

**SEEKONK ZONING BOARD
REGULAR MEETING**

MINUTES

August 7, 2017

Present: Ch. Roger Ross, Gary Sagar, Keith Rondeau, Shane Halajko, Robert Read

7:10pm

Ch. Ross: Good evening everyone. It is now 7:01 on August 7, 2017. The Seekonk Zoning Board of Appeals is now in session. Before we get started, I would ask everyone to rise please and join the board in the Pledge of Allegiance.

ALL SAY PLEDGE

Ch. Ross: Thank you. We have a number of matters down for public hearing this evening. For those who may not have appeared earlier, this is a continuation of the July 10, 2017 public hearing which was a continuation of the June 12, 2017 public hearing. This is the third public hearing on the pending matters. Since it is a continuation I do not feel like I'm going to have to read everything individually but I will state for the record that the matters this evening are 2017-27 and 2017-32. Those are six separate petitions that are filed. They are all filed by Jeffery M Banna, Norma F. Banna, Janice M Peixoto (214 Taunton Ave), Jeffery M Banna, Albert G. Banna, Norma F. Banna, Janice M Peixoto (224 Taunton Ave), 224 Taunton Avenue, owners and Cumberland Farms, Inc. attention Ms. Kathleen Sousa 165 Planters Road, Westboro, MA 01581. Petitioners by Farland Corp, 401 County Street, New Bedford, MA 02740. Seeking various zoning reliefs for a proposed Cumberland Farms facility at the addresses I mentioned. Those are the public hearings for this evening. After that we will have a regular session where we will consider new business for approval of minutes from June 12, 2017. Someone is here for the petitioners or owners I take it. Mr. Kehoe, good evening.

Michael Kehoe: Good evening.

Ch. Ross: There are a number of residents present. Before we get started, Mr. Kehoe, I reviewed, as we all did, your most recent filings which were amended plans that were filed in the past week to 10 days ago.

M. K: That is correct.

Ch. Ross: As I read them and want to assume nothing, the principal sign where you were looking for a variance from the Zoning By-laws which has a limitation of 15 feet, you were seeking 25 feet.

M. K: Right.

Ch. Ross: As I read your plans, you are now reflecting that you are looking for a 15 foot sign there. So according 2017-28 is no longer before us and you will be withdrawing that. Is that correct?

M. K: Yes. We will be withdrawing two of the previous submissions: 2017-28 was a request for variance from height because the sign now complies; and 2017-29 since the area of the sign is now under the maximum allowed in the Zoning By-laws.

Ch. Ross: So 2017-28 and 2017-29 for the particulars that Mr. Kehoe...I will treat that as a motion to withdraw without prejudice. Let me pole the members for our purposes.

G. S: So move that we allow them to withdraw from those petitions.

Ch. Ross: Do I have a second.

S. H (?) Second.

Ch. Ross: All those in favor signify by saying "aye"

Board: Aye

Ch. Ross: Opposed no, the ayes have it. So what we are hearing this evening are 2017-27 and 2017-30 through 32. Is that correct sir?

M. K: That is correct.

Ch. Ross: If I can make just a couple announcements. For anyone that was not here earlier, let me tell you how we proceed. Mr. Michael Kehoe is the attorney for Cumberland Farms. They are the petitioners. They will be proceeding. After they completed their evidence, I will poll the audience to see if anyone wishes to speak in favor or in opposition to this petition one at a time. If anyone wishes to speak, simply take the podium, you will be sworn in; you make a statements you choose. I would ask, as I said earlier, this is our third hearing, any statements that were made at the June meeting or the July meeting we already heard, we got it. We know what people said, we've taken notes. We will consider all that. If I could get some cooperation not to hear the same testimony over again, we understood it, we get it. If there is anything new that anyone wants to say, we will...I'm not going to cut anyone off and I will certainly give members of the audience some leeway but if we keep hearing the same testimony again...but I ask that you not get up and repeat everything you said at an earlier meeting. Having said that, at some point, the chair will entertain a motion to close the public hearing, at that point though we are required to we may take a vote tonight or we may put it off for a vote and a decision at a later time and a lot of that will be guided by what we hear tonight and whether we think we need additional information from anyone.

Having said that, if anyone is an aggrieved party as that term is defined in the Mass General Laws and wishes to file an appeal from whatever the decision of this board is, I simply caution you that there is strict time limitations and procedures on filing an appeal to the courts of the Mass General Law so I caution you to either be familiar with those provisions or to consult with counsel for guidance in that area. Finally, if anyone does have anything to say, please direct all comments, all questions to the chair. If it is a question that is best answered by one of the experts or someone other than a board member, we will direct the question accordingly and they will be answered I would fully expect. Mr. Kehoe, the floor is yours. Anything amends or supplements what you have said would be terrific. Let me just ask you, I know you were emailed a letter that we received from the building inspector today by our secretary under the date of August 3rd and this regards the service establishment in the rear of the proposed property. Have you received that?

M. K: Yes, I did receive that. It involves the outdoor seating which is shown, if you are looking at the picture there to the right, so based upon what I read it appears that is not an as-of-right and would require some zoning relief. Obviously we will have to take that off the plan for now. If we still want it, we will have to come back before the board.

Ch. Ross: I find myself, as the board, in a procedural conundrum now, because you never filed with the building inspector for a zoning determination in the first instance and you just came directly to the board as is your right. Now this letter which the board requested came to us today. You have not had the opportunity to file an appeal from this letter so without objection, if there is none, I will simply treat that as informative to the board and we will go forward unless you want to reserve the right to file an appeal from this letter.

M. K: At this point, I think it would be best if we are going forward, and I think we should, that we will treat that as opinion of the building inspector and take the outdoor seating off the plan for now and if we want to go forward with that we will come back before this board. Not as an appeal but for an amendment.

Ch. Ross: That is acceptable to the chair.

M. K: When we were last here, a request was made for the second time for information from the traffic engineer relative to the trip generation of the existing project versus the existing project without the gasoline and I believe it was delivered to the Town Hall by the traffic engineer was their update of that particular component of their traffic studies. It showed the trip generation that you already seen for the project as proposed, it shows the trip generation for the same size convenient store, it shows the trip generation for a lot without gasoline, a larger convenient store which would be an as-of-right, and other as-of-right uses. I have

with us this evening, the traffic engineer from the firm that created that additional supplemental materials.

Maureen Chlebek with McMahon Associates.

Ch. Ross: Would you raise your right hand please.

M. C: Sure.

Ch. Ross: Do you swear the testimony you are about to give will be the whole truth.

M. C: Yes I do. I would like to speak to the trip generation that we provided in that memo. What we did was compared the site as proposed in front of you with 3 different alternatives. The first one was that we were asked to look at the site without gas pumps. So we held the 5,275 sq ft for a convenience store and that was alternative 1 but realistically if that site was going to be developed just as a convenient store without gas pumps, it would be a larger convenient store. So we tried to ? An appropriate size convenient store utilizing that lot and we came up with an 11,000 sq. ft. convenience store and that is our 2nd alternative. Our 3rd alternative is a fast food restaurant like a coffee shop/donut shop without a drive through facility and we sized that about 7,300 sq. ft. So again, we went through the trip generations (inaudible) to the total trips and then we did (inaudible) because (inaudible) is a factor with a convenience market. So when we compared the numbers and the numbers are all spelled out in the memo but let me give you a ball park figures...if we looked at just the convenience market without the gas pumps, the traffic goes down by approximately 20%. When we look a larger size convenient store at 11,000 sq. ft. we see the trip generation increase by 60% compared to what is being proposed now. So when we looked at the fast food restaurant, the trip generation was more than twice the (inaudible) at this site. We went forward with those numbers, we (inaudible) conducted capacity analyses and we compared that to the original proposal. When you look at the charts, and we did this for the a.m. and p.m. on the weekday and Saturday midday, when you scan those charts you will see the level of services look the same. Level service A or C or an F. You will see the same pattern in each scenario. The problem locations are the northbound Pleasant Street approach which is operating at level service F during the peak hours and then vehicles exiting the site are operating on level service F. So what that means is that on average they going to have to (inaudible). What's more important than those letters is looking at volume and capacity ratio. If you look at Route 44 and look at all the driveways up and down that roadway essentially anybody looking to get onto (inaudible) from a side street (inaudible) and most of those are operating at a service F. This site was really no different than what you are seeing up and down Route 44. What we look at as traffic engineers is when the volume to capacity ratio exceeds 1.0 then we are getting to very congested problematic situations. And where we see that in these

comparisons when you get to the (inaudible). So I'm happy to answer any questions on or comparison or questions on a whole.

G. S: The 11,000 sq. ft., Alternative 2, is that an arbitrary number.

M. C: No, we worked with site engineers. They worked (inaudible)

G. S: So I have to first ask the question of the engineer before I can ask my second question.

Ch. Ross: You have already been sworn at a previous hearing.

G. S: On the zoning data table, you have 26.8% coverage. Does that include the gas pumps?

C. F: Total coverage of impervious coverage?

G. S: Yes, the building coverage, maximum lot coverage.

C. F: Yes.

G. S: So that includes the pumps.

C. F: That includes the pumps.

G. S: So if the pumps were gone, and the maximum we can go is 40, an 11,000 sq. ft. building would fit on that?

C. F: Yes certainly with just a convenience store we would be (inaudible) as much strict traffic circulation as we do with the...

G. S: But 11,000 sq. ft. store would fit there by right without a variance?

C. F: We actually did (inaudible) I wanted to make sure of that before I told the traffic engineer to do that.

G. S: So with the 40% maximum coverage by right you can put 11,000 sq. ft.

C. F: That is correct.

Ch. Ross: So you have 3.1 acres plus or minus, is that correct?

C. F: Yes.

Ch. Ross: Which would be 130,000 sq. ft, right? Round figures.

C. F: Yes.

G. S: Bearing in mind the wetlands and everything else there.

Ch. Ross: Understood.

G. S: Ok.

Ch. Ross: I have one question for the traffic engineer.

M. C: Sure.

Ch. Ross: Looking at the most recent revised traffic study and looking at all the original analysis on all the alternatives 1, 2 & 3, the only change that I note is the level of service on alternative 1 which is your proposed building without the pumps same size 50 ft. at 7,500 sq. ft.

M. C: Inaudible

Ch. Ross: Just bear with me, I had it. Actually it would be alternative 2. That would be your 11,000 sq. ft. without the pumps. That is the only real change that I note in the level of service.

M. C: (inaudible) the big take away is that there (inaudible

Ch. Ross: I'm only looking at table 4 I'm sorry. That's the only change in any of your analysis where the level of service goes from F to E, which is still (inaudible) is that correct.

M. C: I'm not following what you are saying, I'm sorry.

Ch. Ross: On table four, the original analysis and this is at Taunton Avenue driveway, you have level service of F.

M. C: Right.

Ch. Ross: And without the pumps it drops to an E.

M. C: Correct.

Ch. Ross: It's still a terrific lever of service but other than that everything is the same whether there is build or no build.

M. C: Well one of these is no build.

Ch. Ross: Said all of these are no build.

M. C: Right, the first one (inaudible)

Ch. Ross: Right so there is no significant change in the level service among any of these alternatives, is that correct? Is that a fair statement?

M. C: I wouldn't agree with that only because as I was saying the volume to capacity has to be ratio (inaudible) once you exceed (inaudible-Her voice is vibrating I cannot understand what she is saying)

Ch. Ross: Let me rephrase it and make sure I understand. So what you are saying even though within a level service F there are gradations of severity.

M. C: Right.

Ch. Ross: Ok so just using letters, one F is not comparable to another F because there could be gradations of severity within the use. Is that correct?

M. C: Correct. (INAUDIBLE)

Ch. Ross: Thank you. Does anyone else have any other questions?

G. S: Thank you for providing that.

Ch. Ross: Mr. Kehoe, can I ask you a question?

M. K: Certainly.

Ch. Ross: When I read it, I was a little taken back. We realized that you do what you call the alternative 1 analysis and I'm satisfied with it. What was your thinking in doing the alternatives of 2 and 3 since we didn't ask for it?

M. K: I understand that. The thinking was to look at other things that could be there because during the last meeting folks came up as abutters who wanted other businesses to be there. So we are showing that there as-of-right businesses that can be there. From a traffic standpoint would have at least as much traffic as we would generate with our proposed project. So we went beyond what was asked for because there were statements made that other businesses would be better at that location. So I'm saying it's not necessarily so.

Ch. Ross: Ok.

G. S: If I could, I think I've asked you this questions already, but if you don't get the gas it is reasonably assumed that you will not be building a convenience so.

M. K: Well it won't be Cumberland Farms. That's true. I think you asked that at the first meeting?

G. S: I wasn't sure make sure.

M. K: No that hasn't changed. It would not be a Cumberland Farms.

G. S: Ok.

M. K: That is not the business model that they have.

G. S: Ok, thank you.

Ch. Ross: Are you going to deal with this letter that was received by the board on July 24th from Web Engineering, where your engineer answered a couple of questions.

M. K: I certainly can.

Ch. Ross: It kind of speaks for itself and I'm happy with it but for the benefit of people in the audience.

M. K: Mr. Bill Baird that was here for that meeting, I think it was two meeting ago.

Ch. Ross: Correct.

M. K: In the audience here were some questions he wanted to address them. I think what he did was try to come up with a very concise and clear understanding of what it was that was a concern and then go forward on that basis. What he basically said was that we have a ? In place that would allow prompt action for any type of problem that may arise as a result of the fuel delivery system, storage system and pumping system. In specific what would happen if someone attempting to disconnect it. I think he addressed that very adequately. We also had, I'm not sure if I gave it to this board or not, but we had the material that is onsite and given to training for employees. If I didn't give it to you I would be more than happy to give it to you. It was relative to what happens when the alarm goes off, what happens if there is something that goes wrong, who do you contact. The very first thing they do is get in touch with the folks in dispatch who then bring out the professionals who do whatever they need to do. In Mr. Baird's experience in putting in the Cumberland Farms delivery systems and tanks, there have been no leakages of those tanks, no ruptures of the tanks, etc. I understand there was the issue with the canopy at the recently fire suppressant materials, we had previously given the particulars of the materials are to the Planning, Conservation, and this board. We think that is a significant issue that was adequately addressed with the materials and the response to the Cumberland Farms has. I will point out that in discussion too this came in at the last meeting as well as the previous meeting, the discussion was the hours of operation and as you know we applied for 24 hours of operation, 24/7. Cumberland Farms gave thought to this project and although that was the operational hours they wanted Cumberland Farms is willing to accept conditions on the hours of operation should you wish do deem a special permit and those conditions would be from 5 in the morning until midnight. We would cease operation after midnight. The lights go off and don't come on again until 5 in the morning.

Ch. Ross: Thank you. As I understand Mr. Baird's letter all the monitoring of the ? And the fueling is done by the third party.

M. K: That is correct. Also in the store. I have a brief memo that I would like to conclude with if I can hand this out. As the applicant we feel we provided scientific evidence that showed safety has been proposed, the distribution systems is more than adequate to protect the folks that live by and also the other businesses. Certainly state of the art in gasoline quality establishment will probably to do well (inaudible) standards of Cumberland Farms. I will also point out that we had traffic engineering to support the fact that this site will not create enough traffic to add with any significant manner to the traffic flow currently on 44 and Pleasant Street and certainly materials that you have that have been submitted by our traffic engineers do speak from themselves in that regard. As you can see from the design that in the cad drawings from the architectural

standpoint, the building has a degree of New England style to it. It certainly attractive style, very similar to the new bank as BayCoast building where it looks sort of similar to that regard architecturally continues that from other neighborhood buildings. As I mentioned at the outset our lighting all of the foot candles will stay on site. That was an important consideration certainly for Planning as it is with us. Those lights automatically dim when we cease operations. I would suggest we are mindful of the needs of the folks and neighbors around us. This site is going to developed by somebody and we feel we are going to do the best job of trying to develop it in a manner in which is esthetically pleasing and utilizing the site to its maximum capacity but utilizing it in a prudent fashion. For those reasons, I think we meet the requirements for special permit also, I suggest the signage package will now reduce the requirements dramatically from what we need for relief from zoning. We are left with the 2 canopy signs which the image here shows are fairly innocuous and if you are going along Taunton Avenue you might see the canopy before you see the pylon so you know it's Cumberland Farms. We are asking for illumination during the hours of operation which we are willing to accept less hours of operation. With that I conclude the presentation.

Ch. Ross: Ok thank you. Let me just ask...this memo you just submitted, do you want that marked as an exhibit as evidence.

M. K: Please.

Ch. Ross: And I noted Mr. Baird's supplemental letters are in here as well.

M. K: I have his letter and I also have the traffic study that is supplemental.

Ch. Ross: Thank you Mr. Kehoe. You have nothing further I take it?

M. K: No I have nothing further.

Ch. Ross: Is there anyone in the audience who wishes to speak in favor of this petition? Seeing none...

George Collias: I will speak in favor. Good evening.

Ch. Ross: Could you raise your right hand please? Do you swear and affirm that the testimony you are about to give is true.

G. C: Yes.

Ch. Ross: Would you state your name and affiliation if any for the record?

G. C: I am actually the agent for the seller. The real estate agent and broker for the seller. Also, a town resident and live on Warren Avenue. I haven't been to a meeting previously but hearing today and I just have a few comments in favor of it. Where I live there is a Cumberland's on the corner of Route 6 near Eat's, that's Warren Avenue there, and apparently right around when I moved in, it goes

back 7 or 8 years, they upgraded that Cumberland's. They acquired the property next to it which was a cape style house and I didn't know it when I bought it but they ended up, nobody wants the wrong kind of development and everyone likes the right feel. Cumberland's is a good neighbor. It wasn't overdone. They keep a clean store. That one is 24 hours and there's not a lot of noise. It's become like a hub. You always see the police cars around there, they stop there. I mean they are there every night I pull in. It is a very busy store. Again, I'm selling for the owners, I'm the agent for the Banna's. That was the Banna Farm right across from it. Cumberland's came through. I just have the local experience and I see them as a good local company, like a Benny's or Dunkin Donuts. I think they keep up with current trends and convenience stores. They are not a derelict operation. They clean the parking lot, they redo the store when it gets full of gum and gasoline, they come in and clean. That's all I really have. It's worked out well for me at the Cumberland's. I walk right over and it's nice to go into. They really changed their model there and they have all different products. As far as the gasoline, it's there and hasn't been a problem. We all drive and we all need gas and Cumberland's delivers a lot of gas. It's the benefit of living in a nice community. It's the benefit of living in a nice community. It is right on Route 44 but I now they've been all over parts of country where you drive a long way to get to a decent store. Around here we are lucky to have many of them and I think the people in the neighborhood, in the end, are going to see that this may well be...this is the first time I've seen the concept but they have a similar one on Route 44 in Rehoboth, I think it's a good opportunity for the town. Thank you.

Ch. Ross: Thanks Mr. Collias. Is there anyone else in the audience who wishes to speak in favor of this petition? See none. Hearing none. Is there anyone in the audience who wishes to speak in the opposition to the petition? Ma'am, in the white sweater/top. Would you raise your right hand please? Do you swear or affirm that the testimony you are about to give will be the truth.

P. B: Yes.

Ch. Ross: Would you state your name and address for the record please?

P. B: Sure. Pam Bochiecho, 7 Richard Banna Way. I've been here before. I know you know most of my concerns but I did want to raise a couple of issues and questions about the revised traffic report that we just heard about. (Inaudible) certainly you noticed the 20 plus car difference between a gas station and not a gas station. I don't know if enough attention was given to that. There was a mention of universal (inaudible). But a piece that was not mentioned was the fact that the fuel trucks are coming out onto Pleasant but we don't know, other than the appropriate site distance, whether that truck can physically make the turn without blocking Pleasant Street entirely. (inaudible) to take that turn onto Taunton Ave. So I imagine (inaudible) impact on the congestion on Pleasant, they are not keeping that (inaudible) because we also ask that deliveries happen during

business hours so there is going to be traffic during that time. And so I think I'm just curious how either the traffic median was addressed or whether (inaudible)

Ch. Ross: Mr. Kehoe, do you have anyone that can address that.

M. K: Certainly. Our traffic engineer, Maureen, will be happy to address that. We did have a plan showing the truck coming out onto Pleasant making a turn. So that was particularly studied.

Yeah so I know I wasn't at the (inaudible) but that was covered that they showed the truck coming out of Pleasant Street. So when we draw it up (inaudible)

Ch. Ross: I think her question was, as I understand it, it is the required radius to make the turn out of the driveway towards Taunton Avenue such that given the length of the vehicle that you will be blocking all of Pleasant Avenue as the truck waits to turn either right and left onto Taunton Avenue. Is that fair?

P. B: Yes.

Ch. Ross: Ok.

M. C: Yes, it will exit the site and it will take all of Pleasant (inaudible)

Ch. Ross: Ok so while the truck is there waiting to make a turn on Taunton Avenue in either direction...

M. C: It is not blocking, it's waiting, it's just while it's making the turn that it will take both sides of Pleasant to make the turn. It would be waiting on the site. (inaudible) for it to be able to turn out of the site via a left turn. It would then block...

Ch. Ross: While it's waiting to turn at the intersection.

Bob: No.

M. C: No I'm not saying that. It's just as it's making a turnout of the site onto Pleasant Street.

Ch. Ross: Ok it aligns on Pleasant Street.

C. F: Mr. Chairman, if I may, we did actually show this at the last Planning Board meeting. We showed the truck turn radius (background noise) that it would drive up and then what it is it stops at Taunton Ave. It doesn't, there's free flow through Pleasant Street so it doesn't block traffic.

P. B: (inaudible) at the last meeting.

Ch. Ross: I didn't get it either but there was a lot of testimony and I could have missed it.

P. B: I guess my other question to that point is that once it's actually waiting to turn onto Taunton Ave, I don't know if you ever sit behind school bus or use it when

there is traffic at that corner, once you get that level service F where the average car is waiting 50+ seconds a truck of that length is going to be waiting much longer than any of those times to actually be able to make that turn. So again, how is that not adding to the traffic flow on Pleasant Street or Taunton. I don't understand how that translates.

Ch. Ross: What you are suggesting is that the wait time is longer because it is a truck as opposed to another vehicle?

P. B: Correct. The length of the vehicle might need more time to be able to adequately make that turn (inaudible) based on the average car. So I guess I'm just wondering how much time does a tanker truck need and how much longer would that (inaudible).

G. S: What would preclude the truck from going the other way.

P. B: Going down Pleasant.

G. S: Enters on Pleasant and Exits on 44. Then you wouldn't have that problem.

P. B: I'm not sure that ? because it still would have to make a left hand turn...

G. S: So let's assume it's heading down on 44 and it's going to make a left on Pleasant and then a right and does what it has to do and then it exits out on 44.

Bob: I don't think it's intended to do that by the shape of the loading zone.

P. B: I guess that my understanding was that they had to load from a certain direction so they could go the other way but even with that and you are waiting behind a school bus trying to make that turn (inaudible) and that would back everything up on Taunton Ave all the way back to that light.

G. S: You want the deliveries to be during business hours?

P. B: Correct.

G. S: When we left last month at 11:00 I sat at the lights at 44 and there was a gasoline tanker fueling up at the Shell Station. They were closed, there was no one around and I said what a perfect time to do it.

P. B: Would you say the same thing if it was your house right next to it?

G. S: Yes I would.

P. B: Would you like to buy my house?

G. S: I live in the north end of town. Go up to the gas station on Baker's Corner's and they run out of gas all the time and when they bring in a tanker truck there in the middle of the day when everything else going on it's nothing but massive confusion. It's a public safety hazard too.

P. B: It's also a hazard to me living right to it. So I think there are other issues we addressed and raised at this meeting as well as others that it needs to happen during business hours because otherwise because again is disruptive to the neighborhood. I know I've expressed this before I would ask for that consideration. I guess the other key of this is the plan you looked at currently does not actually allow ??? protection for me as I live right next to it and also doesn't even look like the current recommendations from the Conservation Commissions. They've asked them to remove some parking, they've asked them to change some landscaping plan. So as you are potentially looking to approve this, my hope would be that you would take all of this into consideration as well. There has been a lot of talk about whether this is in the scope and uniformity. I know that we certainly argued that certainly in the letter we presented as an article last time. Look at the size of this. It's still larger than any other gas station in this neighborhood.

Ch. Ross: I think what you have to accept is the proposed size of the building. They are entitled to it as a matter of law. They don't have to be here at all.

P. B: I'm not talking about the size of the building. I'm talking about the number of pumps.

Ch. Ross: Ok.

P. B: Those other stations have 2-3 pumps and they're asking for 5. Certainly my preference is that there are none at all but I guess if the board is so inclined to approve that you asked for specific conditions that would make this more in uniformity with the rest of the gas stations. So limiting it to 2-3 pumps, limiting the hours. I believe the latest gas station is open until 10 or 11 and not midnight and they don't open at 5 a.m. The earliest I've noticed is the Dunkin Donuts at 5:30. But certainly try to be more in keeping in with what is happening on the street. Not opening until at least 5:30 in the morning and closing earlier and having all those lights off. Not having deliveries, gas or otherwise, at night. It is disruptive. I can tell you I hear Ann & Hope's delivery. I don't want to add to that volume at the early hours in the morning or overnight. You've already addressed the café piece which I hope it doesn't come back to this because that certainly creates a big impact to me should that be presented. The other piece that we haven't talked about is the construction impact and how that will impact the neighborhood so I hope that you also conditions related to that so that our neighborhood and the street of Pleasant aren't suddenly filled with construction vehicles and workers' cars further congesting our neighborhood as well as the blasting issues. I also wanted to touch base on the MEPA study and if there was any (inaudible) about that or just (inaudible)

Ch. Ross: That is way outside our jurisdiction.

G. S: I believe that is Conservation.

P. B: Ok. I will address that with them. That's all.

Ch. Ross: Mr. Kehoe, you have something to say?

M. K: Yes Mr. Chair. The Conservation Commission asked for us to do more plantings of trees and do different varieties which we are in the process of doing. It's not a zoning issue but we are in the process of doing that. Particularly in front of this young lady's home so we are going to do that. None of those issues really impact zoning in any way shape or form. The two parking spaces we can afford to lose because we have more than enough parking spaces required by zoning. Substantially more. We wouldn't have to come back before you for relief of parking.

G. S: That would be included in a site plan review.

Ch. Ross: Anyone else? Ma'am.

Wendy Curtis: Hi.

Ch. Ross: Have you testified before.

W. C: I have not.

Ch. Ross: Can you raise your right hand please?

W. C: Absolutely.

Ch. Ross: And do you swear or affirm that the testimony that you are about to give will be the truth.

W. C: I do.

Ch. Ross: And will you state your name and address.

W. C: My name is Wendy Curtis. I live at 10 Pleasant St. I just moved there not too long ago. I love Pleasant Street. We see deer; we watch turkeys walk across the street. It's really great but it's also a cut through street. There is a lot of traffic now and while everyone has a lot of professional stuff done and traffic stuff but they are not sitting on my front porch at night on a beautiful summer evening watching 15 million cars going buy because there is just more traffic. And this gentleman over here has referred to the fact that everyone needs gas and everyone needs to get to where they are going. Plus we have two gas stations right down the street ¼ of a mile down the road. Pleasant Street is pleasant and it's already difficult to get in and out of it. How long is it going to be before all of you folks are going to be here saying now we have to talk about the traffic lights that need to go in? What's the next step? I moved from RI because I loved Seekonk taxes and so is that going to jam us up down the road? I understand this is something that you want something you guys want to go over there, but is this really the best plan? It's a quality of life for all those people in that whole area. Everyone wants

to make a buck, I get it, but at the end of the day, really? It's already busy enough over there are plenty of other places to go. Thanks a lot for your time.

Ch. Ross: Ok. Mr. Kehoe can I ask you something please? This is kind of a baseline question, I guess. I'm sure that Cumberland Farms has their algorithms and they've done the plans and all that's proprietary, I understand, but I assume that they have some kind of notion of what they intend to pump here in terms of gallonage. I don't need that number; do you have any sense at all the frequency of deliveries?

M. K: Well obviously that does depend on the sales but usually it's 3 times a week. For some of the other stores they have, identical size with identical size tanks is about 3 times per week.

Ch. Ross: Ok. Thank you. Anyone else? Sir against the wall. You have already testified haven't you?

P. R: Yes sir. Paul Rufful, 148 Pleasant St

Ch. Ross: You're still under oath.

P. R: Unfortunately, I was a few moments late this evening. I know there was a revised traffic study. But the notes I took last week or last month rather, non-peak was only about 26 more cars, I think, and peak was 30 something more. How do they intend to support that level of business on that amount of increase of traffic? Has anyone considered the actual impact to our existing residents that have been here forever and where is that extra volume going to come from? What's that going to do? I understand again, that Cumby's is a good neighbor, I'm not saying they're not, but we are comparing it to the Cumby's on Route 6, that has a football field worth of room in front of it and the next nearest property is not where mine is at 140 feet from the corner of where they intend to put gas tanks. As far as what you were saying about the deliveries of gas with the truck, if I remember right, the original proposal is that they have to exit onto Pleasant Street because that's where the tanks are located. They are all within 140 feet of our property. Is that correct?

M. K: If I may? You are right. The gasoline tanks are over on that side.

P. R: They are on the back corner against whatever amount to ledge they decide to remove, right?

M. K: They're in the corner; at the request of Conservation we moved the tanks and the dumpster. Okay? So moved everything to the west as far as we could to pull everything out of the buffer zone. Okay? So the tanks or the tankers always on the right. So if you are thinking about it and they're coming in this way,

P. R: Right the trucks will be facing

M. K: right there is the tanks, right over here.

P. R: Right so they'll be facing Evelyn Way and filling out of the right side

M. K: No, they'll be facing, parallel to the building, okay? So they'll be facing Pleasant St.

P. R: Right

M. K: The tankers will be facing Pleasant St.

P. R: So their only natural exit is Pleasant Street. It's not a possibility to make a u-turn around the island.

M. K: It would be a tough situation since they would have to back up.

P. R: Right, it's not a feasible u-turn on property, he's going to have exit on Pleasant Street.

Ch. Ross: That's correct

M. K: That was the design flow in this that is correct.

P. R: So knowing where the stone wall is outside the antique shop, if anyone is familiar with the area, I don't know how far off the existing width of Pleasant Street they intend to make the edge of the Cumberland Farms' lot but there is no physical way you can't turn around a Winnebago there, alone an 18 wheeler. And as far as the hours go, there is no other business open until midnight, so testified already from someone else, but the other stations all close at 11:00 pm and volume is way done on that street, as you know because we left the meeting last month at 11pm. Volume on Taunton Avenue, is very low at that hour. So I mean, if they did want to deliver at that hour, that's ok. I'm not at all in favor of afterhours deliveries in any way because that just increases after hour activity. That's basically all I have to ask

Ch. Ross: You know, I'm not, Ok.

P. R: I'd like to see a truck do it before they complete the whole thing.

Ch. Ross: Well, you know we don't testify, we take,

P. R: I understand

Ch. Ross: we take the evidence; we have testimony that they've done their calculations,

P. R: Right and they have rights just as much as we do

Ch. Ross: And they can do it.

P. R: I fully understand Mr. Ross

Ch. Ross: And I'm not sure I understood your traffic question. I don't know if the traffic engineer can answer it about

P. R: Well, they've got to intend to support enough volume of traffic, to support this business, so with the original study from last month, the increase from flow, so signals will be required by the state, the only increase in flow is about 20 cars non peak, 20 something, and 30 something peak. Could you support that station on 50 mores cars a day? Per hour.

Ch. Ross: That's a business decision, that's not in front of us

P. R: I'm just saying, that's hard for me to believe as a resident, who's lived there for 49 years,

Ch. Ross: You, know, I

P. R: That's all I have (inaudible)

Ch. Ross: I mean it, I don't want to,

P. R: I don't want to testify either?

Ch. Ross: I don't want to put on my (inaudible) hat, go ahead, you can answer that.

M. C: No, I just want to remind you that part of the traffic coming to and from the site is pass by traffic, and that's traffic that's already on the roadway. So we were quoting new numbers, and new trips coming to the site, which sound low to you. There are trips that are on 44 already, that are coming into the site and continuing, you know to their destination they were originally going to,

P. R: Okay, Thank you,

Ch. Ross: Anyone else? I see a hand, on my left. Have you testified in this hearing before ma'am?

A No, I have not

Ch. Ross: Would you raise your right hand, and do you swear or affirm that the testimony you are about give will be the truth?

I do,

Ch. Ross: And would you state your name and address please,

L. W: Linda Wattman, 411 Arcade, I'm right on the corner of Arcade and Valley, I had really a question for the board. If this proposal goes through, minus the 24 hour, minus the outdoor seating, minus the gas station and all these things you're taking off the table at this point just to put a convenience store in, what has the board seen in the past of things like this, just getting their foot in the door, and then increasing back up to the original level?

Ch. Ross: Well, if they take off the board everything that you've identified, they're not here at all, they can do it as a matter of right.

L. W: Ok

Ch. Ross: They can just put it up without ever appearing before the zoning board, if they want to do any of those things then they have to come and get the appropriate relief.

L. W: Alright. My one concern, actually I have two. When they did Banna Estates initially, the vehicles that were doing the construction were supposed to go in and out of Pleasant St only, to do that. They were coming up Valley St, which is my corner, over the culvert with that little perennial stream that runs into the Runnins River, cracked the road in half, like all the way across it like you wouldn't believe, when I called the DPW to say these huge trucks filled with rocks are going up over that culvert, they denied it and did come out and watch and sure enough, they were, because that is the easier way in, you go Valley to Dean to Bass to Kristen to Evelyn, right in, that's what they were doing because it was a straighter shot than dealing with 44. So I would ask that at least that much of it be monitored this time around because, it's just a big metal soup can that is going underneath Valley St and it goes under my property as well, it goes 50' into my property, so I don't want to see that collapsing,

Ch. Ross: Yeah

G. S: I will tell you, I believe on the agenda for Wednesday nights selectmen's meeting is going to be a discussion on the traffic and everything, with the Banna Estates, so it might be an opportunity for you to be heard

L. W: On Wednesday?

G. S: On Wednesday night, I believe yes.

L. W: I can't make it Wednesday night. And the other concern I have is you have business or established similar businesses, you have three gas station, not two, within in the same block, basically. You've got a convenience store, what impact would it have on these long standing mom and pop type operations that have been there for 50-60 years

Ch. Ross: Its competition. I don't know what to tell you, I mean,

UNKNOWN: It usually helps

Ch. Ross: I don't know if it's going to help, I'm not confident to say whether it s going to help or have a negative impact but the fact of the matter is, I mean, it's the system we live under. You know it's not a zoning issue, about what the economic impact to other businesses will be. I don't know

L. W: I just, I don't see it being a feasible addition to that area, and it's quiet. I've been there 31 years. And believe me I've seen huge changes in the traffic on Arcade alone. I mean you used to be able to basically play in that street, now you can't even get in or out of it. I've used Valley St not Arcade as my driveway now. I've seen change radically. I don't see this being a positive force for quite a few numbers of reasons. That's all I really had to say.

Ch. Ross: Okay

B. G: Was that 410, what's her address? 410?

L. W: Hmm?

B. G: Your address?

L. W: 411 Arcade

B. G: 411, thank you

Ch. Ross: Ma'am, yes please step forward.

Gail Henry: I respectfully request that I may be seated instead of standing for my testimony?

Ch. Ross: Sure, someone will bring you a chair,

B. G: Just bring the microphone down

Ch. Ross: Just pull the mic down, if you would, and you haven't testified before at this hearing, have you?

G. H: I have not, no.

Ch. Ross: Get yourself comfortable first,

G. H: This isn't ideal, I'm sorry

Ch. Ross: And raise your right hand please, and do you swear or affirm that the testimony you are about to give will be the truth?

G. H: Yes

Ch. Ross: Will you state your name and address for the record, please?

G. H: Gail Henry, 202 Pleasant St. Seekonk

Ch. Ross: Yes Ma'am go right ahead

G. H: My name is Gail Henry I live at 202 Pleasant St, I've lived there for 31 years, I am an abutter within 300' of the proposed project. Where I live I have, I face the rear of former Johnson & Wales, currently Ramada Inn, and my backyard abuts Sundae's Ice Cream and a bit of Continental Auto, so I have 31 years of experience of being a resident in a surrounded pretty much by businesses. I have

come before the zoning board many times with other neighbors, in the past, not with this current board. You know addressing issues, of residences abutting business and with respect for noise, hours of, you know hours of operation, trash, lighting and all those things, and we have worked very hard in our neighborhood to work with the individual proprietors to come to agreements on things, so I will just, if I may, tell you a few of my concerns with this project, based on my experience with other businesses in that area in that area. My first one is with the former Johnson and Wales which is now Ramada Inn, they are, they have been a 24/7 operation because they were a hotel, and a restaurant and a banquet facility, so they would get deliveries all hours of the day and night, seven days a week they would dump their trash, because they were having parties and so forth, dump their trash at 11 o'clock at night, 2am in the morning. You know when ever the employees have time to clean up, after, there's really no closing. Trucks are making early morning deliveries, blowing their horns to get the attention of people to you know, unload or open the doors. Dumpsters that are, dumping dumpsters as early as 4am because dumpsters companies have schedules and they just schedule businesses and go around in order. When you have a problem like that and you speak with the dispatcher, and they say "well that's our, that's how we do business, we can't go out of our way and come back, you know after you're up at 7am or 8am, we have to do business the way we want." And when these businesses have these license to operate then they are free to do that, there are really no ordinances against doing that, the size of the trucks, you know Johnson & Wales and Ramada Inn, get very large, 18 wheeler truck delivers, in a very tight area, and they do end up blocking parts of Pleasant St. to drop off their merchandise, their items. I and my neighbors, we've installed evergreen screening around our property to the best degree possible to try and mitigate light and noise and trash, but it's an ongoing issue that we all have to work at. And what I will say is that even when we come to agreements about no deliveries before 8am or no horn blowing, or putting signs to tell people to be quiet, or to respect the neighborhood, there's really no monitoring of that, by the zoning board, or the building inspector or anything it's just on an as needed basis, we can complain and then maybe, someone will come out and be interested or take a look at it, but there is no ongoing monitoring of businesses I don't think that's within the realm of the building inspector, or your board. So it leaves the residents at a disadvantage because once the business is there, you're stuck with it. Also with Sundaes, I've worked very closely with the owner of Sundaes and the management regarding the outdoor picnic tables that are in the back and the sides and patrons eating in their cars. There's no way for employees who work inside the building can be or want to be responsible for the activities of the people that are eating outside, or hanging around, or loitering or having fun or meeting other people. So that is a concern, and I know that maybe, I hope that has been taken off the table but in the event that it is not, I do want to say that, who's going to be responsible for people that are outside on the grounds of the business, who are not

acting properly, whether they are screaming, making noise, dumping trash, those types of things, there is no supervision or monitoring of that. As far Dunkin Donuts I just want to make the point, there is a restricted left hand turn out of Dunkin Donuts, correct? Because the traffic is already so crazy in that area, so if I go to Dunkin Donuts I have to come out go and take a right on to Taunton, then make a U-turn somehow or I turn around and I come back to my house, that's how crazy the traffic already is in that area, so if Dunkin Donuts is restricted and certainly those are usually cars, pickup trucks, personal vehicles, I don't understand why we wouldn't be restricting you know, large 18 wheeler trucks, dumpster trucks and that type of things

G. S: Miss, if I could interrupt you,

G. H: Yes

G. S: When that was permitted, the Dunkin Donuts, there's no left turn out of there because of the topography.

G. H: Ok, you mean going up to the street

G. S: Correct

G. H: You don't have a good view.

G. S: Correct

Ch. Ross: It's not the traffic it's the grade,

G. S: It's the grade

G. H: Well, if you try to make a left hand turn, which I admit, I have, it's hard to see to get out.

G. S: Yes, and that's why it's no left turn.

G. H: Okay, I don't know about the topography here, if it's going to be flat, and level with Rt. 44, or if there's going to be a depression, that would certainly be something in terms of visibility, to address. But thank you for that, I wasn't sure that was the only reason. I also and opposed to any variances with regards to exceeding the height of signs or the size of signs, I know that other businesses in the area have all had to comply with that, you know, no flashing lights, you know and I don't understand, I don't think that Cumberland Farms should be granted any variances, they should be treated like all the other businesses that are already there have been. I have a concern about the placement of dumpsters, what time they would be dumped at. Usually, as I said, there, it's very early in the morning, and it's, I don't know how much business they will have, if it's going to be a daily event, or every other day, but it's certainly a very noisy and messy action and the trash tends to fall out of the dumpster, if it's windy or whatever, and it blows into the neighborhood. So that has been a problem, I don't have a problem right now

with any of my neighbors doing that, but again, it's been a lot of hard work on their part as well as ours to make sure that it doesn't continue happening. I just, in closing I would just like to say that in 2005 I had to pay \$30,000 for a septic system to be engineered in such a way to protect a very tiny corner of my property that has "wetlands" or near wetlands, so I am very much opposed to, and that was only for 1,000 gallons septic system to be in the ground so I'm very opposed to putting in gasoline in the ground near wetlands. Where that is an optional thing that when for homeowners, that's something we have to have is a septic system, we don't have to have gas and underground tanks. In closing I would just urge you to reject this project

Ch. Ross: Thank you ma'am

G. H: Thank you

Ch. Ross: does anyone else in the audience wish to speak? Ma'am in the last row in the back please. You've testified here before haven't you? I thought...

H. H: Heather Hunt, 13 Evelyn Way,

Ch. Ross: You're still under oath, ma'am

H. H: um I just a question, if this project goes through where the construction trucks would be parking and would they be allowed to be driving through the neighborhood? Because now, are they going to park on Evelyn?

Ch. Ross: Mr. Kehoe? Did you hear the question?

M. K: I heard the question, I'm not sure I can answer it, but I can tell you this much, I don't know where there will be parking, but there is plenty of room to park while they're doing the site work, the problem is going to be obvious, they have to get there somehow, and I would imagine they are going to get there on Taunton Avenue. That's what I imagine, I don't even know who the contractors going to be, let alone where they are planning on parking their vehicles, but most of the construction I've seen most of the vehicles are parked on site, at least for part of it, and when they do the paving, obviously that's a different story, that's just the paving,

Ch. Ross: And that is coordinated with the police department in any event

M. K: There will be police details if they have to have them and what not.

H. H: Someone I know worked on the Swansea site and he was not allowed to park on site, and they had to park at the church across the street, so I'm just saying there is no big parking lots other than our street right behind there. Where they would probably be parking. Another question I had was I think it was the outdoor eating, if we were still talking about that, I forgot the other question.

Ch. Ross: Thank you. Anyone else? Show of hands? Anyone else wish to speak? Yes, sir?

Mind if I just address the board one more time. Honestly, there was a 40B put in next to my house on a field, and I wasn't, I'm in real estate and I didn't know anything about it. I didn't realize it actually enhanced the value of my property after, and I didn't want the field to be, to have 5 to 8 units on it, but in the end it turned out, the truth, that development made my property worth more, again its right across from Cumberland's

Ch. Ross: If anyone doesn't know what he's talking about a 40B is affordable housing

G. C: They put in some housing on a field, but they put in and it ended up truing around and making the whole area more valuable, it just happens sometimes like that, in real estate.

Ch. Ross: Is there anyone else who wishes to speak in either favor of or in opposition to this petition? Yes, sir? Have you testified at this hearing before?

I haven't

Ch. Ross: I didn't think so. Raise your right hand please, do you swear or affirm that the testimony you are about to give will be truth?

I do

Ch. Ross: And state your name and address for the record please.

S. A. Shawn Arruda 9 Richard Banna Way, so I just had a few things to add, I think that the erosion control plan show a construction entrance coming in off Rt. 44 so by right that's how the construction vehicles should be entering the site. But just to add, as a neighbor behind this facility I think a couple of things if this moves forward a few things that I would like to be considered to be a full cut off shields even though the lighting plan says zero, basically zero lighting going off site, generally with some of these lightings even though they're directed downwards sometimes you can add these full cut off shields along with the residential side, as the site borders the residential district just to prevent glare. And then the other thing is and I know, probably a lot is coming at coming out tonight, Conservation Commission probably has their own preference in terms of landscaping, one of the things I would like to be considered is a continuous screen along the backside a lot of is for visual but also to really prevent blowing trash from coming into the neighborhood. So that's it

Ch. Ross: That's it?

S. A: Yeah, that's all I had.

Ch. Ross: Ok, thank you, one last time anyone wish to speak in favor of, or in opposition to this petition? Mr. Kehoe, any further comments?

M. K: No

Ch. Ross: You're good? Okay, do I have a motion?

G. S: Question, I have. I believe the planning board has approved this plan?

M. K: Mr. Chair yes, the planning board approved the site plan review. We have yet to go before your board and conservation.

G. S: Where are you with conservation, if I may ask?

M. K: Conservation, I think it's going to be for, I forgot the date now, the 14th. Their concern there was, like as this gentlemen talked about, they wanted to see a revised vegetation extending further to the east in the rear as it abuts or is close to Evelyn Way, and they wanted us to do a little different than the straight line that we had proposed for the cypress, they wanted to see different types of vegetations, staggered but it would create a barrier but they wanted it staggered so when it was fully developed it would look more like a natural woods, than a artificial barrier. So that was one of the issues, and the other they were looking at was a storm water detention so see what we can do relative to that, I think there's not much we can do regarding that it's about where it has to be, but we are certainly of in the process of working on that vegetated plan.

G. S: Do you have, will you have to do a MEPA review?

M. K: No, we won't actually, we've already went before the state and they've decided that this is not something that they'll require a MEPA review for.

G. S: Ok

Ch. Ross: If they signed off, it's good for us. Now vegetation that you were speaking about in front of the conservation commission, just so I'm clear, this is not parallel to, or running generally along the your rear property line?

M. K: Yes. If I may Mr. Chairman visually show, this shows what we already agreed to do, what they wanted us to do was to continue this right up to, basically here. Ok, right up to the edge of the building, outdoor area, excuse me. The outdoor area, which is now gone

Ch. Ross: Right

M. K: They wanted us to eliminate these two parking spaces, but to just bring it to there. And then to vary the vegetation so it didn't look,

G. S: So it's staggered

M. K: Yeah, but different kinds. They gave us examples of the vegetation that they want some trees that actually have trunks you can see, versus which is cypress which is vegetated right to the ground. So,

C. F: Mr. Chair, if I could just add one more thing

Ch. Ross: Yes, sir

C. F: Conservation was also waiting for the peer review consultant, I don't have the official letter that they agreed with all the plans and, they did receive that

Ch. Ross: They have received it,

C. F: Peer review has totally signed off.

Ch> Ross: ok, good. Alright, do any members of the board have further questions; you can ask them after we close the public hearing in any event. Do I have a motion?

G. S: I move we close the public hearing.

Ch. Ross: Do I have a second?

K. R: I'll second?

Ch. Ross: is there any discussion on the motion to close the public hearing? Hearing none, all those in favor of closing the public hearing, signify by saying aye, aye, opposed no

ALL: Aye

Ch. Ross: Opposed no, ayes have it 5-0.

G. S: Mr. Chairman, are we going to take this, can we do the gas then do the signs?

Ch. Ross: Before we do that, yeah, you want to do the special permit first.

G. S: If I may be heard,

Ch. Ross: Yeah, go ahead

G. S: I can say I spent a lot of time going through these plans, looking at everything, and I'm happy that they provided us with that revised traffic plan. I hope everybody recognizes they see a house there, the old Banna homestead, that can no longer be occupied, that has to be raised or renovated into a commercial, no residential use can take place on that, that whole area was re-zoned in 1964 I believe it was ,for local business. So if you look at the revised traffic plan that was given to us, if you want to look at it from the minimum amount of traffic that is generated there, assuming as the attorney said earlier that if they don't get their gas, they won't be building a Cumberland Farms there. By them applying to us and needing a special permit, it gives us a lot of leverage and a lot of control of the site, if this plan was abandoned and somebody came forward, and that's why I asked the question earlier and wanted to build an 11,000 sq ft. structure there wouldn't need to be a traffic study, it would be a by right use, and it think the traffic and everything else would be much worse. I think based on the traffic study that the highest and best use, if in fact as the attorney did say, that it would only be built if there is a gas station there, and the highest and best use is what

they've requested the special permit for. So along those lines, I would like to make a motion, to grant the special permit with conditions that I've, like to read into the record, if there is a second to my motion, Mr. Chairman.

Ch. Ross: Ok, go right ahead

G. S: is there a second? I make a motion to approve the special permit with conditions

Ch. Ross: Yeah, I think we need to hear them first. No? Is there a second for Gary's motion?

K. R: For purposes of discussion?

Ch. Ross: Yeah, for purposes of discussion,

K. R: I'll second it

G. S: Okay, that the special permit would restrict the hours of operation from 5am to 11pm seven (7) days a week. We reduce the number of gasoline island from 5 to 3, reducing the gas pumps from 10 to 6, elimination of the 2 island and the reductions of the four gas pumps shall be in accordance with the approval of the planning board and the site plan review. This will enhance vehicle traffic movement. There was discussion at other meetings about the leak detection,

Ch. Ross: Of what, please?

G. S: The leak detection in the tanks and everything so, 24 hour leak detection monitoring by an offsite central station shall be provided, which I believe they do now. But included in this condition is the installation of emergency electric power which shall be available to maintain monitoring in the event of a power failure, gasoline delivery vehicles shall not use Pleasant St beyond the curb cut for this petition, screening must be provided in accordance with 8.4.1 of our bylaws, but we amend it from 6' high to 12' high and strict conformance to section 8.5 lighting of the zoning by laws.

Ch. Ross: What was your number 4 again, Gary? After the electrical back up? Oh, you have it in writing; I didn't have that in front of me.

G. S: I would also make a note, Mr. Chairman; a majority of all the gasoline stations are in a local business district. I do think that the 5 islands, or the 10 pumps is excessive and that's why I have suggested they cut it back to three.

Ch. Ross: This has been seconded for discussion, comments, observations on Gary's motion?

K. R: Well some of my concerns are first of all deliveries, not just gasoline, but other deliveries by restricting the amount of time that they can make the deliveries. I saw same thing that Gary saw when I left the last meeting. JP Noonan at the corner of Shell, and for anyone here that doesn't know I probably live as close to or closer to most of the gas stations on that corner than all of you, I live off of

Arcade on one of the side streets. We have yet to have, or I have yet to have a problem where the delivery of gasoline at night, when it's 9-10-11 at night, that's not the issue. The issue we usually generally have is other traffic on those sites, and controlling the traffic on those sites. And I think that by restricting the hours of operation from 5am to 11pm is certainly something to look forward to, I think there should be a further restriction on delivery and time of deliveries, the hours of operation are just the hours of operation for the store, and of the pumps, if you look at it strictly, but deliveries, not you're talking tractor trailers of Coke or Pepsi, Lay's potato chips, bread vendors, all those types of vendors that go into the convenience store markets, everything that goes into the convenience store has to be delivered by somebody. Generally it is, is not by a 40' straight truck anymore it's usually by tractor trailers, and they usually drop off a pallet or two. So my suggestion would be to maybe to restrict the hours of operation of the store and the pumps from 5am to 11pm, but restrict the hours of delivery maybe from 7am to 10pm. I think that would be a good compromise for the neighbors. As far as reducing the number of pumps and island I totally agree. I think it was excessive, what they asked for, they one of the things that has been hammered home is that, right down on the corner of Arcade are several gas stations, and those gas stations all have less than the 10 pumps and 5 islands. And in keeping with the neighborhood, which is what has been tried to be hammered home, this would be in keeping with the neighborhood, because those gas stations do exist a quarter mile down the road, and I think that less pumps and islands is a very good, very good way to go. As far as Gary's question on leak detection, looking at this from the tanks the redundancy of the backup, the redundancy of the containment that they have Cumberland Farms has done an outstanding job, but I also agree with Gary there should be something for emergency power back up. It was just last night that we had 1500 homes, I think it was and the north part of town that was out of power, so if that ever happens here at Cumberland Farms, even with the state of the art redundancy and state of the art leak detection, I think it would be worth our while to make sure that there is emergency power back up at all times for the alarm systems. I agree on the screening, as far as the dumpsters go, I think we need to make sure that there's a stipulation that expressly stated that dumpster pick up will also be during the hours of deliveries of 7am to 10pm

G. S: So that would be deliveries and pickups.

K. R: Deliveries and pickups, because the neighbor that talked about dumpsters coming at 2-3 they come they don't come at 4 o'clock in the morning they come at 1, 2, 3 o'clock in the morning we don't want to be disturbing the neighbors at that time of the night. So 7am to 10pm I think would be a good restriction on dumpster pickups and dumpster delivery, because sometimes they are swapping out. So if, outdoor seating is off the table so to speak, so there's no concerns about that at this time, so if Gary would be willing I would like to make the amendment to

Gary's restrictions to the hours of operation of 5am to 11pm but hours of deliveries and pickup from 7am to 10pm.

- G. S: I will concede to that, (inaudible)
- Ch. Ross: Ok, so we have an amended motion to approve and we'll go over it more in detail, does anyone else wish to speak on either the motion or amended motion? Bob?
- R. R: I would agree with Gary's stipulations basically. I just want to throw this out for food for thought. If you restricted, if you decreased the number of allowable pumps, could that possibly cause more of a traffic jam? Would that be an unintended consequence, maybe the traffic engineer?
- G. S: The only thing I'll say is; I haven't gone by a Cumberland Farms yet that has 5 islands. There all twos and threes. So it works within their business model. All the ones I've seen
- R. R: I can't place a newly constructed Cumberland Farms right now in my mind; I don't know we have to deal with what's in front of us. And there is a pending motion, as amended. Shane, have anything to say?
- S. H: I do have something to say, but it does not have anything to do with what Gary has on the table, right now.
- Ch. Ross: Speak
- S. H: Oh, okay. I have some concerns with the whole project, you know when the neighbors when they bought into Banna Estates, they signed into the point where they had the right to peace and harmony, and I have not seen or heard from a neighbor that has supported this project yet. I like the Cumberland Farms that are being built, I think they are amazing, I just don't think this is the right place, I think the traffic is going to be a nightmare, dangerous, I think we're going to have a lot of loitering going on past Pleasant St right over here on Evelyn so you've got a very quiet area, so if you want to grab yourself a bite to eat and you just want to hang out, and eat your food and what not, nobody is really going to bother you there, I think there is going to be a lot of cut throughs, and again I'm just going by what I hear from both parties, and the fact that I don't see one neighbor supporting this project. Thank you,
- Ch. Ross: Okay, thanks Shane. I have a few comments, and there more general. I think it's important for the record and it's important for everyone who's here and everyone who has attended in the past. We take our job pretty seriously here, we listen to the evidence, we weigh the evidence we make our best judgment based on the evidence, including testimony from petitioners, objectors, anyone who speaks in favor, and you know we don't make decisions by the seat of our pants. We try to apply the law as well as best we can. So consequently I just want to address some of the comments that were made and I certainly don't mean it in a critical way,

but simply to say, I've considered this, and even though I don't speak for my colleagues I'm sure they have as well. There's been and this was alluded to by Gary, but there have been a couple of comments that in the past, not this evening, but at previous hearings, that in order to approve this project that would require that at least a portion of the property be rezoned, that is just not the case. The property is properly zoned, for local business there was a home, which is still sitting there after a significant fire, it's been uninhabitable based on the rezoning, in the 60's you said Gary, I wasn't aware of the date

G. S: '64

Ch. Ross: That was a legal non conforming use, that residence; it has been sitting there vacant certainly more than 2 years. It's lost its status as legal non conforming, so you couldn't build another house there unless you came in front of this board for relief to do that. So the property is properly zoned for the use. This has been said more than once but I want to say it gain, with the exception of the dispensing of fuel, the Cumberland Farms, as a Cumberland Farms without fuel pumps is authorized as a matter of right. If they, if the petitioner did not want to put fuel tanks in, and I know they do. They wouldn't be in front of this board, they could just do it, and they could do the building at a size much larger than what they are proposing. More than one witness has mentioned and this is a minor thing, but I want to make sure that everyone understands that we're not overlooking evidence or the by-laws. There have been a couple of residents who've testified that this type of facility is not permitted within 200' of a residence where a child lives. That's not what the by-law says. You have to read these things in context, that's footnote 7, and I want to read it, to me it's important it's not the type of thing we overlook. On the use table, for auto service stations or fueling stations that dispense there is a footnote that says "provided that any building or facility within a service station site shall be at least 50' from a residential district boundary, which this one is, and be at least 200' from any entrance or exit to or from a school, playground, a public library, a church, a hospital, or a children's home". Now children's home in that context does not mean your typical residence in Banna Estates that has a child. It's an institutional facility when they say a children's home in the context of the use table. So that's what we're talking about. Couple of witnesses talked about traffic, but outside of the traffic issue, that the traffic engineer and through their various iterations of the traffic study people were concerned about elevations and grades and what permits were required. Rt. 44 is a US highway, administered by the Commonwealth, all of that is done through the Mass DOT and either Mr. Kehoe or one of his clients or someone else representing Cumberland Farms if this is approved are going to get all the permits that they need from the department of transportation including curb cuts if there are any. That's outside of our jurisdiction. A number of people spoke about when they purchased a home in Banna Estates they were given a copy of restricted covenants that they have to abide by, and a couple of people were looking for the

town to enforce those. I assume those are perfectly valid I haven't seen them, but two things about those; one those are private covenants among, at this point all the private land owners, home owners, they are enforceable by one against any of the others, but that is not a town function those are private restrictive covenants. And in all events, the site in issue is not subject to the covenants because it is not within the subdivision this is on Taunton Avenue, even though once upon a time it was all under common ownership. So those, points were all considered there were a number of comments made by residents which did strike home, at least for me. And that was one of the one about lighting, the one about screening of the residential property at the rear property line at the proposed Cumberland Farms site. I was going to raise those, they were all addressed in Gary's motion, so basically, I just want to reinforce that we take this very seriously, and however this goes, it goes, but we've considered the evidence, we've listened to it, we didn't give anybody short shrift, and given the nature of the proposal and the motion that has been made with the conditions that are attached under Keith's amendment, that's the pending motion now currently in front of the board, the motion as amended I am going to vote in support of this proposal, as amended, and I just thought it was important to get my thoughts on the record. Having said that, any further discussion on the motion to approve with conditions, as amended?

R. R: Could we hear all the amendments again?

Ch. Ross: Absolutely, the current motion that is up for a vote, is to vote and this is on, and make sure I get the number right

G. S: First one 2017-27

Ch. Ross: First one on case number 2017-27 the special permit for the underground storage tanks and the dispensing of fuel, gasoline fuel. Vote to approve, with the following conditions and or restrictions; hours of operation for the convenience store and the pumping of fuel, 5am -11pm seven days per week. Condition number 2, reduce the number of gasoline islands form 5 to 3 reducing the number of gas pumps from 10 to 6 and it says the reduction of the four total gas pumps will be in accordance with the approval of the planning board under site plan review. This will enhance vehicular traffic movement. 3, 24 hour leak detection monitoring by an offsite central station, shall be provided, we have testimony that it's already done by a third party, but included in this condition is the installation of an emergency electric power which shall be available to monitor, monitoring in the event of a power failure. 4; gasoline delivery vehicles shall not use Pleasant Street beyond the curb cut for this petition and that I means, I assume exiting the site onto Taunton Avenue, 5th; the screening generally speaking along the rear site property line between the site and the Banna Estates shall be provided with accordance with section 8.4.1 (1) of the zoning by-laws amending 6' high to a total of 12' in height. 6; which they have to do anyway, but it would be a

condition, strict conformity of section 8.5 of the zoning by-law which is entitled “lighting”, and the amendment will be. 7; all truck deliveries to the site shall be between the hours of 7am and 10pm as opposed to the hours of operation for the facility generally and that would include any movement into the site, for loading and emptying or otherwise dealing with dumpsters that are on site that will also be 7am to 10pm. Do I have that right?

G. S: Yes

Ch. Ross: So, there is a pending motion no further discussion, all those in favor of the motion to approve as amended? Signify by saying aye, aye

R. R: Aye

K. R: Aye

G. S: Aye

Ch. Ross: Those opposed no,

S. H: No

Ch. Ross: Ayes have it 4 to nothing,

G. S: Four to one

Ch. Ross: Four to one, I’m sorry. Four to one, the motion as amended is approved by the board. Mr. Kehoe, members of the audience, that’s where we are, we’re set for the evening

G. S: Signs

B. G: Signs

K. R: Signs

Ch. Ross: Oh yes, I’m sorry. On the special use permit, I’m sorry. 2017-28 & 2017-29 have been withdrawn. 2017-30 that’s a request for a variance under section 8.8.3.3 paragraph (d), for additional identification sign on the western side that is right side, actually as you are looking at the property that would be the left side, correct? The west side

G. S: The Pleasant St. Side

Ch. Ross: Pleasant St side for a proposed canopy structure on plat 20 lot 596, on that matter do I have a motion?

G. S: Can I just hear a little more explanation of why they think they need it?

Ch. Ross: Mr. Kehoe?

M. K: Certainly, canopy signage on the west and on the east, because there is a parallel request for one on the east is essentially for identification as the cars are driving to the east or west along Taunton Avenue, as you can see from the pictorial here. It's going to be just like that, under the, as you're driving in a westerly or easterly direction, you'll see the Cumberland Farms on the canopy, perhaps before you see any other sign.

Ch. Ross: And there's a similar sign on the opposite side of that canopy?

M. K: Again, it will go on the opposite side, the one we were just discussing would be on the opposite side.

Ch. Ross: That's right

R. R: The pylon does that, doesn't it?

Ch. Ross: That's been withdrawn, because they're in compliance

G. S: But there is a pylon sign on 44.

Ch. Ross: Yes, but the request for a variance has been withdrawn because they are in compliance with the by-law.

R. R: You mean for height?

Ch. Ross: For height.

R. R: My point is you have the pylon sign facing east and west, why do you need other signs facing east and west?

M. K: If I may, I agree with you that the pylon sign is not just the height; we also reduced the size,

Ch. Ross: The size, the area

M. K: So it would be a significantly smaller pylon sign than what was initially proposed that's why the thought would be to have it on the canopy as well.

G. S: But your canopies, if I'm looking at this distance wise, set back beyond the intersection, if you will, of Pleasant and, you're really not going to see it. Coming up 44

M. K: Well, you may be right, but that was the thought process

Ch. Ross: Okay. And the

G. S: I think you've got more of a chance seeing it from the other direction, see what I'm saying, Bob?

Ch. Ross: 13.0

G. S: You're driving up here, and its set way back off here, you've already got the pylon on the front, right?

R. R: Right. That's what my point is, why you need those signs.

Ch. Ross: Just so I don't have to flip through all these plans, do you Mr. Kehoe or any of your witnesses know off the top of your head the height of the canopy? It's in here somewhere, I just...

R. R: It may be uh...

B. G: There's some sort of dimension

R. R: 172. A, by two and a quarter. The height maybe prescribed by law, I don't know. (Inaudible) All fail safe stuff here

Ch. Ross: It's on page 12 apparently.

C. F: 20'

Ch. Ross: 20'?

G. S: If I could ask the question Mr. Chairman, we look at the at canopy, could I ask you the distance it is from the travel portion of Rt. 44, heading east to the canopy, the scale is 1" equals 20", so it's about 80-100'

C. F: Off of...

G. S: The travel portion

C. F: The travel going west?

G. S: Travel going east

C. F: Going east, probably about uh...60' or so

G. S: 60'

Ch. Ross: That sign itself, is 18' according to the plans. That Cumberland Farms sign that they are requesting is, that's 18'

C. F: Which one?

G. S: On the canopy?

C. F: Its 18' from the bottom to the,

Ch. Ross: Exactly

C. F: (inaudible) the intent too was visibility, obviously with the sign being lower now, that you'd be able to see this from further out,

Ch. Ross: Further down

C. F: To capture it.

G. S: Mr. Chairman, I question the need, so I would move to deny it,

Ch. Ross: I don't have a problem with it, the pylon sign has been reduced in area, as well as height, and I can understand why they are looking for some type of identification, visibility, for traffic heading east or west on Rt. 44, and it's

G. S: I can support the other one,

Ch. Ross: I mean, if the canopy is there, and it's a relatively small sign, I don't have a, I personally don't have a problem with it,

G. S: I can support the other one, because I think it has, it can be seen coming west, but this being 60-70' off the road, that building on the corner is going to block it.

Ch. Ross: What building on the corner?

G. S: On the other side of Pleasant

Ch. Ross: On the other side of Pleasant. I've already spoken on it. So on 2017-30,

G. S: Are we going to take testimony from the neighbors? Or are we going to

Ch. Ross: We closed the public hearing,

G. S: For all of them?

Ch. Ross: Yeah, we heard them consolidated them and we're voting individually, that's been the case from the beginning.

G. S: Okay

Ch. Ross: 2017-30 there's a motion, and this is heading easterly, correct?

G. S: Heading easterly, correct

Ch. Ross: On the Westside on Pleasant St side, there's a motion to deny.

G. S: I don't know if anyone has seconded it?

Ch. Ross: I'm sorry, no is there a second?

S. H: I'll second,

Ch. Ross: Is there any discussion on the motion? Well I've already said my piece

K. R: Well, if you look at it, now with the stipulation that we are going to close it in, if you will. The size of that canopy it's going to reduce it quite a bit, because of the fact that the number of pumps are not going to be there.

G. S: True

K. R: It may be that if you start taking away from the left hand side, heading easterly in direction, they may need that sign.

R. R: We're doing number 30 now, correct?

G. S: Correct

R. R: That's coming from the west, this is sign on the western side

G. S: Closest to Pleasant St.

Ch. Ross: It says right side, but it's left side as you face the proposed building.

G. S: So, what's your process, Keith, in my motion to reduce the pumps from 5 to 3, I left it at the discretion of the planning board, which one comes out, but I would think it would be the 2 ends one, that would make the most sense.

K. R: Probably, yeah

G. S: So...

K. R: When they do that, it's going to shrink it,

G. S: So, Mr. Chairman, if I may, I'll withdraw mine, my motion

Ch. Ross: Okay. So we'll we have a second, so we have to vote on it,

G. S: He'd have to withdraw his second

S. H: I withdraw my second.

Ch. Ross: So you withdraw the second, okay. So now were back on 2017-30, this is for a variance for the sign, on the western side of the building, that's heading towards Taunton, do I have a motion?

G. S: On the westerly side?

R. R: On the westerly side of the building

Ch. Ross: Westerly side heading east

G. S: Yup, okay. I move to approve it,

Ch. Ross: Do I have a second?

R. R: Second

Ch. Ross: Any discussion on the motion? Hearing none, all those in favor of granting the variance on case number 2017-30, for the canopy side on the western side signify by saying aye, aye

G. S: Aye

K. R: Aye

R. R: Aye

Ch. Ross: Opposed no, speak for the record, please

S. H: No

Ch. Ross: The ayes have it 4-1. The variance is granted on 2017-31 it is motion for a variance for the same canopy but on the other side, that's on the easterly side heading towards Providence, do I have a motion?

G. S: I move that we approve that,

Ch. Ross: Do I have a second?

R. R: Second

Ch. Ross: Was there any discussion on the motion. Hearing none, all those in favor of granting the variance for the canopy sign on the eastern side as proposed, signify by saying aye, aye

G. S: Aye

K. R: Aye

R. R: Aye

Ch. Ross: Opposed

S. H: No

Ch. Ross: Ayes have it 4-1, variance is granted. On 2017-32, seeking a variance under 8.8.7.1 (c) of the zoning bylaw, to allow for illumination of the signs during hours of operation, as previously contained in our conditions? Do I have a motion?

K. R: I would make a motion that the illumination of signs, well if we could discuss it first,

Ch. Ross: It's open for discussion

K. R: I think 5am to, I think 5am is too early, is my thought, because we said the hours of operations of the facility would be 5 to 11, but deliveries and pickups will be 7-10pm. I could see the pylon sign, being lit at 5am; it's going to be the most unobtrusive, believe it or not, to the whole neighborhood, because it's going to be like any other pylon sign that's on that route, and it's going to be hidden by the building, etcetera. The question is the other signs, the other signs could be an issue, with the neighbors, so I'm thinking the other signs come on at a later time. Just throwing that out for discussion.

Ch. Ross: Which of the illumination are we talking about Keith?

K. R: The sign on the building itself are going to be illuminated, correct?

G. S: On the canopy

Ch. Ross: On the canopy, not the building itself.

K. R: The canopies, they're not illuminated, are they?

C. F: They are lit up

K. R: What's that?

C. F: They are lit up

K. R: So they're the internal illumination,

Ch. Ross: And the only signs

G. S: So they need a variance for 2 hours basically, they are allowed to do it until 11 o'clock at night,

Ch. Ross: Right.

K. R; I think the other gas stations down the road; put their lights on at 6am?

Ch. Ross: I'm loathed to approve the petition for the business at 5, but deny them the right to light their sign, that doesn't make any sense to me

S. H: I agree

K. R: I'm just asking the question

Ch. Ross: Yeah

R. R: Where are we addressing flashing signs?

Ch. Ross: That's in the by-law, and they can't do that and Mr. Kehoe last session testified that there be no digital signs,

M. K: The signboard came off from the previous proposal

Ch. Ross: Right

M. K: We took that off, so we don't have that anymore

Ch. Ross: Understood

G. S: I think your point is a reasonable one, Mr. Chairman, if we allow them to open at 5 they should be able to turn their sign on. So I move to approve the variance for 2017-32, from 5am

Ch. Ross: 5am. During business hours. Do I have second?

R. R: Second

Ch. Ross: Any further discussion? All those in favor of granting the variance in case number 2017-32, to allow illumination of signs during hours of operations, business hours signify by saying aye, aye

G. S: Aye

K. R: Aye

R. R: Aye

Ch. Ross: Opposed no,

S. H: No

Ch. Ross: Keith, how did you vote?

K. R: Aye

Ch. Ross: Ayes have it 4-1, the variance is granted. Are we done now?

G. S: I think so

Ch. Ross: Thank you gentlemen, members of the audience thank you for your attendance, your input. Ok. Do I have a motion? Public Hearing is closed. New business, approval of the minutes. We have approval of the June 12 minutes; do I have a motion to approve as submitted, changes or revisions? Do I have a motion to approve as submitted?

G. S: So moved,

CH. Ross: Second

S. H: Second

CH. Ross: Signify by saying aye, aye

G. S: Aye

K. R: Aye

R. R: Aye

S. H: Aye

Ch. Ross: Opposed no, ayes have it. Do I have a motion to adjourn?

S. H: Make a motion to adjourn,

Ch. Ross: Second?

K. R: Second

Ch. Ross: Any discussion on the motion? All those in favor signify by saying aye, aye

G. S; Aye
K. R: Aye,
R. R: Aye
S. H: Aye
K. R: One question, our next meeting?
B. G: September 11
Ch. Ross: The what?
B. G: The next meeting is September 11,
K. R: So that is definite?
B. G: Yes
Ch. Ross: Okay, we are done.

Adjourned 8:59pm