BOROUGH HALL, 201 EAST MAIN STREET

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Incorporated December 30, 1887

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BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

The Manasquan Planning Board held a Regular meeting on Tuesday, April 5, 2011 in the Borough Hall, 201 East Main Street, Manasquan, New Jersey.

Chairman John Burke called the meeting to order stating that this is an Open Public Meeting published and posted according to law. He then asked everyone present to please stand to salute the Flag and remain standing afterwards.

John Burke said last week or a week and a half-ago this Board lost its Vice-Chairman and a good friend of his and he would like a moment of silence please. After a moment of silence John said we lost Tom Carroll who was on this Board for over ten years and he asked if any of the Board Members had anything to say.
Joan Harriman said Tom was a hard worker and he took his time on the Board very seriously and he was here 99.9% of the time so she said we are going to miss him.
Owen McCarthy said the Monday before Tom unfortunately passed away, going over the sub-committee report he was looking forward to this evenings meeting. It makes us appreciate how precious life is and on that note we should move forward.
Mary Salerno said she had something she wrote "working on the Planning Board with Tom Carroll was a pleasure. He was always a gentleman and he looked the part. Sharon Bogie always said Tom always looked ready for a game of golf. He truly listened to the applicants and he was always fair in his observations and votes. He was a very kind man. As we could all tell from his speaking of his beautiful wife Diane that she was his one true love and the fact that they were married for 50 plus years says a lot for both of them. How blessed to have people like that, exemplary role models for our youth of today. Tom was always on a mission, he came to all the meetings carrying his large cup of soda, sometimes two. He was a no-nonsense kind of guy, get the meeting going and keep it going. Give everyone their fair share of time to be heard and then vote truly being unbiased. A friend of mine who is very close to my heart once gave me a plaque that says "some people come into your life and gently go, others come in and stay for awhile and leave footprints on your heart and you are never the same". I can honestly say Tom left footprints on my heart. It was great knowing you Tom; working with you and I hope the Planning continues to make you proud."
John Muly said he enjoyed working with Tom over all these years. He got on the Planning Board just before he did and he was a hard worker, he was really in love with Manasquan and he always strove to make it a better place to live. He was also a golfer and I used to play with him a couple of times a week, even though he had trouble keeping score sometimes they still got along all right, he is going to miss him.
John Burke said Tom's brother is a Monsignor and he also mentioned a couple of times that Tom had a little bit of trouble keeping score on the golf course.

John Muly said he just wanted to add he never asked Tom what he got on a hole if he was keeping score he asked him what he wanted. That worked out pretty well.
John Burke said thank you Board members.

<u>ROLL CALL</u>:
<u>Board Members Present</u>:
John Muly, Patrick J. Callahan, Joan Harriman, Councilman Owen McCarthy, John Burke, Michael Sinneck, Leonard Sullivan, Jay Price, Richard Read.
<u>Professionals Present</u>:
Geoffrey S. Cramer – Planning Board Attorney
Albert D. Yodakis – T & M Associates, Planning Board Engineer/Planner
<u>Board Members Absent</u>:
Mayor George Dempsey was present in the audience for the beginning of the meeting.
James Coakley, and David Armstrong

<u>APPLICATION #04-2011</u> – Virginia Crossing, LLC – 86-106 Virginia Avenue – Block: 67 – Lot: 61.01 – Zone: Office – John Burke said let the record show that Owen has to step down because he is a member of the Council as this is a Use Variance. Mr. Henderson said before he starts he would just like to echo the sentiments from the Board about Tom Carroll. He really was one of the fairest people he has ever seen. He said he didn't always agree with him and we used to butt heads occasionally but he knew he had the best interest of Manasquan at heart and he will miss him being on this side of the podium. John Burke said before you start does anybody else in the audience have anything to say about Tom Carroll to please come forward.
Mr. Henderson introduced himself as the attorney representing the owner/applicant and he gave his background. Mr. Cramer found the file to be in good order and accepted jurisdiction of the application. Mr. Henderson gave a little bit of background on the project which was approved back on December 7, 2004. It was approved by a Resolution dated that date; it was for an age-restricted project in the Office Zone which is a permitted conditional use. At that time the applicant provided testimony that they met basically all of the conditions and the project was approved. It's now spring of 2011 and not a single one of the units in that project has closed, you will hear some testimony about that tonight. One of the units is under contract, the second building has not been completed, the landscaping has not been completed, and some of the amenities still need to be taken care of and the project of course anybody who reads the newspaper and listens to the news knows that real estate in general is in trouble, it's a troubled marketplace. This kind of project you will hear testimony tonight is probably in deeper trouble than most other sorts. So the purpose of this application is to request the Board to consider dropping all or at least some of the age restrictions on the project. We feel we need that to go forward both from a financing point of view and also from the ability to sell the units. The market has spoken over the last many years, we are where we are, so having said all that he has two witnesses he would like to call, Jane Ruocco and Cheryl Bergailo, perhaps they could both be sworn at the same time. Mr. Cramer proceeded to swear in Jane Ruocco – Real Estate Agent who is representing the project and Cheryl Bergailo – Planner. Jane Ruocco was the first to come forward claiming she is a real estate agent for Diane Turton Realtors. She has

been an agent for about seven years. She has been the listing agent for the project since the beginning. She has had quite a number of people go through the project and is still having difficulty attracting buyers. One unit is under contract but none have closed. The rear building has a foundation in but nothing else is. Certain site amenities such as landscaping, etc. have not been completed. Mr. Henderson asked her if she has been able to identify who the potential buyers for these units are. She said over the past three years they have had a mix of different people come through, a lot of people are not 55, they are in their late 40's early 50's and some of them are looking at this as second homes as opposed to primary residences because they are small. She gets people from North Jersey, Manhattan, Hoboken and they find this Community very attractive and some of them are very surprised because they don't read the sign, it is an adult community. So, there is a mix of people over 55 and under 55. People who are under 55 seem more motivated to make a move there but they can't, because they are not 55 years old. The people over 55 look at it and they look at as one community amongst many, many others that they are looking at to see which one works best for them. Keith asked her if by other communities she is talking about other age restricted communities and she said yes. There are a large number of those around. Some of them have full amenities such as pools, club houses. She thinks what people look for in an adult community is a core center, they want a club house, they want activities, they want a center and they want to get to know all the other people in them and unlike other developments, the bigger these developments are the more attractive they become. She also sees that when they talk about new adult community developments verses established adult community developments they lean more towards the established ones because their community centers have more going on. Keith asked her if over the past four years there has been price reductions across the board in real estate and residential real estate. She answered yes. Keith asked if this kind of community has been impacted to a greater or lesser extent. She said it's been impacted badly, not lesser. In some instances greater because there are so many adult communities to choose from, whether they are re-sale or new communities. Nobody expected the market to take a dive the way it took a dive. Right before I came I took a look at what is on the market in Monmouth and Ocean County and we have over 2200 adult community residences for sale at an average price of about $175,000. The price on these units went originally from $600,000 to $800,000. The developer had a mortgage on this property said Keith Henderson and the mortgage company had a release price per unit on it. She said she is sure it did. She said right now the lowest price point is $445,000 and the highest price point is $595,000. Keith said and still no activity. She said they do get people through that there are many reasons in general why people are not buying but when there is a new development and people don't see movement there and they don't see construction, any development people have a resistance to it. The back building is not built, and some of the units in the front are not complete. Keith asked if she discussed with the developer the possibility of constructing that rear building and she said yes. Keith said if the developer is able to get some relief from the age restrictions will it's lender fund him? She answered yes. Keith said he had no further questions of this witness. John Burke said you say the housing market is down everyplace and he has heard as much as 15%, 25, 30% down. Is it as down in this town as it is in other areas of the State or the Country? The real estate agent said yes, actually Manasquan has felt it a little harder than some other communities in the State or Monmouth or Ocean County. Michael Sinneck said he walked the property the other day and it looks like one of

these is occupied, is that a rental? She answered yes; Keith said that's the purchaser who is renting until their building can be built out. Joan asked if they are over 55 and the answer was yes. Joan asked how much the units that Morris built over here were. The agent said she believes they went in the $500,000, the ones that are sold. Keith said those are bigger units, they have elevators and we can argue about the location but they have full basements also. He doesn't believe those are all sold, he thinks some of them are rented. The agent said they are not all sold, there are about a half a dozen that aren't sold, at least that's how they come up on the MLS. Keith said some of those are marked for foreclosure are they not? She said yes. Keith said so it's not just our project that's got a problem. Next Mr. Henderson called Cheryl Bergailo. She gave her credentials which were accepted by the Board. Keith asked her if she assessed the relief which might be required to be granted in connection with this project. She answered yes. Keith asked her to describe to the Board what that relief is. She said Senior citizen housing is a permitted Conditional Use in the Office Zone in which this property is situated. In order to make our testimony as conservative as possible we are requesting relief of a D-1 Use Variance which is a straight Use Variance although we could argue that we could have to get relief from the Conditional Use requirements because we don't meet the condition of age restricted housing. Her testimony is more conservative and she is going to testify as to a straight Use Variance using the Medici criteria. We are seeking relief from the age restriction on however many the Board is willing to grant. There are ten units currently there are six one-bedroom units approved and four two-bedroom units approved. No Bulk Variances are required, the site plan was already approved and the site doesn't need modification to conform with RSIS as non age restricted development. The site is over 34000 square-feet in area, it's our case that the site cannot be reasonably developed for the permitted uses in the district, including age restricted housing. In other words there is a Hardship in this particular case. This isn't a case of making the most profit it's a case of minimizing undo financial hardship and avoiding foreclosure and getting the project completed. The second building is not yet up, the first building is constructed but she thinks that as the units are purchased tenant/owner fit outs will occur in the front. But the back four units are not constructed; the foundation is the only thing that is constructed. The oversupply of age restricted housing in the State has been recognized by the New Jersey Legislature in legislation adopted in July of 2009 which is known as the Conversion Law. This was enacted to facilitate the conversion of age restricted units which are typically designed with fewer bedrooms; they are typically designed with one and two bedrooms. The legislature found that because the oversupply of age restricted housing was so large that it would be suitable for most of those units to be converted for smaller sized households. We don't meet the criteria to comply with that Legislation because we have a tenant in the building, but the intent of the legislature was to recognize the oversupply of age restricted units and to provide developers with relief from that oversupply, if they met certain criteria and if the Towns approved it, although the State could overturn a Town's denial. So, in other words age restricted housing has become in a way an outdated use. Also the hardship is related to the fact that we have a building on the lot and there is a tenant who is going to buy a unit so it's not possible for us to convert that to an office building, so we have a hardship due to the circumstance of the existing person on the site and the building that's already up and the foundation that's up in the back. Keith asked Cheryl if an office use is permitted in the zone and she answered yes. Keith said in fact in the original resolution didn't they discuss the size office building

that could be approved and the number of parking spots. Cheryl said the resolution indicates that the project engineer testified that an 11,900-square foot office could be built, that would include 61 parking spaces. So that's a pretty large office building with a lot of vehicle trips coming in and out of that site. Also, she thinks four single-family units could be placed on as of right; they would have to access Route 71 which is not ideal. But, four units could be built without a variance if this project wasn't already in the works. In addition to the hardship this project promotes the public welfare because it's actually particularly suited to this site. It's particularly suited because the building is already up and the site doesn't need any modifications to comply with the residential site improvement standards. And, somebody's living there already. The proposed use will not cause a substantial detriment to the public good. Although it's not possible to predict who will buy the units and what the household sizes would be, we don't anticipate that younger residents would create any more noise, light or glare or vibration than the older counterparts would. RSIS doesn't differentiate between age restricted and non age restricted in terms of the number of parking spaces required. Which indicates that household size is more related to the number of bedrooms than age, because RSIS requires the number of parking spaces is based on the bedrooms. This really isn't a housing type that larger families would be attracted to, from testimony from the realtor that the units are small and that they lack storage. There is a huge variety of age restricted units in the Monmouth County area that age restricted families have to choose from. In any event if families did locate in those units, the number of public school age children would likely be less than if four single-family units were located on this property. Because those four single-family units would have no bedrooms and the standard multiplier that you apply to them would be greater than the multiplier you apply to smaller bedroom units. Keith said by multiplier you mean? Cheryl said the Center for Urban Policy research at Rutgers University publishes household multipliers and school age children multipliers that Planners can use to assess impacts of development and those multipliers are standard, they are used throughout the State. When she went through the multipliers and applied them to this project and compared them to a single-family development and with the types of families that would be attracted to these units, because they are so small it's her testimony that single-family units on this land would attract more public school children than the units as currently configured as primarily one bedroom units and four two bedroom units in the back. The overall population of the Borough has decreased between 2010 and 2000 by 6 ½%, the population was 6309 and it's dropped to 5897 and the density also decreased. Public school enrollment has also been decreasing at Manasquan Elementary School it was 687 as of January 2011 whereas it was 709 in June of 2010. Therefore this project does not anticipate it to strain Municipal services or systems and in fact higher priced units will generate more property tax revenue for both the Municipality and the School District. Per the residential site improvement standards the same number of parking spaces are required for age restricted and non age restricted. RSIS also estimates trips that would be generated by the development. The tables they use in their book are mainly supposed to be used when planning larger developments and roadways and they are taken from the 2003 ITE Manual which is a national average and sometimes it was taken in Florida, so the trips in the RSIS are not specific to this time or this particular location, so the trips estimated in RSIS are an average of 3.5 daily for senior units verses 5.9 average daily for non age restricted. So that's just a difference of 2.4 trips per day, so that basically means one in

and one out. Again, she thinks at this location that people are going to be walking a lot regardless of what their age is. Downtown is less than ¼ mile away and with gas prices and summertime traffic people are going to be doing a lot of walking. But in any event the RSIS averages think that there is a difference of 2.4 trips per day, age restricted verses non age restricted. In her opinion 2.4 trips per day is not a substantial detriment to the public good, she thinks the roadway can handle it. She said there is no reason to expect that younger residents would generate more trips than older residents. John Burke asked if we could pause for about two minutes as John Muly stepped out of the room. John returned and Cheryl continued stating we went over the testimony that was in the Resolution about what could be built as of right if it was an office building, which is permitted by Zoning. That an 11,900-square foot office, with 61 parking spaces could be built. So that's 61 in and 61 out at least Monday through Friday, and depending on the use and Banks are also permitted in this Zone, some Banks are open 7 days a week. The benefits to completing the units and having them fully occupied with a healthy market value substantially outweigh any impact created from the age conversion. Primarily given the small size of the units and their bedroom configuration. The application advances three purposes of planning per the MLU law, criteria A) to encourage Municipal action to guide the appropriate use or development of our lands in this State in a manner which would promote the public health, safety, morals and general welfare. Criteria G) to provide sufficient space and appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space both public and private according to their respective environmental requirements in order to meet the needs of all New Jersey citizens. Criteria M) to encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development into the more efficient use of land. The site would advance another proper purpose of zoning in that it would help to conserve and enhance property values in the neighborhood. The grant of the Use Variance is not inconsistent with the intent and purpose of the Master Plan and Zoning Ordinance. The project is consistent with the 1992 Master Plan objective of encouraging and providing the opportunity for better quality of new resort oriented and year round residential development. The Master Plan objective of preventing the intrusion or expansion of incompatible uses in residential areas. It supports the Master Plan goal for mixed use downtown by providing more units within walking distance of the downtown. These units are also more valuable than what can be built over a downtown shop in the B-1 Zone. The Zoning Ordinance permits Senior Housing in this Zone as well as single-family residential use. Because Towns can't zone for maximum bedroom numbers, you can't only permit one and two bedroom units or studios, because you can't zone for quality of development. It's understandable that regular multi-family housing isn't permitted in the Office Zone because there is a lack of predictability as to what the outcome of that will be. She understands that Towns want to prevent too many residents in too many bedrooms with too many impacts on municipal services. But in this case only one and two bedrooms are approved on the site which would generate small household sizes and it's not likely that any public school children will be generated at all, and the project will still provide a positive tax revenue benefit for the Town and School Board. Therefore her opinion the grant of the Variance is reconciled with its omission from the Zoning Ordinance and as she said before the benefit to completing the project and having it fully occupied healthy

housing values substantially outweighs any impact created by potentially more trips or more people within and the project although it's difficult to say who will buy units there. Mr. Henderson asked her if she also had an opportunity to review Al's report on the project. She said yes. She said the only thing that needs a response is with regard to the provision of amenities for non age-restricted households and she thinks there is a theory of if you build it they will come. If you build a play structure the people who come to visit the project to see if they want to buy may be more inclined to buy there if they have children because there is a play structure. So the intent is to keep it for adults, just not older adults, all adults and keep the amenity package as it is, and families who desire additional amenities will go to a different product type. Keith said there are two other comments, 5 and 6. Whether there is adequate storage for trash and recyclables that was addressed in the original application and the Board approved it. Do you see any change by the release of some or all of these units from the age restriction? Cheryl said no, it's difficult to know whether the new residents will generate more trash than older people. She doesn't think the numbers of people living in this project will be significantly greater than the number would be in an age restricted community and she thinks there is adequate storage for trash cans in the garages as was previously approved. Keith asked if the number of people/occupants doesn't change significantly that would also address item #6, is that correct? Cheryl said yes. Cheryl said there is no need for additional water or sewer. Keith said he had no further questions. John Burke said referring back to Al's report, section #3 he doesn't agree with you on the trips, you're saying 2 ½ he's saying 3 ½. Cheryl said she testified Senior Housing is 3 ½ and non age-restricted was 3.9, the difference is 2.4. John asked Al. Al said generally accurate but you are speaking per dwelling unit, that is not per day so in essence you are talking 24 more trips per day. John Burke asked Mr. Henderson to refresh the Board's memory, what did the original application approve as far as trash pickup and so on. Keith said there is a whole section in the Resolution dealing with that, as a matter of fact if you look at section 21-page 9, the applicant had stipulated that a 4-foot 5-square foot area in front of each unit would be identified as a location to pick-up the bulk garbage and cans and refuse and in addition to that in previous testimony the architect testified in section 17 on page 8 that a garbage can or two would be housed in each of the units garages and be made available for pick up in front of that location. Then he gave his professional opinion that there was adequate storage for garbage and recyclables and the Board accepted that. John Burke said the Board accepted that on the age restriction basis and is it your Planners testimony that she doesn't think that there would be any more garbage if there was younger people in there with possibly one or two children, especially in the two bedroom units. Keith said he thinks what she was saying is that she doesn't think that this project because of the lack of amenities for children and the small size of the units, we are talking 1600 to 1800-square feet units, so that is extremely small and she is saying I think that she doesn't think those will be occupied by children so you are really not going to have additional occupancy. Additionally as you know with age restricted units the grandparents want to have kids down for the summer or the weekends or whatever, they are going to have them anyway; there is no law against that. So, he doesn't think there is any basis that he could understand for assuming that these would generate more people and if you don't generate more people you shouldn't be generating more trash. Al Yodakis said if he could just clarify his comments regarding the amenities and dumpsters. Typically with non age-restricted Condo Townhouse type units that is what you see. You

have a specified playground area; you usually have a specified dumpster area. In this case, the original Resolution was very strict on buffer areas to the adjacent neighborhoods. He doesn't know that playground amenities and a dumpster would really fit here and that was kind of taken into consideration with the original approval. He doesn't know that lifting the age restriction what impacts that could have further down the line of returning to the Board and asking for those types of things. He doesn't know that there would be room for those items on this site if things were to expand. Also, as far as the trash goes he is not crazy about everyone having a separate trash can and he doesn't know how that will ultimately work if having a line of trash cans on trash day out in front along Virginia Avenue. John Burke said you are talking one or two trash cans per unit and Al said for 10 units and Keith said but that's what the Board approved. John Burke said yeah I know. He understands that is what was approved before Mr. Henderson. Joan Harriman said two points, one she is concerned about if you have children in there and you have bicycles and toys and we all know that children dump their bicycles in the rack, and toys are not put where they should be put. That is a very narrow area in between those two buildings, you start getting bicycles strewn around there and she just doesn't know how it would work. That's point number one. The second point she has is and she doesn't know if he is the person she should be asking but did they try to rent these units? Cheryl said I am not the person. The real estate agent came to the microphone and she said the units are not complete so they can't be rented. There is a model that's complete and one other unit that's complete that they people who are waiting for their unit to be completed are renting. Each one of those is not complete. Joan asked how far from completion are the front ones? The agent said they are in various stages, most of them are just framed and a couple are sheet rocked, so you have a few months depending on which unit it is to complete them. Joan asked if the lender would lend them enough money to finish the front ones to be rented. The agent said that she cannot answer that would be the builder. Joan said because there is a market for those if they were rentals. Mr. Henderson said he's not sure that's what the Town wants. Joan said even senior citizens that are in Florida that want to be up here part of the year and down there part of the year. The agent said but in order for them to be rentals, they would need a substantial rental fee per month, there are a lot of rentals on the market right now. So, there is a lot of competition in pricing in order for that to work that rental would have to be a high rental and that she thinks would be prohibitive in this market with everything else out there to choose from. It doesn't make sense so she doesn't know how rentable they are. Keith said he thinks the bigger problem Joan is that a construction mortgage for something like this, the way it's paid off is there is a release fee so the lender is never going to want you to rent these because they will never get paid off. As the money comes in you pay down the mortgage and there is release fees that the lender requires, so why would they fund construction if they weren't going to get paid. The agent said the front ones are priced at between $445,000 and $479,000 which does not seem to be prohibitive because she gets a flow of people every week through there. People don't read the sign and if they see it on some of the websites it's not under adult community it's under Condominiums, so she gets a lot of younger people around 48 to 50, and those people are looking for secondary homes, they are not looking for primary homes. So, that is not a prohibitive price point for those units because we are getting activity every single week. Joan said so you're saying if the price was lowered they wouldn't sell? The agent said no she is not saying that, if the price was lowered absolutely. Price rules

anything, but she is just saying that at the price point that they are at right now she is getting a consistent amount of showings. Joan is saying with the age restriction how low would you have to make it to get them to sell? The agent said she honestly doesn't think it's a matter of lowering the price point from where they are she thinks it's really a matter of getting them built. People do not want to purchase in projects where they don't see them built up no matter what's finished there. She does work with a lot of other developments whether they are age restricted or not, if the construction stops so does the purchase because people are afraid that if something is going bankrupt or going into foreclosure they don't want to live there, they don't want to be a part of it. They don't want their money to get tied up in something that they might not even be able to live in. Joan said she could understand that and that may be the main reason they are not selling. Keith said to address that point, our lender is aware of this meeting tonight and they may be willing to fund the back one depending on what this Board does, so if that happens we could start that immediately. We could start constructing that building. Joan said but we have no assurance of that, in other words if we change the restriction there is no assurance that you would build the back because we lowered the age. Keith said I will get an answer if the Board takes a vote, before you pass the Resolution I will get an answer as to what, I know we have had discussions and those discussions have been some are in the range of minimum of five to six units being released then they will fund the back building. I'm not sure they want to see what you're going to say, so I think we have a reasonable chance of getting that done and getting it to you before the next meeting and then you don't have to pass the Resolution. I'm trying to give you some kind of out where you can feel comfortable that if that's what the Board wants, but I don't see us moving forward without something changing, I guess that's what I'm telling you. The agent said the problem with those units is that they are small, so the competition for a 55 and older community, they just don't fit the bill for that, for what you can get somewhere else in a community, it hasn't made a lot of sense to people who are 55 and older. I'm not saying I don't have those people coming through, but I have more motivated people between the ages of 48 and 54, I have a client right now who is 54 years old who is very interested in the model, she has a year to go before she can buy it. John Muly asked if there was ever any consideration to keeping the six units in the front and taking the property in the back and make them into garages and make two bedrooms on the front property. Keith said they would never be able to pay the mortgage off. Keith said he thinks there are a couple of impediments to being able to sell, but we know one thing is we have to build that back building and we have to get it constructed and we have to get our lenders approval to be able to do that, and they are not going to do that unless we can get some relief. Patrick asked if this was a new lender. Keith said it started out with a bank that was bought by Santander it was called Sovereign, Sovereign was a commercial lender, there was a release price, my recollection is that the old release price was $635,000 per unit. We are not even close to that plus you've got all the interest approvals and everything else and the prices are below that now. Santander took over Sovereign, Santander was a different banking culture, they closed their entire Trust Department, they have no interest in a project like this so they sold the note. So now we've got another lender who is more flexible and is working with us but they are not going to put good money after for bad unless they think that there is a way out and one of their perceptions is that this project isn't moving because who is going to buy into a project which has got a foundation sitting there, it's ugly and there is no assurance as a Condo

purchaser that you are not going to get stuck with all additional maintenance, etc, etc. So, I don't know whether that's true or not the realtor seems to believe it's true but that's their perception. Patrick said he just wanted to know the full history of the lender. John Burke said Mr. Henderson when you were here for the preliminary meeting two or three months ago there was talk then about age restriction only on a few units or half of them or so on, what is your applicants standing on that? Mr. Henderson said we made an application to have it listed on all, we understand because we have informal plans before this Board that the consensus of the Board seemed to be somewhere around half the units or more. The way I look at this in my mind, is the one person who has bought in the front building is happy. So, if we could get the rest of the age restrictions on that building or at least four more of those units and just leave two restricted, two un-restricted in the back building or we could flip it around so there is only one released on the back building and five released on the front building, that's what we would be hoping for. He doesn't think if it was less than five he doesn't think it would fly. Motion to open the meeting to the public was made by John Muly, seconded by Joan Harriman all in favor none opposed. John Burke made an announcement to the audience that there are quite a few people who may want to speak so he would request that before you repeat points made by the person before you just say that you agree with them and please don't go through all the points over and over again.

<u>Audience Members Coming Forward</u>:

<u>Phil Tischio – 365 Euclid Avenue</u> - He said it was interesting because he came to the meeting for an entirely different reason and he is sort of happy he is here. This is a very complex problem because there is success and failure involved, there is an investment, people have made an investment, and they took a chance it hasn't worked out. You have to look at it from a lot of ways, also from the standpoint that they wanted to build ten homes on this piece of land so they were going for maximum profit. When they did that, he has come before this Board several times and talked about supply and demand economics. You have a situation where whenever you create additional housing, you create a supply. That's the only thing you can control, you can't control demand. So when you originally approved for them to build ten units here, which were only available for four units, that's the first thing here, you allowed for six more units to be built. Which increased the supply of available housing in Manasquan. We can see now that this has been a big mistake on the part of not just Manasquan, but every community and the Country. We have overbuilt; unfortunately this is going to cause some failures. If you lower the age restrictions, something that was probably fought for in 2004 and you gave away to that, you gave those concessions to build ten homes where four could have been built, increasing the supply by six units. Whether kids get there or not, you are opening up that possibility that children could be there. So it goes from if a child gets in one of those homes, the taxpayers would now cover the education of the child, we all know that, it won't cover it so we take on that risk because no one could say that school age children will not go into these units. We have to think about all these things. I would venture a guess and the realtor might know how many homes are currently for sale in Manasquan. He said he would guess it's over one hundred, going back six years it averaged probably fifteen or sixteen, just guessing. So you have a situation where we now have a tremendous over-supply of houses. We also have a supply of houses that we don't even know about because there have been foreclosures. It might just be to the Town's benefit to let this venture fail. I hate to do that to people but there is nothing in it for the Town at this point in time to bail out this investment, it's a bad

investment I bought AIG, at $86.00 a share it's now worth about $2.60 a share, it's a bad investment. I ate it, it's not for the Town to take on the responsibility of bailing out bad investments, and especially in this case where we might reduce the situation where you only have four houses there maybe, instead of ten. This isn't Kansas in the 1800's we don't need more people. I ask you to really, you talk about trash all important issues, traveling in and out, important issues, they are important but they are not the real issue here, the real issue is correcting the problems of the past in overbuilding. We do not need to give any concessions to this property, let them drop their price to a point where they can sell it out, that's their own responsibility; it's not the Town's. That's my opinion and I would love to hear if any of you agree or disagree with me. Mr. Henderson said Mr. Tischio just; he thinks there is a misunderstanding what the Ordinance says. It says you can have four detached homes, this is permitted in the Ordinance, and there were no Variances in connection with this project. I have to agree with your comment; there is an old expression that capitalism without failure is like religion without sin. I agree with you. Phil Tischio said just clarify that point, so you're telling me that they could actually build ten individual units. Keith said no ten townhouses. Phil said or four detached residential properties, that's what I'm saying. Keith said they had that option it's in the Ordinance. Phil said I understand they have that option, the difference being that's a net loss of housing for the Town or net loss of supply to a Town of six units, whether they are 55 restricted or not, if we go down to 50 there is a possibility that a child will move into that house and nobody loves kids more than me, nobody loves to play with them more, but they are expensive. Jeffrey Spalt- 68 Virginia Avenue – He thanked the Board for the opportunity to be here tonight. His first question, was there a public notice of this workshop meeting he doesn't recall receiving it. John Burke said it wasn't a workshop, the applicant came in on a preliminary just to get a feeling for whether the Board would even honor them and have an application on the age restriction. Mr. Spalt said his question would then be to the Board's attorney then if a matter of a Use Variance is discussed with a Board isn't that something that the public notice is required for? Geoff said that's why you are here tonight. Mr. Spelt said correct but there was a prior meeting where I did not receive notice so there was other discussion. Mr. Cramer said that was just an informal discussion Mr. Spalt, no official action was taken by the Board whatsoever. Mr. Spalt said but it sounds like certainly the matter was discussed and the public was not afforded the opportunity to be present. John Burke said there was no testimony, it was not required by law that the applicant notice you for that. Jeffrey Spalt said ok it just sounds like this has been going on for a lot longer than the rest of us were aware of. The question he has for the Board's Planner or the Applicant's Planner is whether one of the purposes of the Municipal Land Use Law is to protect the success of an investor or a developer. Cheryl Bergalio answered one of the special reasons under the Medici Case does permit Hardship, Hardship is a special reason. Special reasons are also the purposes of Planning in the MLU Law, so before the Medici Case the only way a Board could grant a Use Variance was in cases of Hardship. Mr. Spalt said so I guess the definition of Hardship has to be examined and whether or not someone's poor financial investment option taken at their own risk is considered a Hardship. The previous speaker mentioned a poor investment in the Stock Market, I've made some of my own, but I don't consider that a Hardship on my part. I made a mistake with my money, I bet and I lost. But that is a far stretch from a Hardship. Cheryl said with all due respect there is a significant difference between the failure of a

corporation and the failure of a housing project, the delinquency of a housing project that is visible in the neighborhood and that visibly affects the values of other properties in the neighborhood, really there is no planning connection between a corporate failure and the failure of a project in the neighborhood. Mr. Spalt said he disagrees in that we are dealing with this evening the potential failure of an investor and this Board is being asked to accommodate this developer, this corporation by changing the rules of the Borough to allow them a better opportunity to make money. They are basically saying, look I didn't make any money on this deal I would like to make more money, please help me. My next question is has the applicant shared its financial information to the degree that we understand whether this is being done out of greed or out of desperation or out of potential failure. Maybe I'm not achieving my 30% return is not the same as I'm going under? So, I think that the Board has to understand the financial condition before they can actually use it as a reason to grant a Variance and if no one has reviewed that, then I don't believe that the proper due diligence has been performed. And I agree with the previous speaker, is foreclosure that bad in this case? Perhaps it brings in a fire sale on this property and someone new investor comes in with deeper pockets that can develop the property appropriately. Build all the improvements at once, so it is marketable, so both buildings are completed, a little landscaping is in and you attract people not unlike my parents who had actually considered potential investment in this property but for the very reason that it's over priced, they don't want to be there. I'm four houses away, it would be great, they could walk down and see their grandkids play on my swing set amenity. But they couldn't do it at the price point. The price point is not appropriate for the size units there. I would just like the Board to consider these items before making a decision that will impact the neighborhood and this Borough for the foreseeable future. Thank you.

<u>Bob Flannery – 77 Virginia Avenue</u> – Just a couple of things, are these one and two bedroom Condos or is it two and three bedroom? He thinks they are being marketed as two and three bedroom. Keith Henderson said for one and two he forgot the technical name, Patrick Callahan said the garden room. Patrick said it really shouldn't be used as a bedroom, there is no smoke detection in there and it's really more like a den sort of room. Keith said in fact you wouldn't C/O it. Pat said the rental had a bed in there and they had to remove it. John Burke said sir this has always been one and two bedroom property. Unfortunately, there are people out there who will try to market things and say that it's three bedroom when it actually isn't and then when the people come in and find out that they are not going to get a C/O for that extra room, but this is a one and two bedroom project period. Mr. Flannery said ok. He said right now the cost of a child is $12 - $13,000 a year in Manasquan; we get nothing from the State as far as he knows as far as reimbursement on educational costs. It's all going to be picked up by the tax payer. Right now the High School out hat in hand for donations to improve the ball fields it's kind of an odd position to be in, we should think about that when we make our decisions tonight. I hope that in the future all the things that have said about trash, parking, all the rest that goes along with this project, please think about that down the line because this has turned into a real problem. You look at the parking, it's not going to be adequate, you can even turn into those garages it's so tight, people are just going to park on the Street. If you have ten units occupied, fifteen, twenty cars for the complex will all be on the Street. As far as having kids play in that particular area, it's not the driveway, courtyard or whatever place

for kids to play when you open this up to anyone purchasing them. Food for thought, thank you.
Keith said they comply with the RSIS requirements for parking, that's a State standard and it complies.
Motion to close the public portion of the meeting made by Michael Sinneck, seconded by John Muly, all in favor none opposed.
Mr. Henderson said they need a Use Variance in this application as was indicated by Cheryl and she has very conservatively assessed this as a D-1 Variance. He thinks there is a strong possibility that they would also be eligible for a D-3 Variance which is a different standard of proof and the theory of the D-C Variance is that the project has been zoned for the Use so you don't have to prove that the site is suitable for that Use because that Use is already an approved Use in the Zone. Condition number 12 in the Ordinance which lists what you need for a Senior Citizen project is that it be occupied by people 55 years and older and that in fact was cited as one of the conditions in the Resolution that the applicant was meeting. So, he thinks there is a fairly strong argument that we are just deviating from one of the conditions and we need this D-3 Variance which is a much lower standard of proof. But, the Planner testified that we met the D-1 standard and she gave very good reasons for that as both the positive and the negative criteria. He looks at it in a different way, in his mind we have an unfinished project which is an eyesore to Manasquan and which really should be finished. He also looks at it from a practical point of view, the number of cars generated out of that site verses the number of cars generated by Saint Denis on any given day in point, it's so minimal that it isn't going to make any difference. He suggests to the Board that those people who haven't been through the project go look at the size of those rooms and tell me kids are going to live there, he just doesn't believe it. He thinks realistically to get this thing back off the ground not to make these people any money, because they are not going to make any money anyway. Everything they get is going to go to the Bank, but they will get released from their Guarantees if the project is built and yes I suppose that's a positive benefit. He thinks it's in the interest of the Town to get that last building built to get the site amenities in, to get the landscaping in, all the things that were noted in Pat's report which there were discussions in using the Bond money, I think if we have any kind of favorable response from the Board we can go back to our lender and know before the next meeting whether in fact they will fund for the last building. Once that last building is built he believes this project will sell. John Burke said members of the Board what we have to consider is relief on the 55 age restriction, relief on all ten units, relief on a mix of the units, Mr. Henderson has indicated that relief on six units, two of the front two in the rear staying 55 and older would be acceptable. So anyone who makes a motion on this take that into consideration when you make your motion. So now, what would the Board like to do? Michael Sinneck said he is persuaded to some extent by the size of the units, they are pretty small so doubtfully you wouldn't find families with young children, although there is always a possibility, you make a good point about the facts revenues and the cost of tuition. On the other hand it is an eyesore and he for one would express an opinion that we grant the D-1 Variance conditional upon the banks funding the construction of the second building and I would do it on that basis and just remove the restriction on the front. Joan Harriman said she does not want to change the age restriction, she thinks someone else will come along and finish the project. Because she doesn't want to deal with this ten years from now and say I wish we hadn't done it. She

feels we would not have approved that building to be not age restricted when we looked at it the first time, had they come to us with this as a model we would not have approved it, there was not a strong feeling in this Town for Condominiums, that just my feeling. Geoff Cramer said you are looking for a second to a motion and John Burke said no one has made a motion yet. They just gave opinion. John Burke asked if anyone else wanted to give opinion on this. John asked Jay Price and he said the only thing he was thinking was how much sense does it actually make to raise the restriction on six as opposed to all as Mike said or none. He doesn't know if we can change much either way to be honest with you. Patrick Callahan said he is torn between having this project finished, completed and removing the eyesore that we have and lifting the age restriction and he is of the opinion that lifting some of the units and not others, he doesn't think it's going to make a lot of difference. We need to allow the entire project to be age restricted lifted or not. John Muly said he feels the same as Pat and Jay; he is kind of caught in the middle here. He would like to see something done with it to make it a lot more attractive than it is but he wants some assurance that they are not going to get a bunch of kids in there, not that he is against kids, God forbid but it just doesn't seem compatible with young kids in there anyway. You've got that garden room there or whatever and who knows what they are going to do with that when they move in. John Burke said there is no legal way that we can do that though. Joan said there is no legal way for us to control it. Keith said on a C/O you can. Patrick said that would be through the Building Inspector, but we won't do an occupancy C/O unless it's a rental, so we would have no control over that. Lenny Sullivan said he has been conflicted since last month because nobody wants an eyesore if it doesn't get completed, he happens to agree that either we lift the restriction or you don't. He doesn't see a point of six and two or whatever the number is that we come up with. On the other hand he is not convinced that the price is right. The price has come down in excess of $200,000 in the last ten years or eight years and he is still not convinced as he asked the question that someone is going to pay four to five hundred thousand dollars on a one bedroom on Route 71 and therefore you'd have ten units that perhaps don't make it. He thinks if he was sitting on this Board when this was approved he doesn't think he would have approved it without an age restriction, therefore he has a problem releasing the age restriction. He is not being convinced that these things can be marketed and sold. Keith said if it would help the Board the applicant would really not object to a condition that it was contingent on the mortgagee approving the construction of the second building. John Burke said he doesn't know what to say about this, he agrees with most of the members that if we are going release the age restriction we do it on the whole thing, the whole project. It doesn't make any sense to put more work onto the Borough as to what one is restricted and what's not and all that kind of stuff. Mr. Henderson said it would also be restricted in the Master Deed, so there would be a Deed restriction against sales so I mean there is a control outside of the Borough. John Burke said if we are going to release it we release it on all of it. But, the other thing is I was involved in this case when it came before the Board in 2004 and he like Lenny would probably would not have voted for it unless the age restriction was there, so that turns me the other way. But, the main thing that I'm looking at is I'm looking at an eyesore, I go to Church at Saint Denis, and I hate looking at that place across the Street. It is up until a couple of months ago it was a safety issue with the rebar sticking out of the ground on the foundation. That's been taken care of sort of, not 100%. So, getting those buildings built might be the smartest thing, because then you

eliminate all those safety problems and so on. Again Keith I don't know either, I'm really torn on this and I think all the Board members are also. Keith said let me put it this way Mr. Chairman the applicant would rather take the six units than none. I can go to the bank with six units, none I can't. All this application is about is the age restriction; there is no change to the project whatsoever. Keith said we are not here for an all or nothing, I mean we think we can enforce that restriction entirely and I would rather have the six units released than none at all, it gives me something between now and the next meeting to see if I can get something from the lender to advance money for the construction of the second building. As I said I don't mind that as a condition. John Burke asked if Mr. Henderson would mind if we continued this meeting to the next meeting and you come in with testimony and you come in with testimony on that particular item and then we vote on it then. Keith said I would rather just take a conditional approval that I can go to the lender with and say we got a conditional approval, will you advance the money. John Burke said ok I see what you are saying without a vote you don't have anything, you can't go to the lender. Joan Harriman said we had two residents speak tonight and both of them said not to worry about whether they make or lose money, no one said that the eyesore must go. We had no residents that live in that area and pass it every day saying the eyesore must go. You're saying that you cannot go to the lender and say if I get the Board to say six, why can't the lender say if you give me six I will do this without us promising anything. He hasn't lost anything by that. Keith said I don't have anything to show him Joan. Lenders just don't operate that way. I don't mind if it's conditional, you lose nothing and if I don't get the financing the restriction is still there. Al Yodakis said as far as the eyesore goes, I don't if all the Board members are aware, the Council did take action against the Developers Performance Guarantee to finish not the building but the buffer plantings, the fence on that side of the property. John Burke said he thinks we have talked this to death, he can understand Mr. Henderson's reasoning to have to go to the lender with something concrete rather than just a promise. John said he needs a motion from the Board. Michael Sinneck said he could try, he moves that we grant the D-1 Variance conditional on a minimum of six units up to the entire property contingent upon the banks guarantee funding that the construction then be completed on the second building by six months from now. There was a stalemate. Geoff Cramer said you have to break the stalemate, try a second motion. You have a minimum of six units, to release the age restriction on. Michael Sinneck said up to a maximum of ten contingent upon the banks approval and construction completion within the same date. The motion was seconded by Patrick Callahan.

<u>Board Members Voting Yes</u>:
Patrick Callahan, John Burke, Michael Sinneck, and Jay Price

<u>Board Members Voting No</u>:
John Muly, Joan Harriman, and Leonard Sullivan

APPLICATION DENIED

Keith asked if the Board would consider a motion just to restrict it to six as opposed to six to ten. Mr. Cramer said somebody has to make a motion. Michael Sinneck amended the motion to say we stipulate that we would keep the restriction in the front building only contingent upon the banks approval to fund construction of the second building with

condition by the date set. John Burke said the larger of the two units are still age restricted the ones with the two bedrooms are still age restricted. The motion was seconded by Patrick Callahan. Geoff Cramer said then again it's conditioned upon release of monies by the bank to complete the rest of the project, that includes all the improvements that haven't been done yet.
Board Members Voting Yes:
Patrick Callahan, John Burke, Michael Sinneck, Jay Price

Board Members Voting No:
John Muly, Joan Harriman, and Leonard Sullivan

APPLICATION DENIED

John Burke called for a 5-minute recess; John Muly made the motion all in favor none opposed.

ROLL CALL FOLLOWING RECESS:
Board Members Present:
John Muly, Patrick Callahan, Joan Harriman, Councilman Owen McCarthy, John Burke, Michael Sinneck, Leonard Sullivan, Jay Price, and Richard Read
Board Members Absent:
Mayor George Dempsey, James Coakley, and David Armstrong

APPLICATION #03-2011 – Calabro, Yvonne and Rich – 161 Lake Avenue – Block: 159 – Lot: 6 – Zone: R-1 – Mr. Cramer swore in Yvonne and Rich Calabro. Yvonne said she had two pictures which Geoff marked as exhibits A-1 and A-2, they consist of pictures of their rear yard. Yvonne said they are looking to construct a 14 X 32 detached garage and a 14 X 24-foot in-ground swimming pool in the rear yard. She cited the relief requested from Mr. Furey's denial letter. She stated they are actually proposing a 10-foot side yard setback for the swimming pool, she said she thinks the drawing was misread when they had submitted it. The pool is further over from the side line than the shed is they were just using the shed as guideline of space. Joan said so the pool will be 10-feet from this line and Yvonne said yes. She then addressed the onsite parking, two spaces are required, and one space is proposed. Also she cited the Ordinance that requires the lowest base point of the proposed pool must be at least one foot above the seasonal high ground water level. Their soil boring shows the ground water level to be at 4-feet 2-inches, the proposed depth of the pool will be 3-feet 6-inches, they wish to do the same as they had seen in the DeStefano's application meeting minutes, that was Application #20-2010, they hope to comply with similar findings. John Burke said ok that's all the technical stuff now can you tell us why you are doing this? Richard Calabro said this is hopefully our fourth and last home that they are going to live in since they have been married. In each of their previous homes they were very meticulous about their property; they take pride in their property. Currently right now the way their property looks and you will see in the picture as it goes around, it's unfinished back there and they want to finish the project that they started last summer. They moved in last July and they knew they were going to have to go for Variances both for a pool and for the garage so they waited until after they were able to move and hence

this meeting. They want to make the property look the way it should look, they have three vehicles one of the things that is mentioned in there is they are only allowing for two spots and he is not sure if inside the garage is considered a spot, if that would be one and they think they would be able to also get two spots outside of the garage, even with the 15-foot because as you can see on the drawing he can park one over by the shed and another right in front of the garage. They could actually get three cars off the Street if they had to. John Burke said one in the garage is considered a parking place, usually on the apron outside the garage door if it's large enough is also considered a parking place. Mr. Calabro said they are planning to have all pavers there to where we could at least get two cars outside the garage. Al Yodakis said he spoke to Mr. Calabro the other day and they probably can fit three cars there, however they don't meet specifically the requirements of the Ordinance 9 X 19, but they probably can if it's not a very large SUV, they probably could fit three cars there. Mr. Calabro said one of the sections stated here that they can't be building on the frontage or front yard; this is actually going to be built in their backyard. When they bought the property and knocked down the existing home which was on McLean and they changed the property to Lake Avenue so it was 160 McLean it's now 161 Lake Avenue, so they changed the view to toward Stockton Lake and away from what was prior. So, this is actually now our backyard so this will be built in our backyard. It also mentions in there the shed in the front yard as well, that's our backyard as well. John Burke said ok so when the say a shed in the front yard it's actually in the backyard. Geoff Cramer said in actuality you actually have two front yards. Mr. Calabro said in actuality we actually we front two different Streets, correct. Mr. Cramer said so for purposes of the Zoning Ordinance you are seeking to locate your garage and your shed in the front yard on McLean Avenue, so we have a setback requirement and you are asking for Variance relief for that setback requirement. Mr. Calabro said that is correct. John Burke said technically that's true but in actual practice you moved the house around, in actual practice this would be your quote backyard. Mr. Calabro said yes. As his wife just mentioned with the pool they are looking to build a pool with a depth of three feet six inches, we are really just looking for something that when we come back from the ocean we just want to cool off something we can go into, there is not going to be any diving board, there is not going to be any sliding board, it's a simple 14 X 24 he believes is the existing structure that they are looking to put in and 3-foot 6-inch in depth all the way through and the soil bore which was taken in September of '09 by Ted Jiles which at the time according to him was at one of our wettest points of the year was at 4.2, so we would be within the space appeal. On the miscellaneous application should state having how they intent to construct the pool, it's going to be a gunnite pool, concrete, we will be using Anthony Sylvan to construct the pool and they are going to be using ¾ clean bluestone underneath the base and then they will be doing if needed de-watering and they use a hydrostatic relief pipes to allow ground water to seep through during construction and then close off those pipes after construction is completed. The fencing which was not notated will go from the north eastern corner of the shed to the south western edge of the garage, we've already got fencing along both sides as you can see in the drawings all the way down and then we would close off the 5-foot setback, there are 5-foot setbacks on each side of both the shed and the garage so we would be completely enclosed. That would be a 4-foot high fence going along the back. John asked Al if he could look at Dick Furey's letter and let's just make sure that all of these sections are correct, in other words front setback 25-feet

required 15-foot proposed, where is that? Al said that is what they are referring to as their backyard. The lot has dual frontage so it's still considered a front. Al said according to our Zoning Ordinance they have one conforming space in the garage because our Zoning Ordinance requires parking spaces to be 9-feet wide by 9-feet long. They only have one fully conforming space. From a practical standpoint they can probably park three cars on the property. John Burke said so we are just talking about the parking variance, the building coverage and the front setback only because this house technically has two frontages. Al said and the pool depth to ground water however they provided testimony that the pool company is going to address that during construction and what they described is pretty standard. They have answered all the questions on Al's letter. Joan Harriman asked if the pool company is handling the ground water does that mean that they will be responsible that no water goes to neighbor's properties. Al said in essence here they are not proposing to raise the pool up so you are not going to have any major grading changes on the property, what he was referring to is during the actual construction process if they encounter any ground water, they dig down four feet and hit ground water. Joan said and then if they push down and that ground water keeps coming up it will go to the sides right? Al said one of the bigger concerns is when you are actually building the pool like this if you do have a very high water table and you have to do what is called de-watering, you in essence have to pump down the ground water in that area so the guys can get in there and work actually build the pool, sometimes that contributes to a constant flow, a hose running out to the Street because they are trying pump down the water table. But that is only during construction, but in this case they are not actually in the water table, we asked for a foot separation they have 8-inches. Michael Sinneck said you are asking for a 15-foot front setback. Mr. Calabro said yes. Michael said when he was walking the property today, and that's a nice piece of property, he was curious would you consider pushing the garage a few more feet closer to your home? That would probably provide some relief from a Variance. Mr. Calabro said yes and as you'll see behind the storage area we would like to put in the back of the garage there, if we didn't have the Variance and we moved the garage back the full 25-feet we would have 8-feet from our air conditioner units so there would be a little channel if you will and we have a little dog and my wife actually lets the dog out to do her thing and we are just looking for an area somewhere where we can have some grass. Mr. Calabro said so in other words instead of 15-feet, 20-feet. Owen McCarthy said he does know that the Council is looking to be more aggressive with the off-street parking during snow storms. He knows one of the problems we heard from our DPW in particular dealing with residents concerns as to snow removal was vehicles parked along the roadway, along the Streets during significant snow storms making it extremely difficult to plow. So if there is something you can do following up on what Mike said about giving you a true conforming parking spot, that is something you may want to consider because otherwise I just want to alert you that if your vehicle is out there and it snows I anticipate tickets may be coming, so just be wary of that. The comment from Al in that it may not truly conform with our definition, but a car could probably fit there as Mike said if you could go back a few more feet to give you a true spot and that is not that big of a hardship or a change for you, you may want to be mindful about going forward because that is something that we are working on dealing with our snow removal Ordinance. Al said that would be another four feet. John Burke said if you move the garage four feet, that parking Variance goes away and you will have a place to

put your car off the Street. Mr. Calabro said he could do that. Owen said also being closer to the Beach area enforcement is a little stricter with some of the Specials, so that's something if you could accommodate it would be beneficial, especially for you as the homeowners. John Burke said right now the only change we are looking at is you have agreed to move the garage four-feet; you are still at 19 so you still need a Variance on that but it's only for a foot instead of five. You do not need a Variance for the parking that Variance goes away. John Muly made a motion to open the meeting to the public, motion seconded by Owen McCarthy, all in favor none opposed. There was no public participation. Motion to close the public portion of the meeting made by Michael Sinneck, seconded by Joan Harriman, all in favor none opposed.
Motion to approve the application made by John Muly with all the changes and stipulations that were made, the motion was seconded by Leonard Sullivan.
<u>Board Members Voting Yes</u>:
John Muly, Patrick Callahan, Joan Harriman, Councilman McCarthy, John Burke, Michael Sinneck, Leonard Sullivan, Jay Price and Richard Read.
<u>No negative votes</u>
APPLICATION APPROVED

<u>APPLICATION #02-2011</u> – Pegg, Donald and Gloria – 461 Euclid Avenue – Block: 143 – Lot: 17 – Zone: R-2 – Mr. Cramer swore in Mr. Dominick Wronko, project manager for the proposed building of the building of the sunroom and Donald Pegg owner/applicant, he is a retired school teacher and recently retired commercial fisherman. Mr. Wronko gave the explanation of the proposed project. He said Mr. Pegg is proposing to build a 12 X 18 sunroom/patio enclosure built over his existing deck of the same size. He's got some issues here that are requiring us to be in front of you folks this evening. There is a rear yard setback requirement, a building lot coverage Variance, an existing front yard setback requirement, an accessory structure on the property, rear and side yard setback. Mr. Wronko said Mr. Furey said two feet exists and they measured it and it came out to be 38-inches, they had a photograph of the shed which Geoff marked as exhibit A-1. Mr. Wronko also had two other photographs of other homes which have similar structures that Mr. Pegg wishes to build. Mr. Cramer marked two photographs as exhibit A-2 and A-3. Next Mr. Pegg spoke to explain why he wants to put this addition on his house. He said he wanted just a solarium a nice room to be in in the back out of the elements. It's a definite improvement on the property. John Burke said there is an existing deck there and this is being built up on the existing deck and Mr. Pegg said yes. John Burke said you have given us I guess it's BW Engineering is that the, Mr. Wronko said yes Bob Walz Engineering, John said ok so that's going to be the sunroom and Mr. Wronko said that's correct. Mike Sinneck said there appears to be a deck on the surface of the back yard. Mr. Pegg said that's deck boards because as you well know the flooding problem down there gets a little intense. So they are up about 8-inches. Mike said he was wondering what that was. John Burke said I am looking at the picture A-1 which is the shed. The fence alongside the shed is that your fence sir or is it the neighbor's. Mr. Pegg said it's mine. John said and that fence is on your property and Mr. Pegg said yes. John said Al I hate to put you on the spot but can you take a look at that please Al and see if you can determine. Al Yodakis asked what specifically John's concern was. John said well Dick Furey says two feet and the applicant says three or 38-inches. Al said it would really be a guess, from this angle even

trying to scale it, if the shed is six feet, I don't want anything put on the record. Patrick Callahan made a motion to open the meeting to the public, the motion was seconded by John Muly, all in favor none opposed.
There was no participation from the audience.
Motion to close the public portion of the meeting was made by Michael Sinneck, motion seconded by Councilman Owen McCarthy, all in favor none opposed.
A motion was made to approve the application made by Joan Harriman, seconded by Patrick Callahan.
Board Members Voting Yes:
John Muly, Patrick Callahan, Joan Harriman, Councilman McCarthy, John Burke, Michael Sinneck, Leonard Sullivan, Jay Price and Richard Read
No negative votes
APPLICATION APPROVED

RESOLUTION #H-2011 – Resolution honoring Board Member Thomas Carroll – Mr. Cramer read the Resolution in its entirety.
Motion to memorialize the Resolution made by John Muly, seconded by Leonard Sullivan
Board Members Voting to Memorialize
John Muly, Patrick Callahan, Joan Harriman, Councilman Owen McCarthy, John Burke, Michael Sinneck, Leonard Sullivan, Jay Price and Richard Read
RESOLUTION MEMORIALIZED

RESOLUTION #10A-2010 – McCabe, Lynn – 38 Gertrude Place – this is a Resolution extending the time for completion of work associated with the installation of an in ground swimming pool and pavers.
A motion was made by Patrick Callahan, seconded by Joan Harriman to memorialize the Resolution.
Board Members Voting to Memorialize
John Muly, Patrick Callahan, John Harriman, John Burke, Michael Sinneck, and Leonard Sullivan
Board Members Abstaining
Councilman Owen McCarthy, Jay Price and Richard Read
RESOLUTION MEMORIALIZED

RESOLUTION #11A-2010 – Seigel/Reid – Pool side yard setback confirmation of 5-feet on proposed new lot 11.02 as a setback of five-feet.
Michael Sinneck made a motion to memorialize the Resolution, seconded by Joan Harriman.
Board Members Voting to Memorialize
John Muly, Patrick Callahan, Joan Harriman, Michael Sinneck, John Burke, and Leonard Sullivan
Board Members Abstaining
Councilman Owen McCarthy, Jay Price and Richard Read
RESOLUTION MEMORIALIZED

Motion to approve minutes of March 1, 2011 made by Patrick Callahan, seconded by Councilman McCarthy, all in favor none opposed.
MINUTES APPROVED

Motion to approve vouchers made by John Muly, seconded by Patrick Callahan, all in favor none opposed.
VOUCHERS APPROVED FOR PAYMENT

Motion to cancel the second meeting of April made by Leonard Sullivan, seconded by Patrick Callahan, all in favor none opposed.
SPECIAL MEETING OF MAY CANCELLED

No correspondence.

John Burke said first there has been a discussion on the Board or members of the Board actually in the office with Mary about possibly raising our Escrow Fees. Right now the Escrow Fees are a regular application is $1000.00 and if there is a minor subdivision involved $1700.00, major subdivision involved $1700.00 and so on and there are a couple of other small ones here. Our regular fees are in line with most of the other Towns in the area but our Escrows are low. What I believe is that our regular Escrow fee should be $1500.00 and our Escrow fee for minor and major subdivision should be a minimum of $2000.00 and possibly on a major subdivision $2500.00, I would like the Board's comments on this. John said this would not be a new Borough Ordinance it would be an addendum or amendment to an Ordinance so we don't have to go through whole expense of Ordinance Fees. Lenny Sullivan asked if what is not spent in the Escrow account is then returned to the applicant and John Burke said right. John said what happens in some cases Mary has to write letters because the money runs out. Owen said he understands that for some of the larger applications you may want increase the fee but if it's someone like the gentleman Mr. Pegg who is dealing with the sunroom and the porch, now how often do we find we are going over $1000.00 he thinks for a routine application he wouldn't have any problem keeping it at $1000.00. The economy is not the greatest and he thinks it may be difficult for our residents if we don't find that we are routinely exceeding that, they get the money back and that's not an issue. But, it may take some time that they are putting up $1500.00 that it may be somewhat unnecessary. For a larger application, major or minor subdivisions that are usually not a homeowner trying to do a little bit of work, especially with us being the joint Zoning/Planning Board. He would be in favor of keeping it at $1000.00 for the routine application, but for the larger applications that John mentioned, where it's usually somebody is doing it as an investment and they know what they are getting into. But, for someone looking to build a shed or a garage I think that's an extra expense that perhaps, unless we think we are really exceeding the fees between Geoff and Al, I would say keep that at $1000.00 and on the higher ones, increase that so Mary's not chasing. Mary said if the Technical Review Committee requests a full report from Al they give her $1700.00 in escrow. And, honestly, the only times she has had to chase people is maybe Dunkin Donut's maybe a few times, but he brought the money right in. Al Yodakis said anytime they have really had a problem has really been with the bigger applications, most of the day to day stuff that we have it's never a problem. It's really when we get into usually Site

Plans, when we get into some really hard issues that we are looking at traffic issues, site distance, grading, that's where we run into a problem. John Burke said so if we keep the standard application at $1000.00 and if a Site Plan is required it's right now $1700.00 do you think that should go up to $2000.00 or stay at $1700.00. Geoff said maybe a Site Plan or Minor Subdivision $2000.00, Major Subdivision $3000.00. John Burke said a Major Subdivision $2500.00 and Joan said she likes that amount better. Owen said that's fine, he doesn't want to make it more burdensome for the average person coming in. If we find that at a later time we find ourselves exceeding the $1000.00 we can re-visit it at a later date. Pat said that may prohibit someone coming in if they feel the Escrow Fee is too high. John Burke said so that's what we'll do, Geoff what's the procedure on this? Geoff said he thinks you can recommend this to the Council for their consideration. Owen said if no one has any objection he will talk to Geoff and Al before the next Council meeting which is two weeks from yesterday. He will ask to get it on the Agenda and then we will just memorialize what was said tonight and I will present it to the full Council at the meeting on the 18th. We can probably get the planning in gear maybe sometime in May.

John Burke said at the last meeting there was a discussion amongst the Board Members about lighted signs, primarily these new signs that are flashing, scrolling and Al actually said to him earlier he said these started out with just little scrolls on the bottom now you can have full screens up with these. He asked Al to look into it and if you want to just tell the Board what you told me earlier. Al said there are not common standards out there right now for these type of signs, on the League of Municipalities Website there was really no guidance there, he did check a number of Towns in Monmouth and Ocean County to see kind of what standards they had. Most Towns did not have very specific standards like we see on our other signages as to height, size. There were no standards of time that a message can be up; there weren't those hard concrete standards. Most Towns either didn't address it or they said any LED or electrical signs that change the message need to come in and present to the Board. John Burke said so they are making it a Planning Board issue or they're ignoring it. Patrick said the Technology is so new that there is not much regulation. Al said really within the past five years we have seen it go from just regular scrolling LED signs to you can just about show a movie on these signs. Technology is moving very quickly just like the televisions. He doesn't know what the best way to address this is. Of course if we just bring it into the Board every time we still need some kind of standards that we are going to measure by, so we can be consistent, we don't want to be just approving one because we like it because it's blue and denying another because it's green, that would never end up holding up. John Burke said what he would like to do, we actually talked about this at the meeting. Years ago we had a Sign Committee and actually Carmen was the head of the Committee and it was actually called Carmen's Committee. I would like to revitalize that committee he would like at least three Board Members to be on that Committee, he would like that Committee to sit down with Al and make a recommendation to the Board as to whether these should be regulated, should we try to regulate them or should we ignore it or should we just say anything besides just a scrolling sign has to come before the Board. His first question is who would like to be Chairman of said group? John Muly will be the Chairman, Patrick Callahan, Joan Harriman and Rich Read will be members.

Owen McCarthy said the last thing he has to discuss would be that subcommittee. He said they did receive from Geoff a copy of the Sub-Committee's findings that each Board Member has a copy of. He went through the first six items without reading them;
1) Prohibiting breweries, micro-breweries or distilleries within the Borough, define what a brewery is, it's the conduct of the brewing operation or the production of malt beverages.
2) Elimination of taxi stands and bus passenger stations as permitted as principal uses in the B-1 Zone.
3) Restriction on cell towers as permitted conditional uses in various zones, B-1, B-2, B-3 Zone, limited to Municipal property. Specifically identify which Borough properties we would include that on.
4) As a consequence of that, eliminating telephone, telegraph and other communication facilities as principal permitted uses in the B-1 Zone.
5) Restrictions upon plantings in the right-of-way to preclude other plantings such as shrubs, bushes and flowers. The only pervious material to be encouraged in the area between the sidewalk and the curb would be grass, decorative stone or other pervious material as specified by the Planning Board, by the recommendation of the Shade Tree Commission. He has spoken to various members of the Shade Tree Commission and they were happy with that restriction remaining in place.
6) Preclusion of more than video games within the B-1 and B-2 Zones. The largest item would be the Industrial Zone and he believes Geoff put a definition together as to what the principal permitted uses are, specifically custom architectural, stock millwork completed but not limited to mantels, kitchens, doors, walls, units, and stairs from fabricated wood, manmade or other material, whether for wholesale or retail. Any principal use permitted in the R-2 all principal permitted uses in the Office Zone, Municipal Parks, buildings, playgrounds and other Municipal facilities permitted as accessory uses would be other uses and structures customary incidental to a principal permitted use. Public and private parking, signs in accordance with our Sign Ordinance as conditional uses with the lodges, fraternal organizations non-profit corporations, associations organized with civil, social, cultural, religious, literary, educational, recreational purposes, churches and church related facilities, senior housing and bed and breakfasts guest houses.
John Burke asked if our primary tenant in the Industrial Zone ok with all of this. Owen said he believes they were, they were happy with our proposal, we had a private meeting with them, getting input from them as to what their business is, them being a long time and long standing resident of the Borough and also keeping our eye on the future when Millwork would no longer be an ideal use for that property, what would be most beneficial for the Borough going forward and I think we were able to accomplish that. It was a lot of effort between the members of the sub-committee, again kind of going full circle to where John started the meeting, Tom Carroll really helped a lot, he added a lot of input as to the ten years of history he was familiar with, going back to different changes throughout the Borough and what was ideal for that use. Some of the changes with Master Plan revisions and re-examinations, he thinks this is a good step going forward. The property owners can keep operating their business but also allows the Borough to plan for that day when Millwork is not in line for that use and it is a little bit of a different property being close to the elementary school, and a high traffic area for the high school. John asked Geoff what the next step for this is. Owen said it has already been brought to the Council, he thinks where we are at now from his understanding would be we would need the approval of the

full Planning Board and then we would work whether it be Geoff, Mark Kitrick our attorney about getting this Ordinance together. But, before the Mayor and Council can make any changes, we need approval.
Phil Tischio – 365 Euclid Avenue – Owen when you read that it sounded like none of those proposals for the Millwork would include the eventual use for residential property, am I correct. John Burke said all principal uses in the R-2 Zone. Phil Tischio said so it's already in a residential zone anyhow so it's not like it's a commercial zone. Owen said it's his understanding that permitted in the Office Zone is residential. Phil Tischio said that's already established that wouldn't have to be something that you would vote on, obviously I would have been opposed to that, I didn't understand that. As long as it's part of it already, that's fair, they are wonderful people they deserve a break but I am very much opposed to residential housing in these times or any times due to supply and demand economics.
Owen said the changes really deal with more the industrial as to what the uses, nothing else really changed. Pat Callahan said we are planning for the future on that.
John Muly made a motion to accept the findings of the Committee and to pass this on to the Council with our approval, seconded by Joan Harriman.
<u>Board Members Voting Yes</u>:
John Muly, Patrick Callahan, Joan Harriman, Councilman McCarthy, John Burke, Michael Sinneck, Leonard Sullivan, Jay Price and Richard Read.

Motion to open the meeting to the public made by Councilman McCarthy, seconded by Joan Harriman. All in favor none opposed.
<u>Audience Members Coming Forward</u>:
Phil Tischio – 365 Euclid Avenue – he has 36 years in financial, personal and business financial planning, he has been involved in merger and acquisition, tonight there was a comment made to you that said that, Mr. Henderson said that he couldn't go to a lender with the proposal that you were offering. I have never known that to be his experience in his life. In other words whenever you go to a lender, you go with your proposal. He could have certainly gone tonight to that lender and said they will give us six units; will you approve the loan on that? Maybe he's not informed; it just seemed to me like he didn't want to be telling the exact situation. You do not get a loan until, there are very few loans granted while everything's in place, most loans are granted with contingencies so I don't see why he made that comment to you tonight and I would like you to know that. It's important. Thank you.
Motion to close the public portion of the hearing made by Michael Sinneck, second by Joan Harriman, all in favor none opposed.

Motion to adjourn made by Joan Harriman, seconded by Richard Read, all in favor none opposed.
<u>MEETING ADJOURNED AT 10:08PM</u>

Respectfully Submitted,
Mary C. Salerno
Mary C. Salerno
Planning Board Secretary