

October 22, 2008

A regular meeting of the Allendale Board of Adjustment was held in the Municipal Building on October 22, 2008. The meeting was called to order at 8:05 p.m. by Mrs. Teng, Chair, who announced that the requirements of the Open Public Meetings Act were met by the required posting and notice to publications.

The following members answered roll call: Teng, Hart, Jones, Redling, Chamberlain and Mr. Nestor, Board Attorney. Mr. Manning arrived at 8:25 p.m. and Mrs. Weidner arrived at 8:40 p.m.

Mrs. Hart moved to amend the minutes of the September 24th meeting on page 3, to indicate that the hours of operation of Restaurant L are from 11 a.m. to 2 a.m. and not 2 p.m. Mr. Jones moved, seconded by Mrs. Chamberlain to approve the minutes as amended. Motion unanimously approved. Mrs. Teng said she would like to commend Ms. Dorl for the excellent job she did on these minutes.

Continuation of I Squared LLC Use variance application (Restaurant L) 9 Franklin Turnpike.

Thomas H. Bruinooge, attorney for applicant, presented the Board with revised plans prepared by Z+ Architects. He said the plans answer some questions raised at the last meeting with respect to the existing and proposed seating plan and seating count. There is a rendition of the structure as conceived by Z+ Architects should the variance be granted and a permit obtained. Tonight he hopes to present the balance of the testimony in support of the application.

Mary Scro of Z+ Architects, 634 Franklin Turnpike, was sworn. She was accepted as an expert witness.

Mrs. Scro said she was retained by I Squared to come up with a design to unify the buildings on the site into one contiguous building. She is familiar with the two site plans marked A-1 and A-2 that were submitted at the last meeting. In preparing the plans submitted this evening she spoke with Lapatka Associates, applicant's engineer.

Mr. Bruinooge said the site plan shows the existing conditions on site as well as the proposed conditions should the variance be granted. He asked Mrs. Scro to explain what the site plan presents from an architectural and aesthetic point of view.

Mrs. Scro said the existing site plan shows the main building in the front of the property and in the rear there are two buildings, both used for storage. One is a shed structure and the other is a trailer-type structure. In between is a patio where there is outdoor dining as well as access to and from the kitchen door to the storage areas. She said it is chopped up and not aesthetically pleasing. In the proposed plan it is proposed to enclose the patio area, demolishing the two outer buildings and incorporating it all into one unified building that will create a better aesthetic overall appearance for the property.

Mrs. Scro said at applicant's request she prepared a set of drawings and plans, A1 and A2 as well as perspective renderings of the building marked A3, A4, A5 and A6.

Mrs. Scro said A3 shows the basement plan where the outdoor storage will be placed. There will be Bilco doors accessible through the back for delivery. There will be an interior staircase which will be accessible to the kitchen. To the right is the existing building with the proposed addition which includes expansion of the kitchen, some additional bathrooms, a service area, a dining room and outdoor patio which will serve as a smoking area and overflow waiting area. That patio area will be covered with a roof and there will be solid walls on the sides toward the residences to contain the noise. It will be open toward the Waldwick side where the commercial use is located. There will be some aesthetically pleasing plantings so the views from inside the building are pleasing and patrons will not see the buildings beyond that are in Waldwick.

Mrs. Scro said A4 shows the exterior elevations of the building. It shows that the site slightly slopes down. It gives an idea of the placement of windows and doors and roof lines. The aesthetics of the new building will blend and be in keeping with the existing building which is residential in nature. Exhibit A5 on the left shows the existing seats. The seats that are going to be removed and the buildings in the rear to be removed are dashed. On the right is the proposed layout for the seating. A6 is a perspective sketch if you are coming south on Franklin Turnpike towards the restaurant and entering into the driveway. In looking at both A6 and A4 there is one doorway on the north side of the building facing the residences to the north. This will be an egress door and not one that the patrons would enter on a regular basis. It is placed there for fire safety purposes.

Exhibit 5 shows the existing seating and proposed seating plan. Mrs. Scro said the count is being kept at 100 seats. The seats that are outside on the patio now are being included in the rear room. The existing seating in the bar today is 16 bar stools. They will be reduced to 12. The existing bar table seats is 16 and that will be reduced to 12. The number of seats in the existing dining room is 38. It is proposed to take the wall on the north side of the building and move it out 3 ft. in order to have more space in between the tables. In doing so, they end up with a net gain of 2 seats in that room, from 38 to 40. In the existing patio area there are 32 seats. That patio area is being removed. The new dining room in the rear will have 36 seats. It is approximately 26 x 23 ft. There will be high transom windows on the north side facing the residences. There will be larger windows in the open patio/garden area and transom windows on the opposite side to allow light in but obstruct the view toward the commercial use.

Exhibit A-5 deals with gross floor area, existing and proposed. The gross floor area is shown as 3,253 s.f. and that includes the first and second floor of the building as well as the outbuildings. The Allendale zoning ordinance does not allow including the patio area in that calculation. The gross square footage of the patio area is 829 s.f. The proposed gross s.f. of the structure as shown on A-5 is 4,137 s.f. based on the definition of gross floor area under the code.

Mr. Bruinooge asked Mrs. Scro how she would assess the existing restaurant use vs. the proposed use. Mrs. Scro said if the patio area which is being used as restaurant use currently is included then there is a minor increase between the existing use and the new use. It is under a 100 s.f. increase.

Mr. Bruinooge asked Mrs. Scro to describe what has been designed for the proposed expansion. Mrs. Scro said the expansion is in keeping with the current aesthetics of the building – stucco with wood trim and asphalt roof shingles. They have kept with simple pitches that are still residential in style and have kept the scale down keeping it single story. They have tried to minimize the openness of the outdoor patio area towards the neighbors to the north and keeping it open to the southern side where the commercial area is located. She feels that the results presented are in keeping with the residential character of the neighborhood.

Currently, standing in the parking area to the north of the existing structure, one would see cars parked behind the service station as well as cars parked in front of the gymnasium. The clutter has been removed from the view and they have created something much more pleasing than what is there today. A buffer has been created between the existing residential structures to the north and the commercial uses in Waldwick to the south.

By removing the storage structures to the rear of the patio area behind the existing building a more aesthetically pleasing facade is created.

Mr. Nestor asked about the entranceway on the north side. Mrs. Scro said it is going to be an emergency egress door and it will not be accessible from the outside. Mr. Nestor asked for an explanation of how the calculations for the existing first floor and the proposed first floor are the same when in fact 3 ft. is being pushed out to the north.

Mrs. Scro said the proposed first floor addition will be 1,505 s.f. which includes the 3 ft. bump out in the existing dining room and the patio area in the rear. She said it is 56 ft. both existing and proposed to the northerly property line. Mr. Jones said on the plan from the last meeting the walled structure and the patio appear to be closer to the north property line. Mrs. Scro said she still measures 56 ft.

Mr. Jones said the conceptual plan shows a new sidewalk going all of the way around to the back patio. He said there was testimony that the patrons could walk to the rear of the property to wait for tables. He asked how will they get there. Mrs. Scro said the patio area that is shown on the engineering site plan is for access for the employees to get to the kitchen and for deliveries to the kitchen and the storage space in the basement. There will not be access for the patrons to enter that patio area from the sidewalk. The idea is that they will come in through the front door as they do now, check in, and if their table is not ready and they do not want to sit at the bar, they can wait outside.

Mr. Jones said there was testimony that there would be less seats in the bar. He asked if that would not create an increase in the standing area of the bar. Mrs. Scro said the bar stools are so tight now it will not create more standing room.

Mr. Jones asked if the trailer that was mentioned is a motor vehicle trailer. Mrs. Scro said she would call it a pod.

The Board asked if there will be people eating outside or will it just be a waiting area. Mrs. Scro said it will be a waiting area. In the dining area there will be large windows that can be opened up so that people will feel as if they are outside but there is no intention of outside dining.

The Board asked if there are any plans for a filtration system since there will be smoking outside. Mrs. Scro said there will be if necessary, but she believes there is enough open area on the west and south sides so it won't be necessary.

Mrs. Tengi asked how high the ceilings will be in the basement of the new addition portion. Mrs. Scro said it has not been determined but she would guess about 9 ft. The items that are stored in the space outside will be relocated in the basement.

Mr. Nestor asked if the entire basement area is going to be for storage and nothing else. Mrs. Scro said there will be some mechanical systems in the front electrical room. There will be heating and cooling for the new space. There will be no eating area there and there will be no eating or drinking in the patio area. It is just for waiting and smoking.

Mr. Nestor asked about the stairway to the south of the proposed first floor. Mrs. Scro said it is an exterior staircase entering into the kitchen. It will be 2 ft. from the fence on the property line.

Mrs. Hart asked if there is a second floor above the existing restaurant. Mrs. Scro said there is a second floor above the restaurant accessible through an outdoor staircase. It is on the southern property line. Currently it consists of offices and storage. Nothing is going to change up there. It is 819 s.f. and is included in the gross square footage.

Mrs. Hart asked if an exit is needed for the back dining room and patio. Mrs. Scro said not for that amount of people. Mrs. Hart said at the last meeting applicant was trying to get 50 more seats. Mrs. Scro said they were at 110 and have pulled back since then. The current seating chart of 100 is what is being proposed. Some of the seats are outdoor patio seats and her client wants to enclose those so they can be used year round and not just seasonally. Also they want the storage to be contiguous with the kitchen rather than outside.

Mr. Nestor asked if there is presently some lattice work on the existing patio. Mrs. Scro said there are some vertical lattice walls that are very temporary in nature as well as an umbrella. The lattice walls are about 8 ft. high and the umbrella is much higher. Mr. Nestor asked if they block the commercial property to the north. Mrs. Scro said there is

an opening in the lattice where you can see through to the commercial area. The umbrella is so much higher that it does not block the buildings to the south.

Mr. Bruinooge asked the dimensions of the proposed new basement area that would be located under the new dining room and waiting area. Mrs. Scro said it is approximately 28'4" wide from the outside by 39'4". The access from the outside to the basement storage area is through the Bilco doors to the rear of the garden area as well as a second access from the kitchen.

Mr. Bruinooge asked if there will be a benefit to the site as well as to the neighborhood in that the increased storage area will reduce the number of trucks and the number of times that trucks delivering the material will come to the site. Mrs. Scro replied affirmatively. She said that currently refrigerated, freezer and dry storage is in the outdoor structures. The kitchen staff has to go outside, down the stairs and walk around to whichever storage shed the material happens to be in and then return back to the kitchen. There is no storage for the kitchen as it exists today. The new design and new structure will eliminate this outdoor activity.

Mr. Bruinooge if the existing side yard setback to the south will be different from what exists now. Mrs. Scro said it will be no different from what exists now.

Mr. Bruinooge said the height of the basement is not set forth on the plans. He asked if that is an unusual situation. Mrs. Scro said that is usually done further down the line. They may do some soil tests to check for water and also, when they get into construction there may be a large rock so sometimes the final height is not determined until you dig.

The meeting was opened to the public for questions regarding Mrs. Scro's testimony.

Lynne Moran, 25 Franklin Turnpike was sworn. She said she lives next door to Restaurant L on the north side. She asked what are Bilco doors. Mrs. Scro said they are typically aluminum or steel doors that are set at an angle that open up with a short run of a staircase to the basement only.

Ms. Moran said currently there is valet parking on weekends. Will there still be valet parking dropping off patrons in the front. Mrs. Scro said she does not know the logistics of the valet parking but the main entrance that exists will be the entrance where all guests will enter. There is a door on the side that is not going to be used by patrons.

Mrs. Moran asked about deliveries. Mrs. Scro said they will be in the back through the Bilco door.

Mrs. Tenghi welcomed the Borough Engineer, Mr. Yakimik and Mr. Snieckus, the Planner who were both present. Mr. Bruinooge said he received a copy of an official communication to the Board setting forth the planning report.

Mr. Snieckus asked what is the use of the space upstairs that is accessed from the outside. Mrs. Scro said currently it is office space and storage, but it is not food storage. It is for extra tables and chairs that they have on hand in case of breakage or damage. There is clerical space and the Chef also has a desk.

Mr. Snieckus asked if there will be any banquet facilities. Mrs. Scro said it is her understanding there will not. In answer to his questions, she added that the bar area is not being reduced any further but the number of seats is being reduced because the seating there now is so tight.

Mr. Snieckus asked if the rear waiting area in the outdoor smoking and patio garden area could technically increase the amount of waiting space for the facility. Mrs. Scro replied affirmatively. He added that the operation of the existing outdoor dining area is providing seats that are more seasonal in nature. Mrs. Scro said that is correct. Mr. Snieckus said with the new addition, the operations or activity of the restaurant could increase. Mrs. Scro agreed that those seats that are now being used during the good weather could be used throughout the year. Mr. Snieckus asked if she envisioned an increase in the number of employees. Mrs. Scro replied that she did not.

Mr. Snieckus said by his calculations there is a 28'4" width to the new dining area and then there is a slight jog that is next to kitchen area where there is a staircase that goes down to the basement and that is an additional 5'9" for a total of approximately 34 ft. in total width. He thinks that one of the things that needs to be confirmed on the engineering plans is that the jog in the building may not be an accurate depiction compared to the building configuration. By his measurement on the plan it seems to be a 3 ft. jog compared to the 5'9". He is trying to confirm that from the standpoint of the testimony that was provided regarding the setback of the proposed addition. He said on the site plan there seems to be a slight discrepancy in the alignment of that side of the building.

Mr. Bruinooge said Andy Missey was not able to be here this evening. The drawing which contains exhibits A3, 4 and 5 was done in concept within the last week or so and the site plan A1 and A2 was prepared prior to the generation of this particular plan. He said he recognizes and accepts Mr. Snieckus' observation and comment and there will need to be some reconciliation to bring the two into sync.

Mr. Yakimik asked if there has been any change in the dimension of the rooms from the plans that were submitted at the last proceeding. Mrs. Scro said the footprint has not changed but the interior has changed. Some of the seats have been removed from the bar and the waiting station increased. The bathrooms and the staircase have remained the same.

Mr. Yakimik said on A-5 the proposed gross floor addition is shown as 1505 s.f. He asked if that includes the smoking/waiting area. Mrs. Scro said it does not because it is considered an open air portion which is not typically considered part of the floor area per the zoning ordinance. It is 448 s.f. and it is accounted for in the impervious coverage.

Mr. Yakimik said Mrs. Scro had testified that the basement that currently exists has a 7 ft. high ceiling but the new basement will have a 9 ft. high ceiling. Mrs. Scro said the existing basement is 7 ft. in some areas and crawl space in other areas. They never took exact measurements because they weren't going to do any work there. They are proposing 9 ft. for the proposed basement area. The existing basement area will not be touched at all. It will stay as it is.

Mr. Yakimik said the staircase that leads to the second floor that is on the outside seems to be very close if not on the property line. He asked if that will remain and Mrs. Scro replied affirmatively. He asked if that is considered as part of the structure or an extension of the structure in terms of building setback. Mrs. Scro said it is not enclosed or heated space. There is no roof over it. It is like a fire escape and she did not consider it as part of the structure. Mr. Yakimik said the engineer has indicated a 3.7' existing and proposed setback but from the testimony he is hearing the staircase is going to be there and is still considered part of the structure so the setback numbers will change and will perhaps be zero. Mrs. Scro agreed.

Mr. Yakimik said the zoning table on the engineering drawings reports an existing side yard setback of 3.6'. It does not include the staircase which he thinks should be included. Mr. Bruinooge said the area in question is not affected directly by the proposed addition. Mr. Nestor said it is a pre-existing condition.

Mr. Jones asked the distance from the stairway landing to the south property line. Mrs. Scro said she will get that information from the engineer.

The Board asked if a sprinkler system is considered for the patio smoking area. Mrs. Scro said if it is a requirement of the code, yes. If not, she will talk to her client about it. The current building is sprinklered so the additions will be as well. The Board asked if the second floor of the building currently used as office space is sprinklered. Mrs. Scro said she believes so. She was asked if any improvements are planned for the second floor. Mrs. Scro said they are not.

Mrs. Nestor said A5 indicates the total proposed floor area as being 4137. He asked if that includes the 448 for the patio. Mrs. Scro said it does not. Mr. Nestor said in total space, we are talking about a 500 s.f. increase. Mrs. Scro pointed out that right now that patio space is being used for dining, but the new patio and porch area is not going to be used for dining.

Mr. Bruinooge commented that Mr. Nestor's question deals with how a portion of the site is utilized for restaurant purposes now versus that portion of the site that would be used for restaurant purposes should the variance be granted and the addition constructed. Mrs. Scro's testimony indicates that in that situation, existing square footage of the lot being used for restaurant purposes now versus proposed is an increase of approximately 500 s.f. Mrs. Hart pointed out that the existing patio should not be included, but the enclosed patio should be included.

Mrs. Hart said she sees the total existing area as 3,253 and the proposed area as 4,127 plus 448 which is 4,585 so the difference is 1,332.

Mr. Bruinooge stated that the rear patio should not be included in the structural calculations as gross floor area. Mr. Nestor said gross building area is defined in the Code as not to include open porches, unfinished basements, decks and patios. Mr. Bruinooge said he thinks it is an open porch and should not be included. Mr. Nestor said there has to be a decision as to whether or not it is open. Mrs. Scro said she views it as an open porch.

Mrs. Hart asked what was the existing seating in the restaurant when it was purchased by the present owner. Mrs. Scro said she was not involved at the time of the purchase. Mrs. Hart said the original plan with the same square footage for the back room had 64 seats and now there are 36 seats in that room. Mrs. Scro said the present owners chose to allow more room and to open up the seats.

Mrs. Chamberlain said she has a question that has to do with the difference between maximum capacity of the building or room versus the proposed seating for the room. She believes those could be two different numbers. She believes that the Fire Official establishes the maximum capacity and theoretically the maximum capacity could really govern how many seats could be there. She asked what would the maximum seating be. Mrs. Scro said she didn't know the answer. Mrs. Chamberlain said she believes it is relevant.

Mr. Yakimik said from a parking standpoint, looking at the gross floor area is more relevant because it takes into consideration floor area rather than seats. He will be looking at both applications, gross floor area and seating when it comes to parking. With regard to capacity of a room, he would think gross floor area has more bearing to determine the number of parking spaces required for the facility.

Mrs. Hart asked if we have a way to determine capacity based on floor area. Mr. Yakimik said he is not an expert in firematics and the Fire Official should probably provide that information.

Mrs. Chamberlain pointed out that if people keep coming there will be the temptation to put in as many chairs and people as it will hold and who is going to monitor that.

Mr. Bruinooge said this is a bifurcated application for variance and site plan approval. If the variance is granted the Board has the authority and jurisdiction to deal with site plan issues. The site plan, once it is approved allows the property owner to go to the Construction Official to get a building permit. The building permit sets forth how the building will be constructed. Ultimately from that a certificate of occupancy will be issued. The occupancy must be consistent with the application, the variance that is granted, the site plan that is approved and the building permit approved by the

Construction Official who takes into account all of the subcodes as well as the fire issue. He said if the plan shows 100 seats that is what they have to provide and no more.

Mr. Nestor said the Board has the authority to place a condition on an approval saying what is to be the maximum but then enforceability becomes the next problem.

After a brief recess, Mr. William G. Lothian, P.E. was sworn. He said he is a Senior Associate in the firm of Langan Engineering & Environmental Services. He has been with them for 36 years. He is a licensed professional engineer in the State of New Jersey and several other states. He has a Bachelor of Science degree in civil engineering from Newark College of Engineering and a Master of Science degree in traffic and transportation from NJIT. He is a Fellow in the Institute of Transportation Engineers, a member of ASCE. He has been involved in traffic and transportation and parking issues for the last 39 years. He has been accepted as an expert in these fields by many zoning or planning boards.

Mr. Nestor asked for information on the parking and traffic issues he has been involved with during his career. Mr. Lothian said over the years he has been involved with hundreds of issues involving restaurants, retail and office building sites – ranging from individual restaurants like this one to regional shopping centers to 2 million s.f. office complexes. The Board accepted him as an expert witness.

Mr. Lothian said he was hired by the applicant to prepare a parking assessment for Restaurant L as it is proposed to be expanded. In preparing the parking assessment he visited the site on several occasions. He also did studies, used aerial photos and talked with the applicant. The applicant wants to enclose an existing utilized restaurant external space that is weather dependent. They are keeping the same number of seats as currently used for restaurant space and therefore the actual parking and traffic impact should be virtually the same. Mr. Lothian said counts were taken during lunchtime peak hours when one would expect the maximum utilization and also during Saturday evening peak hours. He said there are 43 existing parking spaces on site. They are depicted on Exhibits A1 or A2. In preparing the parking assessment for this application he familiarized himself with the parking requirements as set forth in the Allendale zoning code.

Mr. Lothian said he wanted to find out the actual parking utilization at the site during peak hours at which time people would be using both the patio space and indoor space. He found that maximum utilization of the parking facilities occurred during Friday evening peak hours.

Mr. Lothian said there is no specific parking requirement for a restaurant in the Code. There are two ways to calculate it and they are both in Section 270-40 Off Street Parking. One would be parking for square footage of building space. When he looked at that for the proposed gross building area it would require one parking space for 100 sq. ft. of gross floor area or 42 parking spaces. He also looked at the requirements for theaters, auditoriums, hospitals, churches or other similar uses of public assembly and that would

be one space for each three seats plus one for each two residents plus one for each non-resident employee. That would yield 34 spaces based on 100 seats plus 8 employees for 42 spaces. Based on both applications the proposed parking spaces is 42 and what is on site today is 43 spaces and 43 spaces are proposed. He said the parking as proposed is compliant and meets the ordinance requirements.

Mr. Lothian was asked about the impact of valet parking which is used several times per week. He said with valet service which is used on Friday and Saturday evenings it would be possible to park tighter than the actual existing spaces so it would be possible to get more parked cars on site. On actual counts, he has seen no more than 44 cars parked on site during the peak parking period. He said that valet parking is actually more efficient.

Mr. Lothian said the ordinance provides for a non-residential structure in a residential zone to have parking not only on its site but it can also have parking spaces shared on an adjacent site. He said the applicant has entered into an agreement with an adjacent and contiguous property owner to the south in Waldwick to allow for 8 additional parking spaces on Friday and Saturday evenings. In his opinion the number of spaces available to the applicant on this site plan with the agreement in place as described far exceeds the required parking. Mr. Nestor said he would like the Board to have testimony with regard to that agreement. With these additional spaces, Mr. Lothian said the employees have the ability to park off site with all of the on site spaces available for customers. Mr. Lothian added that since this site is on a County Road, should approvals be granted by the Board, the site will be reviewed by the County Planning Board. He said in the event the County ever wanted to widen the road, there is a potential that the site plan could be modified by the County Planning Board and that could impact the existing parking. However, he feels the remaining parking spaces still meet the minimum ordinance requirement.

Mr. Lothian said if the County were to extract the County easement as part of their site plan review process for road widening, the property line would shift to the west.

Mr. Redling asked if there have been any situations where the valet parkers have had to use public areas to park cars off the site. Mr. Lothian said he is not aware of any such situation.

Mr. Redling said Mr. Lothian testified that based on his calculations the building has 100 seats and therefore based on the two different formulas he arrived at 42 required spots. He asked if it isn't fair to say that there is going to be somebody in the smoking/patio area.

Mr. Lothian said there could be people in the waiting area but this is a quality type of restaurant where customers would typically have a reservation so there would not be that many people waiting around. He added that based on both the ordinance and Institute of Transportation Engineers Parking Generation Studies, restaurants of this type have a little than one-half space per seat so the required number of spaces for 100 seats would be less than 50 spaces and on this site with the additional adjacent site there are 51 spaces.

This would include additional spaces for the people that will be sitting and waiting and people standing and waiting in the bar area.

Mr. Jones said since this is a County road are there any concerns about sight distance of people entering and exiting the site. Mr. Lothian said the sight distance in both directions is very good and the only people that would use the off site spaces on the adjacent lot would be employees or the valet. There would be no customers pulling into that other area.

Mr. Jones asked if it would be a safety issue if customers were to park off site and cross Franklin Turnpike. Mr. Lothian said they would just have to wait for an available gap in traffic. Mr. Jones said Mr. Lothian testified that counts were taken on a Friday and Saturday night. He asked if there were cars parked on an adjacent site at the time he was there. Mr. Lothian said there were cars parked there but he couldn't tell whether they were people that parked on the street because they lived there. It is his understanding valets will not be using off site parking on any public street. Mr. Jones said the site plan shows an area that says "no parking" in the rear of the property. It is used as a turnaround at the back of the parking lot and the proposed plan does not have that removed. He asked if there is enough space traffic-wise for a vehicle to turn around and queue back out. Mr. Lothian said right now on the proposed plan it is just the aisle with cars parked on both sides. In the event the spots were all filled there would be an area for the valet to turn the cars around.

The Board asked if Mr. Lothian saw any off site parking on Waibel or McDermott when he was there on Friday and Saturday evening. Mr. Lothian said he did not. When he was there on Friday night there were additional spaces on the parking lot so there was no need to park anything off site. He drove on Waibel and there were cars parked there but they certainly were not parked by the valet. Customers may have parked there because they did not want to use the valet service.

Mr. Manning said he is still concerned about the parking and asked if it would be advantageous for the owner to come to an agreement with the commercial property behind the gas station where there are possibly 80 parking spots.

Mr. Bruinooge said the application as filed is compliant with the Allendale zoning code. He pointed out that it is the Board's job to deal with the Allendale zoning code and the testimony is that the application complies with the code. Mr. Manning said the applicant is applying for a use variance also and he has to take that into account.

Mrs. Hart asked if there are design standards for turning distances. Mr. Lothian said typical aisles are 24-25 ft. Parking spaces could be 18-19 ft. on both sides. Mrs. Hart asked if there is a design standard for the size of parking spaces. Mr. Lothian said the size of the parking space in the Borough ordinance is 10 x 20 which is a large space. The space proposed in this application is 9 x 19. For this type of use and other retail uses 9 x 18 is a universal size space. The majority of spaces here are against a grass area so there

is an overhang and perceived to be a 20 ft. deep space although it is striped as 19. He said in his opinion the 19 ft. space is more than adequate for this type use.

Ms. Hart asked if the cars are supposed to overhang into the neighbor's property. Mr. Lothian said the spaces are 19 ft. right up to the property line. Most cars are 16 ft. or less so actually there is 3 ft of play in the space up to the property line.

Mr. Jones said he thinks there could be an issue if a car is overhanging on the adjacent property. Mr. Lothian said the cars are parking on the pavement. Mr. Jones said the proposed plan has the edge of the stall on the property line. Mr. Lothian said it is an existing condition.

Mrs. Hart pointed out that the northeast 6 spaces have a buffer and trees and the proposed shows that as eliminated, so aesthetically that is not an improvement. Because the building is 3 ft. wider and the sidewalk is there, the alleyway is 24 ft. when it used to be 38 ft.

Mr. Nestor asked on how many occasions Mr. Lothian looked at the site. Mr. Lothian said on three occasions – this past Friday and he drove past a couple of lunch times during the week and went on site. He said other people took the count in the parking spaces and that information was provided to him. He was there at lunch time on a Wednesday and a Thursday, one this past week and the other the week before. Both times it was between 12 and 1. There were about 15 cars there one day and 17 on the other day. When he was there on Friday he arrived about 8:05 and left about 8:50 which would typically be the peak parking time for restaurant use. He said the other people who took counts at different times – 5, 6, 7, 8, 9 and 10 o'clock, were restaurant staff.

Mrs. Hart said Mr. Lothian had mentioned design standards of ½ space per seat. Mr. Lothian said that is typical Institute of Transportation Engineers parking generation for quality restaurants or high turnover sit down restaurants that would have a bar. Ms. Hart said based on that 50 spaces would be required.

Mrs. Chamberlain said the Board has heard testimony that the owner has negotiated a contract with the adjacent commercial entity for additional parking. Would that be considered in the equation of additional parking spaces? She said a new owner could come in and cancel that contract. Mr. Nestor said the Board should see the actual contract to see if it runs with the land and if there are any conditions.

Mr. Lothian said there are 43 parking spaces on site and that exceeds the requirement of 42. The extra 8 spaces being contracted for off site are over and above what is required by ordinance. They are being provided because one likes to provide as many parking spaces as possible for this type of use.

Mr. Jones asked if there are any spaces on site that meet the ordinance requirement. Mr. Lothian said all of the sites are 9 x 19 except the handicapped which meet the ADA

requirement. He added that there are two light poles that might take up a square ft. or so of the space.

The meeting was opened to the public for questions to this witness. There being none, the meeting was closed to the public.

Mr. Yakimik said the expert has submitted a report to the Board. He said he received a copy and asked if it is going to be submitted as evidence. Mr. Bruinooge said it will be.

Mr. Lothian examined the document submitted to him by Mr. Bruinooge and said it is the report that he prepared dated October 20, 2008 called "Parking Assessment for Restaurant L." The document was submitted to the Board and marked Exhibit A-7.

Mr. Yakimik asked Mr. Lothian to explain why he chose the particular two uses that he used in determining the number of parking spaces for the restaurant. Mr. Lothian said one is based on square footage and the other is based on number of seats. For purposes of determining the number of parking spaces he considered outdoor dining to be a seasonal type of demand that fluctuates very greatly during different seasons of the year. In answer to questioning from Mr. Yakimik, he said in his observation of valet parking he did not observe any queuing onto Franklin Turnpike.

Mr. Yakimik asked about the actual dates when the counts were taken for vehicles on the site. Mr. Lothian said they were taken on October 10, 11, 17 and 18.

Mr. Yakimik asked if it would be possible to submit a plan showing the configuration, sizes and circulation patterns associated with the 8 spaces so the Board can determine if they are legitimate spaces with adequate access. Mr. Nestor said the owner of the property could be asked if he would be willing to provide such a plan.

In answer to Mr. Yakimik's questioning, Mr. Lothian said he looked at both "quality restaurant" and "high turnover sit down" from the ITE manual in determining the number of parking spaces required. He said the high turnover sit down restaurant with bar or lounge has actually slightly less average peak period parking demand than the quality restaurant, so he used both in his report.

Mr. Yakimik asked why Mr. Lothian used the average peak and not the 85th percentile value. Mr. Lothian said the average peak period is adequate for looking at what is going to happen on this particular site. This site could be different or it could be the same as all of the other 14 sites that were studied that provided the data in the report, so the average peak period demand of all of the sites that were identified was one half space per seat.

Mr. Yakimik said he would look at the range between the two numbers and not just look at the average. The average in his opinion is the minimum that one would use to feel safe. Mr. Lothian said even the average peak parking demand is in excess of the required amount of parking spaces required by ordinance.

Mr. Nestor said he thought Mr. Lothian had told him that the only time he was on the site was this past Friday. Mr. Lothian said that was correct. Mr. Nestor said Mr. Lothian had told Mr. Yakimik that he was on the site this past Friday and Saturday and the Friday and Saturday before. Mr. Lothian said that is when the counts were taken. Mr. Nestor asked who was responsible for those counts. Mr. Lothian replied, "Representatives from the restaurant."

The Board asked about the reference to Bergen County approval on page 2 of Mr. Lothian's October 20 memo. Mr. Lothian said when applicant actually goes for site plan approval, Bergen County may or may not eliminate perpendicular parking spaces, but the number of spaces retained still exceed the minimum requirements based on the ordinance, even if those spaces are eliminated.

Mrs. Tengi said this application will be continued at the next meeting of the Board scheduled for November 19.

Mr. Bruinooge consented to an extension of time for action by the Board.

Mrs. Tengi said the Board will ask the Borough's engineer and planner to attend the next meeting.

On a motion by Mrs. Hart, seconded by Mr. Jones, the meeting adjourned at 11:10 p.m.

Respectfully submitted,

Barbara Knapp