

**Borough of Highlands
Zoning Board of Adjustment
Regular Meeting
February 2, 2006**

Mr. Mullen called the meeting to order at 7:44 P.M.

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

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

ROLL CALL:

**Present: Mr. Duncan, Mr. Braswell, Mr. Mintzer, Mr. Francy, Ms. Ryan,
Mr. Mullen, Ms. Wicklund, Mr. Fox**

Absent: Ms. Tierney

**Also Present: Carolyn Cummins, Board Secretary
Greg Baxter, Esq., Board Attorney
Fran Mullan, P.E., Board Engineer**

Change in Board Membership

Mr. Mullen announced that there was a change in membership of the Board and Tara Ryan is now a Regular Member and James Fox is the Alternate Two Member. Both members have been resworn in.

**Resolution Recognizing Contributions of K. James
Mayor O'Neil – Presentation to Katherine James**

Mr. Baxter read the following Resolution which was then presented to Mrs. James:

**RESOLUTION RECOGNIZING THE CONTRIBUTIONS OF
KATHARINE JAMES**

WHEREAS, KATHARINE JAMES has been a lifelong resident of the Borough of Highlands and has given much of her adult life in volunteer service to the Borough; and

WHEREAS, KATHARINE served two full terms on the Highlands Borough Council, from 1980 through 1986; and

WHEREAS, KATHARINE served as the Borough's representative to the Health Commission for ten years, from 1984 through 1994; and

WHEREAS, KATHARINE served as a member of the Highlands Planning Board for twelve years, from 1986 through 1997; and

WHEREAS, KATHARINE served as a member of the Highlands Zoning Board of Adjustment for eight years, from 1998 through 2005; and

WHEREAS, KATHARINE'S husband, GUY JAMES, served with her as a member of the governing body, and GUY and KATHARINE have moved out of the Borough, as a result of which KATHARINE resigned her position as a full member of the Zoning Board of Adjustment; and

WHEREAS, KATHARINE lent a unique perspective to the boards on which she served, having an enormous capacity for providing historical background information to the boards regarding both the town and specific properties, as a result of which she will be sorely missed; and

WHEREAS, KATHARINE had a polite demeanor, and her company was enjoyed by the board members with whom she sat, and those appearing before the boards upon which she sat felt that she gave full consideration to their positions, all with a view toward improving the Borough of Highlands

NOW, THEREFORE, BE IT RESOLVED by the members of the Highlands Zoning Board of Adjustment that KATHARINE JAMES be and is hereby recognized for her many years of volunteer service to the Borough. We wish her good health and happiness in her new home.

Mayor O'Neil presented a plaque to Mrs. James on behalf of the Governing Body and thanked her for all of her years of service to the Borough.

**ZB#2005-7 234 Bay Avenue, LLC
Block 69 Lot 1 – 234 Bay Avenue
Approval of Resolution**

Mr. Baxter read the title of the following Resolution for approval:

Mr. Duncan offered the following Resolution and moved on its adoption:

**RESOLUTION APPROVING USE VARIANCE
FOR 234 BAY AVENUE, LLC AT
234 BAY AVENUE**

WHEREAS, the applicant, 234 BAY AVENUE, LLC is the owner of property at 234 Bay Avenue, Highlands, New Jersey (Block 69, Lot 1); and

WHEREAS, the applicant initially filed an application to raze the existing two-story three-family frame dwelling and construct a two-story four-unit multi-family dwelling, which application was modified during the hearing process to a request for approval for a three-unit multi-family dwelling; and

WHEREAS, the applicant requested that the Board bifurcate its hearing and decision making process, and render a decision as to the use variance only, and the Board acceded to that request; and

WHEREAS, all jurisdictional requirements have been met, and proper notice has been given pursuant to the Municipal Land Use Law and Borough Ordinances, and the Board has jurisdiction to hear this application; and

WHEREAS, the Board considered the application at public hearings on December 1, 2005, and January 5, 2006; and

WHEREAS, the Board heard the testimony of LAWRENCE LUTTRELL, a principal in the applicant LLC; KENNETH BAILL, Engineer; CATHERINE FRANCO, Architect and Planner; and CRAIG BAHRS, a principal in the applicant LLC; and

WHEREAS, no persons appeared in objection to the application; and

WHEREAS, the applicant submitted the following documents in evidence:

- A-1: Variance application (6 pages);
- A-2: Application for zoning permit by MR. LUTTRELL (2 pages);
- A-3: Site plan review application (2 pages);
- A-4: 7/12/05 survey by THOMAS A. FINNEGAN;
- A-5: 4 pages of architectural plans of XL ARCHITECTURAL STUDIOS, LLC (CATHERINE FRANCO) plus 5 pages of engineer site plan documents by KENNETH BAILL, of

GOLDENBAUM BAILL ASSOCIATES [THIS EXHIBIT WAS REPLACED BY EXHIBIT A-12];

- A-6: Booklet of photographs of area homes, plans and survey, including chart of neighboring properties;
- A-7: Certificate of Occupancy for title transfer of Unit 1 dated 4/28/05;
- A-8: Certificate of Occupancy for title transfer of Unit 2 dated 4/28/05;
- A-9: Certificate of Occupancy for title transfer of Unit 3 dated 4/28/05;
- A-10: Colored zoning map;
- A-11: 12/16/05 letter from the MONMOUTH COUNTY PLANNING BOARD;
- A-12: 5 pages of architectural plans of CATHERINE FRANCO dated 12/20/05, replacing Exhibit A-5.

WHEREAS, the Board marked into evidence the following exhibits:

- B-1 11/1/05 letter from MONMOUTH COUNTY PLANNING BOARD;
- B-2 Form check list from HIGHLANDS FIRE PROTECTION;
- B-3 Board Engineer review letter dated 11/3/05;
- B-4 Board Engineer review letter dated 1/4/06;

WHEREAS, the Board, after considering the evidence and testimony, has made the following factual findings and conclusions:

1. The applicant is the owner of a .17 acre parcel in the R-2.02 Zone, located at the corners of Bay Avenue (County Route 8), Cedar Street and Holly Street.
2. The site currently contains a residential building in disrepair, housing three separate living units.
3. The applicant seeks to demolish the existing structure and construct a two-story three-unit residential condominium on the premises with garages on the ground level below the living space.

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4. The applicant proposes 12 parking spaces, two in each of the three garages and two in front of each of the three garages; as a result of which no parking variance is required.

5. The application requires a use variance because multi-family housing is not permitted in this zone. Only single-family detached dwellings are permitted.

6. Though the Board heard testimony regarding engineering and architectural plans, no decision was considered or made by the Board with respect to any bulk variances or site plan issues, all of which were preserved for continued hearing and determination after a decision by the Board was made on the use variance request.

7. The site is 7,371 square feet in size where 4,000 square feet is required in the zone (one acre is required in the MF Zone for multi-family construction).

8. The lot is 50 feet in width, which meets the requirements of the R-2.02 Zone (the MF Zone requires 150 feet).

9. The depth of the lot is 134 feet, which meets the R-2.02 requirement of 75 feet (the MF Zone requirement is 200 feet).

10. The requirement for front yard setbacks in this zone is 20 feet (35 feet in the MF Zone). The proposal envisions a 14-foot setback from Bay Avenue, a 6.9-foot setback from Cedar Street, and a 20-foot setback from Holly Street.

11. The proposed side yard is 6 feet, which matches the zone requirement (the MF requirement is 25 feet).

12. The maximum building coverage in this zone is 33% (22% in the MF Zone). The applicant's revised proposal requests building coverage of 46.8%.

13. Lot coverage is proposed at 53.3%, which is below both the zone requirement of 75% and the MF Zone requirement of 65%.

14. For comparison purposes, the density in the R-2.02 Zone, by calculation, is 10.9 dwelling units per acre. The MF Zone is 14 dwelling units per acre. The applicant proposes construction which calculates at 17.7 dwelling units per acre.

15. The proposed height of the building does not require a variance.

16. The Board was quite impressed with the architectural design of the property, and felt strongly that the design was well thought out and would be a significant improvement to the Borough, and the neighborhood in particular.

17. This lot is larger than most of the lots in the zone and neighborhood.

18. The chart of properties within 200 feet, provided by the applicant's architect and planner, listed 39 properties, only one of which was a multi-family use. There were 3 mixed units and 2 commercial uses in the list, as well as 4 2-family uses, and 1 3-family use (which property was also one of the mixed uses referred to above).

19. The special reasons relied upon by the applicant are found in N.J.S.A. 40:55D-2(i), which states that a purpose of zoning is "to promote a desirable visual environment through creative development techniques and good civic design and arrangement."

20. Though this motion/resolution passed by a vote of 4 to 3, the effect of the vote is a denial of the use variance, since use variances require 5 affirmative votes. Those members voting in opposition to the application were primarily concerned with the density of the proposed use and its lack of conformity with the Master Plan and zoning ordinance. Those members were concerned that this proposed use was even larger than what would be permitted in the multi-family zone and, therefore, should not be allowed in the single-family zone.

21. The proposed development will meet FEMA requirements, as a result of which the proposed height of the structure does not require a variance.

22. The visual impact of this proposed project, considering that part of it would front on the main downtown road in the Borough, would be a significant improvement in the streetscape, and perhaps encourage other property owners to undertake similar construction.

23. The proposed use will not be a substantial impairment to the intent and purpose of the zone plan and zoning ordinance.

WHEREAS, the application was heard by the Board at its meetings on December 1, 2005, and January 5, 2006, and this resolution shall memorialize the Board's action taken at that meeting;

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Borough of Highlands that the application of 234 BAY AVENUE, LLC for a use variance to construct a two-story, with ground-level parking below, condominium building of three units at 234 Bay Avenue (Block 69, Lot 1) be and is hereby approved, subject to the following conditions:

1. Subject to all conditions and requirements as set forth in the Board Engineer's review letter dated January 4, 2006 (Exhibit B-4).
2. Subject to continued hearings on the bulk variance requests.
3. Subject to continuation of the hearing on the request for preliminary and final site plan approval.

[NOTE: Though this resolution was approved by the Board on a 4-3 vote, the requested use variance is denied because of the applicant's failure to obtain at least five affirmative votes.]

Seconded by Mr. Mintzer and adopted on the following roll call vote:

ROLL CALL:

AYES: Mr. Duncan, Mr. Braswell, Mr. Mintzer, Ms. Wicklund

NAYES: None

ABSTAIN: None

Resolution for Professional Engineering Services

Mr. Mullen read the title of the following Resolution for approval:

Mr. Duncan offered the following Resolution be memorialized and moved on its adoption:

**RESOLUTION
FOR PROFESSIONAL ENGINEERING SERVICES
FOR THE BOROUGH OF HIGHLANDS ZONING BOARD
FOR THE PERIOD OF JANUARY 1, 2006 THROUGH JUNE 30, 2006**

WHEREAS, the Borough of Highlands Zoning Board of Adjustment has a need for professional engineering services; and

WHEREAS, such professional engineering services can only be provided by a licensed professional and **Francis W. Mullan, P.E.**, from the firm of Schoor DePalma, Inc., is so recognized; and

WHEREAS, the Borough of Highlands Zoning Board memorialized a Resolution on January 5, 2006 appointing Francis W. Mullan, P.E., from the firm of Schoor DePalma, Inc. as Zoning Board Engineer for a term of one (1) year expiring December 31, 2006; and

WHEREAS, certification of availability of funds is hereby provided by the Chief Financial Officer contingent upon the Adoption of the SFY 2006 Budget:

Zoning Board Budget
Account #1151 – 3757- \$ 1,950.00
January 1, 2006 – June 30, 2006

Stephen Pfeffer, Chief Financial Officer

WHEREAS the Local Public Contracts Law, NJSA 40A:11-1 et. seq. requires that notice with respect to contract for professional services awarded without competitive bids must be publicly advertised.

NOW, THEREFORE, BE IT RESOLVED by the Borough of Highlands Zoning Board as follows:

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1. That Francis W. Mullan, P.E. from the firm of Schoor DePalma, Inc is hereby retained to provide Professional Engineering services as described above for an amount not to exceed \$1,950.00 for the period of January 1, 2006 through June 30, 2006.
2. This contract is awarded without competitive bidding as a "Professional Services" in accordance with the Local Public Contracts Law, NJSA 40A:11-5(1)(a)(i) because it is for services performed by persons authorized by law to practice a recognized profession.
4. A copy of this Resolution shall be placed on file with the Zoning Board Secretary.
5. The Borough of Highlands Zoning Board Secretary is hereby directed to publish notice of this award as required by law.

Seconded by Mr. Mullen and adopted on the following Roll Call Vote:

ROLL CALL:

AYES: Mr. Duncan, Mr. Braswell, Mr. Mintzer, Mr. Francy, Ms. Ryan,
Ms. Wicklund, Mr. Mullen

NAYES: None

ABSTAIN: None

**ZB#2005-5 Coleman, Janet
Block 49 Lot 8 – 53 Shrewsbury Avenue
Hearings on New Business**

Present: Janet Coleman

Mr. Mullen stated that the applicant did not submit the new drawings and advised the applicant that if she wishes to proceed with the application then she must submit the drawings at least 10-days prior to the public hearing.

Mr. Baxter stated that the applicant previously served public notice and it was reviewed by him in October and found to be satisfactory. Therefore the applicant does not need to renotice or advertise.

Ms. Coleman agreed to waive any time restrictions for the board to hear her application.

Mr. Duncan offered a motion to schedule this matter for a public hearing on April 6, 2006, seconded by Mr. Mintzer and approved on the following roll call vote:

ROLL CALL:

AYES: Mr. Duncan, Mr. Braswell, Mr. Mintzer, Mr. Francy, Ms. Ryan,
Ms. Wicklund, Mr. Mullen

NAYES: None

ABSTAIN: None

Mr. Mullen explained to the applicant that her plans need to match the application and plans must be submitted.

Mr. Baxter explained to the applicant that the revised plans must be submitted to the Board at least ten days prior to the hearing.

Mr. Mullen announced to the public that this matter has been carried to the April 6, 2006 meeting and no further public notice will be given.

**ZB#2005-10 Branin, Gary & Denise
Block 48 Lot 3 – 39 Cornwall Street
Hearing on New Business**

Mr. Mullen advised Mr. Branin that it has come to the boards attention that a flood certification is necessary to be given to the Flood Officer and our concern is that if there are modifications as a result of compliance with the flood regulations that would mean that you would have to come back to the board to seek approval for those modifications. So we want to make sure that you have all of the information that you will need to proceed with this application.

Mr. Branin – I went to see the flood administrator, Dave Gilson and he assured me that I have nothing to worry about being that the project next to me is in progress and it is at the same elevation and doing the same type of project and then at the eleventh hour this letter from him appears. I would like the board to hear my case tonight.

Mr. Mullen advised Mr. Branin that he was not sure if the Board would be able to hear this application due to the hearing that is before his and he just wanted to advise him of that.

**ZB#2005-8 Knox 400, LLC
Block 108 Lot 2.01 – 460 Hwy 36
Hearings on New Business**

**Present: Kevin Kennedy, Esq., Applicants Attorney
Robert Knox, Operator of Proposed Facility
Katherine Franco, A.I.A., P.P.
Joseph Natale, Owner of Property
Eric Rupnarain, P.E.**

Board Prof: Jamie Sunyan, P.P. of Schoor & DePalma

Objector: Mike Leckstein, Esq., - Representing Paul Mazzella

Ms. Sunyan stated the following:

1. The property is .64 acres and is located on Route 36 and Ocean Ave within in the B-1 Zone.
2. There is an existing 2,400 square foot two story building on the site with an accessory apartment above. Access to the site is provided by both Route 36 and Ocean Avenue.
3. The applicant is proposing to expand the building and create an additional two story structure expanding it toward the west.
4. Based on the Schoor & DePalma letter dated February 2, 2006 it appears that there that certain relief is required since health fitness centers are not a permitted use therefore requiring a "D" Variance. The applicant will have to address the positive and negative criteria. A design waiver is also needed for the dimensions of the parking stalls. With respect to parking the zoning ordinance does not permit this type of use and the ordinance does not have a standard for this specific use. It is her understanding that the applicant is applying the Business and Professional Establishment Provisions of one per 300 square feet. We did look at other standards and other communities standards as well as known standards such as I.T.E. and we will be able to comment with respect to that. Testimony will also be needed with regard to the outdoor living space for the Residential unit and for the existing non-conforming sign as for the area of the sign and the height of the sign.

Kevin Kennedy stated that the applicant is the contract purchaser of the subject lot. The applicant is seeking site plan and use variance approval to operate an athletic club at the site.

Mr. Baxter stated that he has reviewed the public notice and finds it to be in proper form therefore the board has jurisdiction.

The following exhibits were marked into evidence:

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- A-1: Variance Application;
 - A-2: Zoning Permit dated 8/10/05;
 - A-2a: Supplemental Zoning Letter dated 11/21/05;
 - A-3: Preliminary and Major Site Plan dated 9/14/05 revised 1/18/06 prepared by Eric Rupnarain, pages 1-8;
 - A-4: Architectural drawings prepared by K. Franco dated 1/16/06, five pages;
 - A-5: Site Plan Application;
 - A-6: Chloe Magazine Article regarding fitness;
 - A-7: Chloe Magazine Article regarding fitness;
 - A-8: Health & Fitness Article regarding myths and tips for fitness;
 - A-9: Article dated 1/6/05 from CBS News website regarding overweight children;
 - A-10: Article dated 9/30/04 from CBS News website regarding fighting fat;
 - A-11: Article regarding fitness
 - A-12: Article from CNN dated 1/6/04 regarding fitness;
 - A-13: Department of Health article dated 11/2/05;
 - A-14: Daily News article regarding kids and diabetes;
 - A-15: Illustrated Version of sheet #2 of site plan;
 - A-16: Illustration of Sheet # 3 of the site plan;
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- B-1: Highlands Division of Fire Prevention Approval;
 - B-2: Zoning Board Engineer Review Letter dated 2/2/06;
 - B-2a: Planning Board Engineer Review Letter dated 11/7/05;
 - B-2b: Supplemental Planning Board Engineer Review Letter dated 11/10/05.
 - B-3: Zoning Board Resolution 5/7/98 REL Bell Atlantic/Nynex Robert Knox of 225 Bay Avenue, Highlands was sworn in.

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

1. He will be part owner and Manager of proposed facility.
2. He stated that he is a resident of Highlands.
3. He described his fitness industry background to the board.
4. He described his existing fitness center which is called Fitness USA and he described what he does at that facility.
5. The proposed facility will be an athletic club and will cater toward some kids after school. He wants a neighborhood facility and to offer the town a great community activity place. There will be a weight room, there will be classes for aerobics and other body toning classes, a seniors program, mommy and me classes, babysitting with activities and a children's after school programs, all which he further described to the board.

- The classes generally last from a half hour to one hour. They are taught by certified or licensed instructors. There could be from five to fifteen people per class. He anticipates having some classes in the morning, evening it will be based on the demand. Two in the morning and two in the evening and they would be scheduled out accordingly. It would not be physically possible to have all the classes at the same time. The classes would be staggered and he further described the times for the classes of each category.
6. The name of the club will be the Navesink Athletic Club.
 7. He is very excited about the children programs and further described the children's programs that he would like to offer.
 8. He then described the various news articles which were marked as A-9 through A-14. These articles related to obesity and other weight related problems.
 9. Most of his clients do not attend the facility every day.
 10. The children's after school programs could be from 2:30 through 5:00 p.m.
 11. He wants to open seven days a week possibly between the hours of 5:00 a.m. to 11:p.m. Mondays through Thursdays. Fridays would be from 5:am-9:30p.m., Saturday 7:00 a.m. – 6:00 p.m. and Sundays 7:00 a.m. – 5:00 p.m.
 12. He would target the Highlands residents to come to his facility.
 13. They will offer a daily rate, once a moth, three to six month and one year memberships.
 14. The maximum number of patrons that he anticipates to visit the site would be about 30 people and this is based on his existing business.
 15. Mondays is the busiest day of the week and the peak hours are between 5:30 pm to 7:30 p.m.
 16. There are 420 members at his existing business .
 17. Fitness USA is about 6,300 square feet and the proposed is 8,700 square feet.
 18. He will be working at the proposed site as well as a trainer, aerobic instructor when there are classes, nursery for child care during limited hours. They would be part time employees and at a maximum of two hours a day would all four employees be there.
 19. They will be closing the Fitness USA in Navesink and relocate the business to the proposed site.
 20. Those members would probably follow to the new location.
 21. They will have a juice bar at the site but they will not be selling prepared foods. There will not be a restaurant at the site.
 22. The garbage would consist of paper towels and drink containers.
 21. This will be a clean facility.
 22. There are no licenses required but they are required to be bonded with the DCA.
 23. Deliveries, the drinks would be delivered in a van and periodically new equipment would be delivered.

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24. If the board grants the approval they would like to start the work as soon as possible.
25. There will be showers and people will be required to bring their own towels.
26. The exercise equipment will be located downstairs.
27. Cameras will be installed in the multi purpose room so that if people are in there we can look at the monitor. That room will be pretty much closed when there are not classes in that room.
28. He will have a microwave for his own use.
29. Renting out this site is not part of the application.
30. He does not plan on having an attendant in the restrooms.
31. The tenant in the apartment will not be associated with the business.
32. The winter months are the busiest months of the year.
33. Two parking spaces will be designated for the apartment.

Mr. Leckstein then questioned Mr. Knox and he responded as follows:

1. He has testified before the Borough of Highlands Planning Board and the proposed use has not changed since then.
2. He is currently operating a business in Navesink and more or less the services will be the same from that business to the new business. We are going to add a multi purpose room at the new site but they are not leaving behind any services.
3. There will be no tennis, racquetball, squash, handball or rock climbing at the new site. They may have some sort of volley ball type activity in the multi-purpose room and have a basketball net.
4. They will have personal trainer service at the site.
5. There will be no gymnastic type equipment at the site they will have exercise and weight equipment.
6. There will be a separate men's and ladies locker room.
7. There will be a juice bar and possibly vending machines.
8. There will be a steam room in both the men's and ladies locker rooms.
9. If the clients can't find a parking space then they won't come to the site or they will change the time that they come or they won't join.
10. There might be a couple of people that may travel 8 miles to the site but not many.
11. He said that he has a friend that is a coach in Keansburg and is a Highlands resident and he might possibly hire him to do the kids fitness stuff.
12. He offers student discounts to clients.

The Board questioned Mr. Knox and he responded as follows:

1. There will be 37 parking spaces plus 2 spaces for the residential unit.

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2. He would schedule the classes at least a half hour apart so that a class could be finished and leave before the new class starts.

Mr. Mullen asked if there were any questions from the public for Mr. Knox.

Elaine Hoffman of 19 Laurel Drive questioned the impact of traffic for this facility.

Mr. Knox – he does not believe that his business will be as busy as the existing Stewarts Root Beer.

Elaine Hoffman stated that the road by the car wash is a mess and believes that there are going to be a lot of problems with parking.

Mr. Knox – if the people park where there not supposed to then they will have issues with the Police. He explained that he has not looked at other sites for this facility. The owner of the property called me and asked if I was interested in this property. Paul Mazzella from Sculptors tried to purchase this site for himself but the deal fell through so the owner called another gym and thats when he called me.

Steve Zelecki of Highland Avenue – will you be having music at the site.

Mr. Knox – yes but it will be related to the exercise activity but there will not be a live band, no outdoor speakers for music, no outdoor tables. The music will not be loud because then the instructors could not teach the classes. There will not be more than one event occurring at one time. The maximum number of patrons would be 30.

Mr. Leckstein questioned Mr. Knox with regard to the number of pieces of equipment.

Mr. Knox explained probably about 30.

There were no further questions from the public for Mr. Knox.

Joseph Natale of 502 Wedge Wood Circle, Belford, NJ was sworn in.

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

1. He is a member of A & J Natale, LLC, which trades as Stewarts Rootbeer. They are the owner of the property which has consented to sell to the applicant.

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2. He took ownership of the property in 2002 which is Stewarts Drive in Restaurant.
3. He is very familiar with the Stewarts operation which has operated at this site for over forty years.
4. Stewarts is opened from April through October as a seasonal business.
5. A summer weekend (Friday, Saturday & Sunday) would consist of 80 to 90 car hop service and they do an additional 225-250 (inside service) people per day for weekends.
6. We currently have almost fifty parking spots.
7. We have five employees plus myself and my brother at the Stewarts Root Beer.
8. A typical dining experience last about 45 minutes to one hour.
9. We have never experienced a traffic or parking problem at the site.
10. We are the contract seller of the property.
11. Paul Mazzella of Sculpt's Gym located in the Eastpointe Plaza attempted to purchase this property but the deal fell through. He then entered into negotiations with the applicant and a contract of sale was done.
12. Paul Mazzella did come back to him several times once he heard that Mr. Knox had an interest in this property.
13. He never had customers parking off the site to come to the Stewarts.
14. Of the current fifty parking spaces fourteen of them are under the car hop canopy.
15. The current uses on the site are the cell tower, an apartment and the Stewarts Restaurant.
16. He has never experienced problems with the tenant not being able to use his parking spot.
17. Most of the traffic to this site enters and exists the site off of Highway 36 about 80-90%.
18. The cell tower makes a visit to the site once a month in a station wagon or SUV, one vehicle.
19. He has deliveries once a week from five suppliers for business which was a tractor trailer or box trucks or small vans which entered and exited the site off of the highway.
20. He has never seen any patron park at the car wash and walk to our site.

Mr. Leckstein questioned Mr. Natale and Mr. Natale responded as follows:

1. Paul Mazzella never stated that he was interested in buying a portion of this property. He mentioned possibly continuing the use of the restaurant.
2. Paul Mazzella did mention that he thought that combining this property and the property to the east would be a good idea.

Mr. Mullen asked if there were any questions from the public.

Elaine Hoffman wanted to know if the existing building would be enlarged to the west.

Mr. Mullen explained that Mr. Natale is the current owner of the property and this question could be directed to the architect or engineer.

**ZB#2005-10 Branin, Gary & Denise
Block 63 Lot 19.01 - 231 Bay Avenue
Hearings on New Business**

Mr. Baxter stated that he has reviewed the public notice and finds it to be in proper form therefore the board can take jurisdiction. He then recommended that the board accept jurisdiction so that the applicant does not have to renote and then carry the public hearing to the next available meeting.

The Board engineer advised the applicant of the following:

1. Applicant must provide a Floor Elevation Certification.
Mr. Branin stated that he has one.
2. Prior approval conditions for the location of the garage need to be confirmed so the applicant must provide an As Built with the rear yard and side yard dimensions of the garage.
3. The applicant must provide a full size sheet of full scale architectural drawings to Board Secretary and Board Engineer.
4. All requested documents must be submitted at least 10-days prior to public hearing.

Mr. Mintzer stated that he has a conflict on this matter.

Mr. Duncan offered a motion to carry this matter to the March 2, 2006 meeting and no further public notice is required, seconded by Ms. Wicklund and approved on the following roll call vote:

ROLL CALL:

**AYES: Mr. Duncan, Mr. Braswell, Mr. Francy, Ms. Ryan, Ms. Wicklund,
Mr. Fox, Mr. Mullen**

NAYES: None

ABSTAIN: None

Mr. Mullen advised the public that this matter has been carried to March 2, 2006.

Mr. Duncan offered a motion to continue the Knox hearing an additional half hour and terminate at 10:30, seconded by Mr. Francy and all were in favor.

**ZB#2005-8 Knox 400, LLC
Block 108 Lot 2.01 – 460 Hwy 36
Public Hearing**

Eric Rupnarain, 119 Douglas Street, Lambertville was sworn in.

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

1. He is employed by Goldenbaum Baill Associates, Inc. as a Project Manager/Project Engineer and he is a licensed engineer in New Jersey. The Board accepted him as a professional witness.
2. The property is located in the B-1 Zone.
3. The property is approximately .63 acres which is 27,795 square feet. It has frontage on two roads, Highway 36 and Ocean Avenue.
4. He was present during the testimony of both Robert Knox and Joseph Natale.
5. The proposed addition will be approximately 6,000 square feet to the existing building which will make the health club facility approximately 8,715 square feet in total. It will be two stories and the height will be 36-feet which complies with the height requirements.. The proposed will comply with front, side and rear yard setbacks. The ordinance requires a maximum of 35% building coverage and this application proposes 21%.
6. He described the existing ingress and egress of the site as shown on Exhibit A-15.
7. He described the proposed ingress and egress of the site which requires NJDOT approval. He described Exhibit A-16 and stated that they proposed to eliminate an existing curb cut along the highway and also will create a more defined entrance along Ocean Avenue. This will present a more organized manner of which traffic can enter and exit off of the site which he further described. He also described the proposed storm water runoff drainage.

Mr. Mullen questioned the location of the entrance to the mobile community and questioned the impact it could have.

8. He stated that he did not know the location of the mobile park entrance but they will advise when they come back.
9. There are 39 parking spaces proposed, 37 are for the commercial use and 2 are for the residential apartment. He further described the proposed parking plan to the board.

10. The Borough's Ordinance does not have this specific use listed or a required parking criteria so the best that they could come up with is the Professional Services establishment which requires one parking space for every 300 square feet of gross floor area. Using that criteria this development would require 28 parking spaces plus 2 for the apartment. So a total of 30 parking spaces would be required and we are proposing 39 parking spaces which allows for 35 parking spaces to be used by patrons.

Mr. Kennedy read from the Planning Board Engineers Letter which was marked B-2b which stated that the Institute of Transportation Engineer Parking Generation List does list two closely related uses similar to the health club. It was noted that that manual provides a wide range of data and the average parking demands for the uses are 5.19 and 3.55 spaces for every 1,000 square feet. Using these averages as a guideline for the proposed facility would need 30 to 44 spaces.

Mr. Leckstein objected to Mr. Kennedy's reading of this Planning Board Engineer Letter and the opinion of the language in this letter.

Mr. Rupnarain continued his testimony as follows:

11. He is familiar with the ITE parking guidelines which he further described to the board. They feel that this is an athletic club use because they have the ability to offer a team sport.

Mr. Leckstein objected to Mr. Rupnarain's testimony with regard to the ITE parking guidelines and definitions.

Mr. Kennedy stated that he will submit both of the definitions for an athletics club and an health and fitness from the ITE to the board and to Mr. Leckstein which may help the board at the next meeting.

Mr. Leckstein objected to Mr. Rupnarains testimony with regard and stated that we need some foundation to see if Mr. Rupnarains knows how the ITF studies are done.

Mr. Baxter explained that this could be handled through cross examination.

Mr. Kennedy stated that applicant waives any time restraints for the board.

Mr. Duncan offered a motion to carry this matter to the March 2, 2006 meeting, seconded by Mr. Francy and approved on the following roll call vote:

ROLL CALL:

AYES: Mr. Duncan, Mr. Braswell, Mr. Mintzer, Mr. Francy, Ms. Ryan,
Ms. Wicklund, Mr. Mullen
NAYES: None
ABSTAIN: None

Mr. Mullen advised the public that this matter will be carried to the March 2, 2006 meeting and that no further public notice will be given.

Approval of Minutes:

Ms. Wicklund offered a motion to approve the January 5, 2006 Zoning Board Meeting Minutes, seconded by Mr. Mintzer and all eligible members were in favor.

Communications:

Mr. Mullen reminded the Board that there are new education requirements for the board members and urged them to attend the courses.

Mr. Duncan offered a motion to adjourn the meeting, seconded by Ms. Ryan and all were in favor.

The meeting adjourned at 10:39 P.M.

CAROLYN CUMMINS, BOARD SECRETARY