

**BOROUGH OF FOLSOM
PLANNING/ZONING
BOARD OF ADJUSTMENTS
MINUTES**

June 15, 2016

The meeting was called to order at 7:08 PM.

SALUTE TO THE FLAG

CERTIFICATION: Adequate notice of this meeting has been given in accordance with the Open Public Meeting Act pursuant to Public Law 1975, Chapter 231. Said notice has been advertised in The Gazette and Atlantic City Press and is posted on the bulletin board showing the time and place for the meeting.

Members Present: Charles Pitale, Joe Pino, Ron Esposito, Joel Spiegel,
Lou DeStefano, Dave Cappuccio, Ben Pagano, and Michael Veneziano,

Members Absent: Glen Smith, John LaPollo, Clyde Jones

Others Present: Solicitor: Jorge F. Coombs, Esq.
Board Engineer: Vince Polistina, PE, PP
Board Secretary: Susan Carroll

DECISION RESOLUTION: COLLINGS LAKES FOOD MARKET

Application #02-ZB-2016 – Collings Lakes Food Market, 10 E. Black Horse Pk., is seeking a Change of Use for the existing hair salon and South Jersey Gas office and Expansion of Use to Expand the Use of an existing Package Goods Liquor Store with a bar area.

The Resolution for Collings Lakes Food Market was tabled.

DECISION RESOLUTION: GARY CAMPI

Application # 03-ZB-2016 – Applicant Gary Campi, 127 Asia Li Lane, Cleveland, S.C. 29635 seeking a Change of Use and Waiver of Site Plan Approval at 1303 Mays Landing Rd., Block 701 – Lot 2 for a warehouse and office space for an automobile glass repair business.

A motion was made by Mayor DeStefano and seconded by Mr. Cappuccio to approve the resolution for Gary Campi. There was a roll call vote with ayes all and two abstentions.

APPLICATION: JENNIFER MORGAN

Application #04-ZB-2016 – Jennifer Morgan, 2413 4th Road, Folsom, Block 2202 – Lot 12 located in the Forest 20 (F-20) Zoning District seeking a D Variance for size and setback of a 25' x 40' x 15' high Pole Barn.

Mr. Coombs swore in Jennifer Lynn Morgan, 2413 4th Rd., Hammonton, N. J. 08037. Ms. Morgan presented her application. The setback was to construct a pole barn in her back yard. There is an existing shed. The shed was 12' x 28'. The shed is located in the bottom (front) left corner of where the proposed pole barn will be placed and just off of the deck. The pole barn will be placed five (5) ft. from where the shed is currently located. A gate will be placed on the side instead of a gate in the front. The pole barn will run along 13 ft. 6in. in from the property line which is exactly where the shed is located. The shed will be moved back behind the pole barn. No trees will be taken out for the shed or the pole barn. The trees were already removed for the area being cleared for the septic which needed to be replaced when she purchased the house.

Ms. Morgan responded to the Engineers General Review Comments. She explained Item 1 of the General Review Comments. The exact location of the pole barn was not provided on the plan. It was measured today and it was setback exactly 150 ft. from the street. The shed is 135 ft. from the street. The pole barn will be place 15 ft. further back than where the shed is currently located.

Item 2 of the General Review Comments addressed the clearing limits. The land was previously cleared for a new septic system. The septic system is not under the pole barn. It is off to the right, but it was cleared back behind all of the fencing which was back there.

The shed will be moved back and the pole barn will be where the shed is now. The shed is 13 ft. 6 in. from the property line and there was concrete poured under it. It will not be any closer from the property line.

The shed was only 28 ft. wide as opposed to the pole barn which will be 40 ft. wide. Since the pole barn was wider than the shed, the pole barn will come to the end of the deck in the back of the house.

Mr. Coombs swore in Andrew Eppler, 2413 4th Road, Folsom. He explained the current location of the shed in conjunction to the gate. The shed was 12 ft. wide. There is a space between the shed and the porch where the fence goes across and where the gate is. The reason they were moving the pole barn back, was so the pole barn would be behind the porch and the fence will be in line with the edge of the porch and the pole barn. It will allow room between the deck and pole barn for the fence and gate. The fence is staying. There was confusion because the fence was not shown on the plan. There was an existing cement driveway than stone to the shed. There will be no changes to the driveway and stone.

The pole barn will be used for storage and Mr. Eppler's two (2) bikes. The new septic was moved further back behind a fence and will be approximately 50 ft. to 75 ft. from the new pole barn. It will not go near it.

The covered porch area shown on the elevation is on the yard side of the pole barn and will face the deck on the back of the house. The pole barn will be set back 6 ft. from the back of the deck because the porch on the pole barn will come out 10 ft. The corner of the pole barn will be near the corner of the porch. The covered portion of porch in front of the pole barn was not included

in the 25' x 40' footprint, but it was shown on the blueprints. The overhead door will be visible from the street. There will be a gap of 5' between the structure of the deck and the pole barn in order to have a gate and access to the front driveway. There is a 10' deck with privacy fencing on it and a 5' gate in between the deck and the pole barn to have access to the back yard from the front and the front yard from the back. If there were a fire issue with the shed in the back, there is a paper road on the right hand side of the property for fire suppression equipment to have access. There is a cleared out paper road and a 10 ft. gate in the back. Ms. Morgan owns property between the fence and the woods that is hers and is cleared and there is also a paper road and no houses passed hers. A fire vehicle can access the property.

The covered porch will go into the back yard and is like a covered patio. The deck is two or three steps high. The view from the deck will be impaired by the lateral side pole barn, but Ms. Morgan was interested in taking the deck off and having poured concrete where the deck is now, but isn't ready to deal with it at this time. The purpose of the covered porch on the pole barn was to sit out under it because it overlooks the clearing, the forest, the sunset, the turkeys coming in and deer running through.

The drawing which was submitted was not sufficient for the project being done. It was a septic site plan marked up by hand. There were a lot of dimensions missing, part of the driveway was missing, and the access to the back paper road was missing. The verbal dimensions which were given should be on the plan. The plan was a re-drawing from February 11, 2016. The plan was not a sufficiently detailed drawing for where everything was going to sit and where the setbacks are. It needed to be on paper and not verbal.

Mr. Polistina commented it was part of the Approval or a Condition. It was indicated in the report more information was needed. The one dimension which was still needed was the dimension between the pole barn and the shed. There is a minimum of 10 ft. requirement. The Borough needs to know exactly where these things will go for the Variances that were needed. Things cannot be shifted around because it triggers a number of Variances with the application. The concern was normally the plan and everything would be set. It would have the front yard dimension, the side yard dimension, the rear yard dimension. Everything would be on it. The overhang for the porch would be on it. Although it is not on the plan, it could be done as a Condition of the Approval, but normally it would all be on the plan. It was being pieced together and the setbacks need additional Variances. It was uncomfortable because all of the information was not in front of the Board Members this evening. It needed to be drawn to scale because everything did not fit. It was drawn in. The dimensions from the pole barn to the shed was 20 ft. because there is a ramp coming out of the front of the shed and there needed to be room for it.

There were no other questions from the Board. Mr. Polistina gave the Engineers Report.

ENGINEERS REPORT:

The Report was dated June 13, 2016. The Applicant had an undersized lot with a three bedroom single family dwelling and a shed on the lot. The lot size is about 40,700 sq. ft. which was a little bit less than an acre in a zone which requires twenty acres. The lot being undersize will trigger a lot of Variances. The Applicant proposed to construct a 40' x 25' pole barn at 1,000 sq. ft. and the overhang was additional in terms of roof area with proposed height of 15.25 ft.

Variations were needed for the proposed coverage, the accessory structure area for the pole barn, the accessory structure height for the pole barn and some setback Variations.

COMPLETENESS REVIEW:

There were request for waivers.

Item 14 - Dealt with Zoning information. If the Approval is granted, will need a plan back to scale showing exactly where everything is going. The Applicant needed to understand things couldn't be moved without going back to the Board from where it is shown on the plan because another Variance would be needed. If the Board granted the Approval an updated plan should be a Condition. The setback dimensions to the proposed accessory pole barn structure should be provided.

Item 17 – A black and white polaroid was given in the package showed the front, the driveway, and the house; but a photograph of the area where the pole barn structure is proposed should be provided.

Item 18 – The contours. One of the concerns is because there will 13' 6" from the property line where the setback requirement is 75 ft. there is a concern with the roof whether there will be gutters, downspouts tied in underground, or whether there will be a swell on the side.

Ms. Morgan explained there would be a barrel system for watering. A detail of the barrel system was needed to make sure water wouldn't be sheeted off into the neighbor's yard from the roof.

Item 20 – The wooded areas. Primarily cleared up to the back porch and back.

Item 21 – The location of trees six inches or more in diameter. A waiver was requested.

If the Board is comfortable provided the Applicant agreed to all of the things required as Conditions of the Approval, the Engineer was comfortable the waivers requested be granted in terms of Items 17, 20 and 21. Information needed to be provided related to Item 14 and limited on Item 18. Specifically the side yard to make sure there are no off site drainage impacts.

The Zoning: The setbacks are not a number of existing non-conformities for the lot. The existing lot area is significantly deficient. A 300 ft. lot width is required. The lot is only 100 ft. wide. It is an existing non-conformity. A 500 ft. lot depth is required. There is only 407 ft. is provided. It is another existing non-conformity. The principle single family dwelling building is deficient in both front and side yard setbacks. They are all existing non-conformities which will not be impacted by the proposed development.

There will be a 150 ft. front yard setback for the accessory pole barn structure and will require a Variance because 200 ft. are required.

There will be a 217 ft rear yard setback which complies because the minimum is 100 ft.

There will be a 13 ft. 6 in. side yard setback which requires a Variance because 75 ft. are required.

There are two (2) C Variances for the front yard setback and the side yard setback. For the shed a Variance for the side yard setback for 13 ft. 6 in. The shed will be the same side yard setback as the pole barn.

The coverage is deficient there is only 3% permitted because there are large 20 acre lots which are required. The 3% standard is set because the lot would normally be so big. The lot exceed it. The total proposed is 7.21%.

The maximum for the area of the pole barn is 900 sq ft. and 1,000 ft. is proposed. The maximum height is 15 ft. and 15.25 ft. is proposed.

REVIEW COMMENTS:

Item 1 – The Plan provided does not show the exact location of the proposed pole barn. It is generally proposed in an area behind the principal building, but it will encroach into the required minimum front and side yard setbacks.

The Applicant agreed to provide a plan showing exactly where everything will be placed.

Item 2 – The proposed clearing limits should be depicted on the plan. The Applicant should indicate if a driveway will be constructed to the proposed pole barn. The Applicant proposed to relocate the existing accessory shed to the rear of the proposed pole barn. The Applicant should indicate if any existing trees will be removed to accommodate the accessory structures.

The lot is cleared up to the rear of the septic. The Applicant only needs to show the wood line on the back of the lot.

Item 3 – A photograph of the area in which the proposed pole barn will be located was addressed.

Item 4 – The proposed pole barn structure should be constructed so the drainage does not impact any adjacent properties. The 1,000 square foot proposed pole barn will increase the lot coverage by 2.45%.

The Applicant will need to provide something back for the side yard to make sure there will not be any drainage going off site.

Item 5 – The Application is subject to any other Approvals required. There may not be any, but it is the Applicants responsibility to obtain any other Approvals prior to applying for building permits.

No Variance was required for the rear yard setback of the shed. The setback will be greater than 100 (feet).

There were no other question from the Board.

A Motion was made by Mayor DeStefano and seconded by Mr. Pitale to approve the completeness of Engineers Review. There was a roll call vote with ayes all.

Mr. Polistina clarified the setbacks for the accessory building:

The pole barn setbacks: 150 foot front setback
217 foot rear setback
13 feet - 6 inch side setback

The shed will be 20 feet behind the pole barn.

The shed setbacks: 210 foot front setback
129 foot rear setback
13 foot – 6 inch side setback

Based on the testimony presented these were the setbacks. The applicant cannot shift the accessory structures from the front or side setbacks, and have 29 feet in the rear setback to stay within the 100 foot required setback.

A Motion was made by Mayor DeStefano to grant the requested waivers and Variances for the front yard setback for the pole barn, the side yard setback for the pole barn structure, side yard setback for the shed, lot coverage Variance, maximum area Variance of 1,000 square feet for the pole barn, and maximum height Variance for the pole barn, but before it could be second a question was raised about the new water field and where the water will travel. The Applicant needs to show on the plan what will be built to take care of the drainage from the roof areas on both sides. The Applicant addressed water runoff in the responses of the Borough's Checklist. Item #38.) Soil conservation will be adhered to with rainwater run off using rain barrel system to water any vegetation, landscaping, or grass planted. The Applicant will also add a swale in case of an unexpected downpour since the location of the swale was not known at the time. To determine if a swale was needed in addition to the water collection system it would depend on how big the barrels were and how much water would run off the roof. There was a calculation which needed to be done. The calculation would be based on what type of structure was being put in, how big it is, and how much water will run off. It was the reason why the information was needed back.

The Approval will be conditioned on the information being provided on the plan. The plan should provide all of the setbacks on it, and how the drainage issue will be dealt with. The Engineer will re-review it.

Mr. Veneziani second the tabled Motion with all of the Conditions which were outlined.

Mr. Polistina explained the property is in an area where twenty (20) acres is required and the home is on less than one (1) acre. It triggered all kinds of Variances to build on a lot when it is that much undersized. The 1,000 square foot structure as opposed to a 336 square foot structure will be going closer to the property line. When a 28 foot depth shed is converted to a 40 foot depth area shed the additional building area triggered a new Variance and with this home this is

what needs to be done with anything the homeowner would want to do. Mr. Polistina requested the structures to be on the plan, an arrow to indicate the 150 foot front yard setback, 13' 6" for the side yard setback, a box with the Zoning, and the table in the Engineer's report is the table which needs to go on the plan. He also needed the rain barrel system, and the size of the barrels, to do the analysis of how much water will come off of the accessory. He needed to make sure the rain barrel(s) will not fill up in a storm and have even more water flowing onto the neighbor's property line. To make sure in terms of the drainage perspective water will not run into the neighbor's property. The plan will be reviewed from a technical standpoint if the Approval is granted. The two items needed to be addressed. It was suggested South Jersey Engineering modify and add the information to the current drawing. The plan which was submitted with the Application was sufficient to appear before the Board, but there were waivers asked for. Waivers were not automatic. There is a process to determine what waivers are asked for, which waivers are justified and can be granted, and to determine what is needed to make sure there will not be an adverse impact on the neighbor's property. The plan which was submitted was sufficient to appear before the Board, now there were a couple things which need to be dealt with before the structure is built.

The Motion to grant Waivers and Variances as described along with the Conditions described by the Board's Engineer regarding the drainage system was made by Mayor DeStefano and second by Mr. Veneziani. There was a roll call vote with ayes all and one abstention by Ben Pagano.

The meeting was opened to the public for comment on the Variance application. Hearing no comment from the public the public portion of the meeting was closed.

Mr. Coombs explained to Ms. Morgan she was Approved and needed to come back and show the details. The Engineer will take a look at them and if satisfied she could move forward with the pole barn.

OTHER BUSINESS:

Mr. Coombs addressed the Collings Lakes Food Market Resolution was not tabled because it was a rather lengthy and contentious meeting. When there is a meeting of that nature the minutes are rather lengthy and there is a lot of things to read through. The Minutes were not ready for this meeting and never prepares a Resolution without the ability to review and consider all of the comments made in the Minutes. For this reason the Resolution was tabled for this meeting. Collings Lakes Food Market did not submit a Site Plan. The Applicant cannot move forward without a Site Plan and going before the Board with it.

The meeting was opened to the public.

Mr. Coombs swore in Donna Sutts, 15 E. Park Ave., Williamstown, N. J. Ms. Sutts came to the meeting because she wanted to hear the Minutes (May 18, 2016). She asked if the Minutes were approved, but they were not. There is a 12 page draft with a lot of information. Ms. Sutts was confused because she understood the Board approved them (the Food Market) to make B, C, & D one store, but went to the Town Council meeting and Council said the licensed could only be in (Store) D. Mr. Coombs explained it was a separate issue from the Planning / Zoning Board. Mr. Cappucio explained the only thing the Board approved is making the floor area bigger. Mr.

Coombs explained the Approval is there, but the Resolution has not been memorialized. They can move ahead and act on the Approval, but should really wait until they have submitted the site plan and issues with the ABC license. Ms. Sutts was not sure if she needed to speak to the Planning Board or Council about the store being Mercantile. They promised liquor store. She found out from ABC it should never be called a liquor store because it is a bar. They have a flashing light that say bar. They intend to use it as a bar. We as a town have now gone against our own Zoning Ordinances which says no more than one principal use, which is Mercantile, for the building. It will become Assembly. The residents are having a problem with the Assembly part because there are people outside. Where are they parking and where are they gathering to smoke if it is made bigger. Where is the safety? She didn't hear the Board question Collings Lakes Food Market about being able to get to the back for a fire. Mr. Cappuccio explained there was no reason to question about fire access because there is plenty of room to go around the back of the building. Ms. Sutts argued there is no back exit if there is an Assembly of 200 people. Mr. Cappuccio explained it is up to the Fire Code Inspector. He approves (occupancy load). Ms. Sutts thought it should be on the Site Plan, but Mr. Cappuccio explained yes, but we didn't get it (the Site Plan) yet.

Ms. Sutts also thought there would be a hearing on trying to get Conditions, but there was no proposed Ordinance to change it, but she could submit ideas of what she wanted (to see in the Ordinance). She felt it was so close to residents and there should be something for safety. There should be something concerning safety in it. If it is good enough to get a fire truck around there, she asked if her house and pool would be protected which is within 10 feet of her pool. She felt the Board was forgetting how close and there are no barriers. She used an examples of Bleachers which is also close to the residents. Bleachers has a set of wood between them and any of the neighboring houses. There isn't a tree between them (Collings Lakes Food Market) and any of us (the residents). She felt there should be trees so she wouldn't have to smell the smoke or hear them. Ms. Sutts believed Mr. Cappuccio wanted it (the liquor store/bar). Mr. Cappuccio explained he was just doing what was voted on. The Board did not vote on the liquor license for the store or anything. The only thing voted on was to make the liquor store/bar bigger. Ms. Sutts stated it was going to be a huge bar. Mr. Cappuccio explained she need to understand the Board did not write the liquor license or the law, but Ms. Sutts felt the Board could stop the liquor store / bar from being big enough to have a bigger bar. Mr. Cappuccio explained he did not think it was the Planning Board.

Mr. Coombs swore in Patricia Pecoraro Arena, 1002 Black Horse Pike, (Folsom). She thanked the residents. It is a thankless job and technical. She was in awe of pole barn specifications and the like. She was impressed the Board needed to know so much about every little thing. She understood the Planning/Zoning Board had nothing to do with the ABC. She researched it herself.

She had a written objection to the transfer/expansion. The transfer of the license which included the expansion. She spoke at the Council meeting after researching a lot of details. She realized this (Collings Lakes Food Market) is a bar license. She read and re-read the Minutes of 2014. They told the Board it was going to be a liquor store. They wanted to be a store. They knew the license they had, they had to have 3 stools. She stated it is a bar license. It is a 33 license which is a bar, lounges, clubs. It is a 33. There is a restricted package goods privileges, but it is a bar

license. The only liquor store license is a retail only. There was another license available years and years ago since 1948. It is a two for one. It is where there could be a liquor store and a bar at the same time. This is not that license. This is a bar license. Her point was that bar meant Assembly, whether there are three (3) people in the bar because there are three (3) stools or 33 people. The standing room at Bleachers is 242. Standing rooms means they have to be ready for that many people in an Assembly Use type. This is a Mercantile Use. It was stores. To hear a liquor store implied a different type (of Mercantile). It's not clothing. It's not a Dollar Store. It's liquor. One of the very issue of regulated things in the state is liquor licenses. They are very specific about what type of licenses you can have. This is a bar license with restricted package goods sale. You have to be a bar.

Restricted meant they have to sell on the perimeter walls and couldn't have anything in the middle or in the isles. In 2014 they had another store and said ABC told them to get the things off of the floor for a safety hazard. It wasn't a safety hazard they were in violation. For that license you cannot have anything, but on the perimeter walls and behind the bar. That was the restriction, but he could sell anything. He could sell any alcoholic beverage, beer, or hard liquor. It didn't make a difference, but has to sell it on the perimeter walls and behind the bar.

Ms. Pecoraro Arena understood people have to ask permission from the Planning/Zoning Board for structural things. It (Collings Lakes Food Market) is a bar where you are meeting friends. If there are chairs it is great, if not they may stand and have their drink while waiting for friends or seats open up. Two hundred and forty two (242) people (occupancy load) inside of Bleachers. There has to be parking for that many people. The sewer needs to be ready to accommodate that many people and water issues available. This (Collings Lakes Food Market) is a bar with one entrance. She asked what happens if a fire breaks out at the door and how will patrons get out at the door way with one way in? It's not a store where people were going in to buy clothing or anything else. She asked for the fire code and occupancy load. In May 2014 she asked the Planning Board Office and Council what the occupancy load was and called the State Fire Inspector. He wasn't in, but was still waiting for the Town Clerk to find the occupancy load. If it is ten (10) people or one hundred and ten (110) people she questioned if there was parking set up for that many people. She asked if there was sewer facilities for people to possibly/theoretically drink all day and if they get sick if there was sewer for it. She asked if there was water runoff. In the May 2014 Minutes there were parking issues then. She believed they had to have handicap. She was in a serious car accident years ago and had the handicap sticker. The violation signs were never put up from May of 2014. Her point was it has gone from a Mercantile to Assembly Use. She didn't want the Board to think she was blaming them for not knowing, but felt the Board didn't know by omission. This is in the residents backyards. It is so close. It is literally in their back yards. This license was on 1022 Black Horse Pike. There is nothing but woods behind it. The nearest building is another bar, Folsom Inn. It was moved from there. It was a Change of Use back of May of 2014. It wasn't just Conditional and the Minutes (2014) described what was going on. They actually said they were just changing the Use from a dry cleaner drop off. It wasn't even a dry cleaner with chemicals in there. It was only a drop off. A convenience for the neighborhood. She thought it was always intended to be a Mercantile little convenience market. It has gone from Mercantile to Assessable which was a huge Change of Use in people backyards. With Change of Use came all of the Waivers and Codes. She spoke about the Principle Use. Only one principle use shall be located on one lot.

Now there is Mercantile and Assembly Use on the one lot. The Rural Development District (RD) zone is not a permitted Use. The one that said roadside retail, sales, service, bars, taverns, and nightclubs is Conditional Use by permit. It was not a conclusion it was not part of the RD Development. It is not a permitted Use. Waivers were needed and the waivers are big. The one which went from 10% coverage to 31% coverage. Will it affect when there is a lot of people in there? Everything is different. The off street parking. The continuing Use is non-conforming. It was non-conforming when it was mercantile Use. The same. It is a Change of Use whether it is a little 518 sq. ft. end unit or 1,554 sq. ft. unit now. It is a huge Change of Use for those residents and that lot.

She wanted the Board to be informed to make an informed decision. She felt it wasn't fair for the Board to make the decision they made in May of 2014 not knowing what kind of license it was and what was required of this license. It's a bar license with restricted packaged goods sales. It is not a liquor store license. There is no such thing where to have a liquor store and a bar and not be a 32 (license). It doesn't exist. It is a 32 Broad Package C (license) which we do not have in Folsom and never have had a 32 license in Folsom. It is either a bar or one liquor store in town. It takes 3,000 people to have a bar license. These are all grandfathered and we (Folsom) have six (6) of them. We (Folsom) do not even have 1,900 people. Not even 1,900 people and we have six (6) bar licenses. Three thousand 3,000 (people) x six (bar licenses) would be 18,000 peoples worth of liquor license bars. It is a lot to keep tabs on and thought in our little community things have gotten away from us.

Mr. Cappuccio asked how the parking is figured without a known occupancy load for the building. He (Mr. Berenato) said he had 34 parking spots and it was sufficient. He also questioned the sufficiency of the septic. He didn't know how many people would be in the building. If there is 10 people, then 34 spots are sufficient. If there is 100 people, 34 spots are not sufficient. It was the same with the septic. Wouldn't the occupancy load need to be known to know if the septic can handle the load. Mr. Polsitina responded. The calculations are done from a land use perspective. Different Uses had different parking requirements. Different Uses generate different sewer flows. From a Land Use perspective these things are calculated differently than what would be the Fire Code on the maximum occupancy. When they bring in the calculations, they demonstrate per the National Standards they meet those requirements from a Land Use Perspective. It doesn't matter how many people will be in the building. There are standards for how many parking spaces needed usually based on area and use. It is the same for the septic.

Mr. Coombs swore in Katherine Heinisch, 11 E. Black Horse Pike, (Folsom). Ms Heinisch was a little confused. She had a photo to show where she lived in proximity to the location (of Collings Lakes Food Market). At the last meeting there were discussions of the Conditions. PUJA3, LLC, the entity buying this location expressed they were only interested in operating from 9:00 am until 8:00 pm and possibly 9:00 pm. She asked for the time to be made a Condition if it were to go through. She asked the same thing at the Borough (Council) Meeting. She asked if it could be a Resolution or an Ordinance, but hadn't gotten an answer on it. She was concerned about noise late at night. If it were to be open until 1:00 or 2:00 in the morning, it would make a lot of people miserable surrounding this location.

Mr. Polistina explained there are two (2) types of Conditions. There are Conditions placed on the Conditional Use Permit which is what they received last month. They (Collings Lakes Food Market) received a Conditional Use Permit in accordance with the RD Development District. With the Approval there were certain Conditions imposed. Ms. Heinisch asked what the Conditions were, but the Resolution hadn't been written. When the Resolution is ready, is when we will know exactly what they were. Whatever Conditions were associated with the Approval will run with the Approval. They will be Conditions of the Approval in perpetuity. Ms. Heinsch asked if the Conditions were Waivers. Mr. Polistina explained there were some waivers granted, but there were Conditions also. The waivers granted were specific to the Conditional Use permit. A Site Plan will be required. Pinelands Approval will be required with the Site Plan. Folsom Borough Approval will be required with the Site Plan, and the Board of Health Approval will be required with the Site Plan. There are a number of Approvals will be needed associated with a Site Plan Application. Whatever is agreed to as Conditions on the Conditional Use permit will run with the Approval. If the hours of operation, parking, or shutting the driveway, were all required they remain associated with the Approval.

In terms of the Conditional Use by Permit, there are several permitted Uses in the Rural Development District. A lot this comes from Pinelands. The Borough of Folsom didn't develop the bulk and zoning standards. Pineland wrote it and gave it to the Borough. Since Folsom is a Pinelands town, it is forced to abide by it (standards set by Pinelands), but it doesn't come from the Borough it comes from the Pineland Commission. The size of their lot and the type of Uses in the zone all stem from the Pinelands Commission. Folsom is bound with them (the Pinelands). There are permitted Uses allowed in the RD Zone then there are Conditional Uses by Permit. There is a separate set of Conditions talked about which would be specific to the Conditional Use Permit. He gave the example: bars would be allowed subject to only being to open between 10:00 and 6:00. If they wanted to be open 10:00 to 7:00 they would not meet the Condition on the Conditional Use. It would kick it into the same situation they just dealt with in terms of a D Variance Approval. Their Approval is completely different.

Ms. Heinisch remembered their attorney stating numerous times it is a Conditional Use Variance, but there are no Conditions. Mr. Polistina explained it is correct. The second part of the Conditions talked about was the Borough can try to impose Conditions on the Conditional Uses, but the Borough (Council) adopts the Ordinance. The governing body adopts it, then it has to go to the Pineland to be certified. We can try to do it, but here was a chance the Pinelands will not allow it. In this town we do not entirely control our zoning. There is another Regulatory State entity which has some over site. Much of it stems from the Pinelands.

Ms. Heinsch asked if the regular state statutes that allows municipalities to set hours of bars wouldn't override the Pinelands. Mr. Polistina explained if they (Collings Lakes Food Market) agreed to hours of operation with the Conditional Use Permit then it will be enforceable. Ms. Heinsch was concerned because there was nothing in writing. Mr. Polistina explained the Resolution needed to be adopted. It will be in the Resolution. The hours will be in the Resolution. Ms. Heinsch noted the hours of operation have changed several times. They went from 8:00 to 8:00, to 8:00 am 9:00, and then possibly 8:00 to 10:00, but absolutely no later than 10:00 pm. Mr. Coombs pointed out Chapter 68 of the Folsom Ordinances 68-15; hours for places that sell alcoholic beverages in the Borough by Ordinance are 2:00 am to 7:00 am to be

closed. Their Collings Lakes Food Market) Conditions are much more restrictive. Ms. Heinsch noted they didn't want to run it as a bar, they want to run it as liquor store and have more liquor store type of hours. The entity is in agreement with keeping reduced hours. Mr. Polistina added it goes with the Approval and stays with the Approval.

Ms. Sutts added there are parking restrictions. If they have 34 or 35, it is only 140 people for the bar. It requires 1 space for each 150 sq. ft. of the store plus 1 additional space for every employee there. Those spaces need to be a certain distance from the road and a certain distance from her driveway/parking lot. These were the item they wanted to see the Site Plan for. Mr. Cappuccio responded he would be redoing the Site Plan with the changes. Mr. Polistina added it was exactly why the Borough required a Site Plan. They didn't have a Site Plan, but the Borough required it, but still didn't have it.

Ms. Sutts called the State Police, because they were promised 8:00/9:00 (closing). At 10:00 one night she called the N. J. State Police to make a record of it. The State Police told her the town never told them it was 8:00, 9:00, or 10:00 (pm). Once they have it, they will come out and make sure people are gone. If it is Conditional, she needed the State Police to have it. She thought it was past 2 years. Mr. Coombs explained if there is a Resolution from 2 years ago, we would have a copy of it. Ms. Sutts noted she called the Town Clerk and asked her to send it, but was told it was never put in writing. They were fighting over the 2:00 am and all hours of the night there. She had pictures and the pictures were given to Town Council where the bar license came from totally surrounded. There was a picture of 9 E. Park Ave. and what they see of the bar. She offered copies of the pictures.

Mr. Coombs pulled the May 2014 Minutes and confirmed a 10:00 pm closing. Ms. Sutts asked for a copy of the Minutes. Mr. Coombs didn't have signed copy of the May 21, 2014 Resolution and directed her to the Planning/Zoning Board Secretary for a copy. The Sargent from the State Police told Ms. Sutts if she could get him a copy of it, he would have somebody ride by and be sure to close it.

Hearing no other comments from the public the public portion of the meeting was closed.

There were no other comment from the Board.

The next scheduled meeting will be July 20, 2016

The meeting was adjourned at 8:29 pm. Ayes all.

Respectfully submitted,

Susan Carroll; Board Secretary