance is generated by the needs of the applicant and building is so desires.
5. He is not aware of any application that was made to the Zoning Board for the relief of that condition that two parking spaces be reserved for that cell tower. So if those two spaces were eliminated from the site they would then have 37 parking spaces left.
6. He does not know of birthday parties at the site.
7. A standard car is about 18 feet and an SUV is bigger. The applicant has stated that he will be responsible for policing to ensure that you don't have larger trucks parking in the smaller spots and blocking the aisles.
8. He has not spoken to a traffic engineer.
9. The applicant has previously indicated that he will laundry everything at his house and any drinks will be brought by the applicant.
10. He has never been present on Ocean Avenue at about 6 PM and he is not aware of any study by the applicant concerning the access on Ocean Avenue around 6PM.

Mr. Kovic asked if there were any questions from the public for Mr. Rupnarain.

Connor Jennings of 27 Ralph Street questioned the water runoff and stated that it is unclear how they will cope with stromwater runoff and stated that the present storm water is not adequate.

Mr. Rupnarain explained that the proposed design will help with the problem that Mr. Jennings spoke about. Water that is coming from the site that is running down hill we are going to pick that up in the trench drain that is proposed which is further explained and stated that this project will reduce the amount of runoff that you have on this property. The Ocean Avenue drainage ties into the highway drainage system.

Connor Jennings – continued to speak about the runoff problems and requested that the town engineer to look at that problem very carefully. He then questioned the witness about his testimony with regard to sidewalks along the site and stated that he feels that there should be sidewalks up there and stated that there is a good deal of pedestrian traffic up there.

The board had a discussion with Mr. Rupnarain about the location of the tie for the drainage system and Mr. Rupnarain will verify the tie in for Route 36.

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Ms. Britell stated that according to the earlier comments the storm system on Ocean Avenue Connects to the state system on Route 36.

Mr. Manrodt – no,

Ms. Britell – there are a number of drainage issues that still need to be revisited and we still don't have a report or a drainage map and then may have to look into where the drainage system is linked.

Mr. Rupnarain – I will verify and then we will address this issue accordingly.

Connor Jennings – why was there no consideration of one way traffic around this lot.

Mr. Rupnarain – explained that two way traffic is generally designable.

Mr. Leckstein – spoke about Highlands drainage ordinances.

Mr. Britell – we have requested that calculations and a drainage map as part of our review.

Carla Cefalo-Braswell of 63 Gravelly Point Road – wanted to know if the witness ever saw the HBP parking impact ordinance.

Mr. Rupnarain – no.

Mr. Wolffe then calls the applicant Michael Knox.

Michael Knox was sworn in by Mr. Serpico and gave the following testimony:

1. He does not plan on having activities that require buses.
2. He is a coach at Holy Cross in Rumson and they car pool to the games which he further explained.
3. He can't have a b-day party, basketball and volleyball at the same time, the activities that he has listed will be independent. If they have a volleyball match it will be three on three or two on two or maybe four on four. It is not even a legal sized volleyball court. He then described the kid's activities and stated that there will be a tops of 15 kids within the structure.
4. The events that he is planning for the second floor involve children under the age of 17 who are not driving their own cars.
5. Birthday Parties – he does not have them at his current facility so this would be something new. He would have birthday parties on the second floor and it would be for people under the age of 17.
6. The upstairs is of a less intense use which he further explained.

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Mr. Kovic expressed his feelings of parking concerns and questioned the existing residential apartment and expressed his opinion to eliminate the residential apartment on the site.

Mr. Knox continued as follows:

7. He explained that if he were to convert the existing residential apartment into commercial space that would only increase the required parking.
8. His current gym is 6,300 square feet the actual gym that we are going to be building is going to be 1,000 square feet less. The reason that he needs the half court facility is in order to teach children he needs 22 foot high ceiling so that they can learn to play right which he further explained. If he had to reduce the size then his project wouldn't work.
9. He will be closing down his existing business if this application was approved.

Mr. Leckstein cross examined Mr. Knox and Mr. Knox stated the following:

1. He could put 40 pieces of equipment in the down stairs and he has never seen every piece of equipment being used.
2. He is not asking the board for limitations on the number of pieces of equipment.
3. It is not uncommon to have 10 or 15 kids at a party and most of them car pool and the parents usually drop their kids off and leave.
4. He has coached for nine years and he has never used a bus and he has never seen anyone drop off kids in a bus.

Mr. Leckstein then tried to question Mr. Knox about testimony he has previously given before a different board but Mr. Serpico explained that he can only question the applicant about testimony that was given before this board.

Mr. Kovic then asked if any members of the public had any questions for Mr. Knox.

Connor Jennings – do you currently launder all your present facilities stuff at your home.

Mr. Knox – yes, I do. It usually generates two to three loads a week.

Katherine Franco, A.I.A, P.P. of 150 Monmouth Avenue, Atl. Highlands, NJ was sworn in by Mr. Serpico.

Ms. Franco stated the following during her testimony and response to questions from the board:

1. She has been a licensed Architect for the past seventeen years and is licensed in the State of New Jersey and Pennsylvania.

Mr. Leckstein conceded to her qualifications as an Architect.

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2. She is a license Professional Planner since 1993 and further described her professional background.
3. She helped in research for ordinance writing for Highland Park and has worked in Atlantic Highlands in possible redevelopment. She has indirectly been involved in the Master Plan process which she further described.

Mr. Leckstein then questioned Ms. Franco about her professional experience. He then asked if she was familiar with the Medici case and she said that she is.

Mr. Wolffe then objected to Mr. Leckstein's questions and statements about Ms. Franco.

Mr. Leckstein then asked Ms. Franco is she familiar of 40:55d-70c. and she stated that she is not familiar with numbers but if he gave her a book then should could answer that question.

Mr. Leckstein continued to question Ms. Franco about her Land Use knowledge.

Mr. Kovic stated that he will accept Ms. Franco's qualifications.

Ms. Franco continued her testimony as follows:

4. She described the existing structure as a drive in and sit down restaurant and stated that existing conditions of the structure and site are not up to date.
5. She then showed and described Exhibits AA-5 which is six pages of photographs of the existing conditions of the site. Mr. Leckstein stated that he has no objections to the photographs.
6. The project consists of an addition and renovation to an existing building. It is to expand the area of the existing first floor for exercise equipment type of gym with bathroom facilities and a small child care room. The second floor is an area to teach sports techniques to children and have half team games. There isn't going to be a big league where the Red Bank half team plays the Hazlet half team.

Mr. Serpico stated that the witness can not testify to this item.

Ms. Franco continued as follows:

7. She has analyzed the traffic issues and she relied on the DOT Form MT-32A it is the Department of Transportation Permit and it is what binds the applicant to the site work to be done and how they calculation the in and out of vehicles for the parking lot. They have a peak hour volume of traffic as 96 vehicles per peak hour volume, 96 vehicles in the pm and 96 peak hours on the weekend and pm. Daily traffic hours volumes were 1,557 weekday and 1,264 of weekend, that is what they consider the maximum. And this was for 19 peak hour trips which means how many vehicles they anticipate in the peak hour. The DOT does not have peak hours listed but she can tell you the applicant's peak hours are.

Mr. Leckstein objected.

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Mr. Serpico advised Ms. Franco that the question was what was DOT's peak not the applicant's peak.

Ms. Franco continued her testimony as follows:

8. The DOT does not list the peak hours. She explained that the DOT Permit represents how many vehicles that they anticipate will come on and off of this lot onto Route 36 and they are considering 19 vehicles under traffic volumes which she then read from. They have a daily volume trips of 1,557 weekday and 1,264 weekends. According to the DOT standings as long as the average hourly volume of traffic does not exceed 96 then it's acceptable according to the DOT standards.

Mr. Leckstein objected because that is not what it says, the documents speaks for itself. It talks about volume on and off of Route 36 and this site has more than one access.

Ms. Franco continued her testimony as follows:

9. Because there are two access locations on the site we will probably have much less than the 96 volume trips.
10. She then described her aerial photograph Exhibit A-6.
11. A lot of municipalities use DOT studies which are really studies done by the ITE for calculating parking ordinances. I.T.E. is the Institute of Transportation of Engineers and what they do is these studies so that governments can use these as a basis.
12. The DOT permit has a description of health, fitness club size of 9, 9848 square feet. Nineteen refers to 19 cars coming on and off the property in the peak hour which comes from the I.T.E and Planners rely on in deciding on traffic issues.
13. Based on Lupnet which is a commercial real-estate on line service has stated that there is 85,000 cars per day seasonal traffic. Mr. Serpico questioned who Lupnet was and it was determined that she would not peruse testimony relating to Lupnet. Mr. Leckstein made his objection to all of the testimony related to traffic because she has no qualifications.
14. She is familiar with the Borough of Highlands Master Plan and Zoning Ordinance specifically pertaining to this site. The current parking requirement is one per 200 square feet. The applicant is requesting a variance from this requirement and the land use statute allow for it in a flexible C-2 variance which states that a variance can be granted if it benefits a community and representing a better zoning alternative and she feels that the entire project qualifies as a flexible c. She then read from the Master Plan under the Section entitled "The Borough Vision for 2020" and described how this application falls under the Master Plan.
15. On page 3 of 8 of the Engineers Plans she spoke about how the fire department has approved of the applicant adding another fire hydrant which is beneficial to the community.

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16. They are not only leaving the existing trees but they are also adding bushes and other plantings and decreasing the lot coverage which will help improve the drainage and aesthetics of the property.
17. The aesthetics of the building are on sheets 9 and 10 of the plan which she described. She stated that she has been in the existing apartment and everything that is shown is measured and the Jacuzzi is there. There is no deck up there and we have a door there for two reasons, one it's for maintenance and two is for fire and the rail is more of a decorative item to make is more of a residential scale.
18. They are delineating the entrance and exist much better than what is there now. The Ocean Ave entrance really has no curb cut and is hazardous and on Route 36, there is some buffer but because of the wide openings in the curb cuts people can come in and out with really no control. So the new curb cut is being put there to control entrance and egress in a proper manner.
19. The proposed use is more beneficial than the current use as a drive in restaurant. Mr. Leckstein objected to this comment.
20. In the Borough of Highlands Master Plan under Goals and Objective under numbers 4 through 8, 11 and 12, they have achieved all of these goals in the Master Plan which she described to the board.
21. The application will not be a detriment to the public good which she further explained.
22. The variances will not impair the Zoning Ordinance or Master Plan.
23. She has based her opinion based on the DOT information which they backed with the ITE and the applicant is providing more than what they consider but we are now where near what the peak is. So it is not a detriment to the requirements. The document addresses the in and out of the site which effects the parking and they are basing it on the ITE study of health and fitness club regulations.

Mr. Mullen stated that he does not see the relationship between the frequency of people coming on and off the site and the parking requirements.

Ms. Franco continue to describe her opinion of the DOT permit and the relationship to parking and Mr. Leckstein objected to some of her comments.

Mr. Kovic expressed his concern with the parking and the need to know how many people will visit the site per hour.

Mr. Wolffe and Mr. Serpico spoke about Ms. Franco and interpreting what the ITE regulations means and it was determined that she could read from the regulations but not interpret them.

Mr. Wolffe stated that there have been issues raised and he wants to conclude Ms. Franco's to the next meeting.

Mr. Leckstein asked Mr. Wolffe if he would accommodate the objector bringing their Planner and Traffic Expert to the next meeting and Mr. Wolffe agreed.

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Mr. Serpico advised the public that this matter has been carried to the November 8, 2007 meeting and that no further public notice will be given.

Mr. Stockton returned to the meeting table.

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**Review of Steep Slope Ordinance**

Mr. Stockton stated that the board has copies of the Borough's current Steep Slope Ordinance as well as Atlantic Highlands Steep Slope Ordinance.

Mr. Serpico stated that the current steep slope ordinance is very vague and the criteria is too subjective.

The Board discussed the steep slope ordinance

Mr. Mullen – we need to establish what we are trying to achieve with our ordinance, what are we trying to do? Are we trying to restrict lot areas? How do we want to control our steep slopes?

The Board continued to discuss the steep slope ordinance.

Mr. Manrodt requested that the steep slope ordinance take into the tree trimming.

Mr. Stockton stated that he obtain a copy of the Denville Ordinance and suggested that the board review it for the next meeting along with the borough's current ordinance and Atlantic Highlands Ordinance.

Ms. Britell – at a previous meeting the board asked me to overlay the block and lot numbers on the map with the topography in order to come up with an overlay of the entire town we would need to put together a proposal for the Council to approve and it would be over \$20,000 to the overlay.

Mr. Stockton stated that this is going to be a task that we will keep on the agenda and discuss it at every meeting.

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**Communications**



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**Ordinance RE: Sexually Oriented Business and Rehabilitation Facilities**

Mr. Mullen spoke about the recently adopted municipal ordinance and stated that they are really land use ordinances. He expressed his concerns with the ordinances and stated that they should be included in our land use ordinance.

Mr. Serpico agreed with Mr. Mullen and stated that Mayor and Council should be urged to forward the ordinances to the Planning Board for review.

Mr. Mullen also stated that these ordinances will also require definitions.

Mr. Stockton suggested that the Board Secretary send a reminder to the Governing Body about these ordinances and the need to have them included in the land use ordinance and the need to establish definitions.

Mr. Kovic offered a motion to adjourn the meeting, seconded by Mr. Mullen and all were in favor.

The Meeting adjourned at 10:57 pm.

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**CAROLYN CUMMINS, BOARD SECRETARY**