

**CLAYTON PLANNING BOARD  
MEETING MINUTES  
JUNE 27, 2022**

The regular meeting of the Clayton Planning Board was called to order at 7:00 PM. Invocation was given and we had a Salute to the Flag.

**SUNSHINE LAW**

The public notice of this meeting pursuant to the Open Public Meeting Act of 1975 has been properly given in the following manner:

- A. Posting written notice on the Official Bulletin Board in the Municipal Building.
- B. Mailing written notice to the South Jersey Times and the Franklinville Sentinel.
- C. Filing written notices with the Clerk of the Borough of Clayton.

**ROLL CALL**

Ayes: Abate, Cerone, Culver, Miller, B. Saban, T. Saban, Thomas, Vondran,  
Absent: Bianco, Wise, Moorhouse, Wiseburn

**APPROVAL OF MINUTES**

Regular Meeting, May 23, 2022 have not been completed.

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

Twin Kiss – 9 S. Delsea Dr. - Block 1211, Lot 21 – Use Variance & Site Plan

John Alice, Solicitor, advised that since there is a use variance involved members from council must step down and the board will be reconstituted as a zoning board of adjustment. Mr. Saban and Ms. Vondran have stepped down.

James Carter, Esquire advised that since there are members of the public in the audience they have one plan facing the board members and another plan facing the public. The plan was identified as the preliminary site plan that was prepared by Greg Simonds, P.E. They have a site plan that they are asking slight modifications.

James Carter, Esquire of Hoffman & DiMuzio is here representing Twin Kiss. There are two witnesses Greg Simonds, P.E. and John Chamberlin, owner of Twin Kiss. He believes most of the board members are familiar with Twin Kiss which is an ice cream shop on Delsea Drive. Until recently, there were three different lots. Two of which that had the ice cream shop sitting on the lot line. There was a third lot north which has a garage on it. Those lots have been consolidated which is now lot 20 which has been identified by the County.

John Alice asked if the deeds were sent to him because he did not recall seeing them. He also asked if they were sent to Stan Bitgood. Stan also advised that he did not recall seeing them. Mr. Carter responded that he sent the deeds via email to the board

secretary. John Alice, Esquire told Mr. Carter that attorneys communicate all of the time and that he shouldn't rely on the board secretary to do it for him. Mr. Alice asked that he get the deeds to him and Stan Bitgood in the morning so he can review them. Mr. Carter indicated that the three adjacent lots that front Delsea Drive they consolidated them into one lot. Prior to the consolidation the lots were 19, 20 and 21 and the County now identifies the one consolidated lot as lot 20.

John Alice, Solicitor, swore in Greg Simonds, P.E., John Chamberlin, owner, Stan Bitgood, P.E., and Paul Breier, P.P. Twin Kiss has been in operation for many years. It's an ice cream shop that also sells food. It is identified as a restaurant for zoning purposes. Twin Kiss is located on the south 2/3<sup>rd</sup>s of the property. The north of the property has some seating and a play area/amusements. A playground or play area is not permitted in this zoning district which is CB. This is why they are requesting a use variance to be able to use the play area and have the additional seating. They are also seeking preliminary and final site plan approval. They are trying to clean up the parking area as well to make it clearer and to make it safer most importantly. The new configuration of spots with a crosswalk. Your engineer said that the site plan approval should be conditioned upon the use variance. The use variance will be addressed first.

As the board knows, we have to present the negative and positive criteria. As far as the negative criteria, the relief has to be granted without substantial detriment to the public good. The relief, if granted, will not substantiate or impair the intent and purpose of the zone plan and the zoning ordinance. As far as the positive criteria, we have to show special reasons including that the proposed use in this case, the mixed use of ice cream shop and play area carries out the purpose of the zoning law including promotion of the general welfare. We also have to show site suitability. We are basically asking the board to find that we meet those criteria tonight.

The area of our lot will be in the CB District, the commercial district. If you look at the top, this is the subject property, immediately to the east of the subject property you have the RC High Density residential district. The east lot line abuts the high density residential zoning district. This is pointed out for a couple of reasons. We understand that there are neighbors who have expressed some concerns about the use of the Twin Kiss property in a way that we are asking the board to approve. The play area is not permitted in the CB District but under the zoning ordinance specifically parks, recreation and family daycare homes are permitted in the high density residential district. What we are proposing is not dramatically different from those uses which actually are permitted as a right in the district where the neighbor(s) are situated.

We had a very productive meeting with several neighbors approximately three weeks ago with myself, Mr. Chamberlin, Mr. Simonds, Mr. Schwartz. We met at the property to try and address some of their concerns. Twin Kiss wants to be a good neighbor. Mr. Carter showed on the plan what neighbors they met with. It was basically all of the surrounding neighbors. As a result of that, there are going to be some slight changes that our engineer is going to talk about that we think changes our site plan. Mr. Carter called Mr. Simonds to address the boards' professionals.

We received an email that the Fire Chief had no concerns, objections, or modification requests. Once any changes are made, we will be happy to get them to him again for his review. He asked Mr. Simonds to go through with him the review letter of Mr. Bitgood's letter dated May 17, 2022. Mr. Simonds did prepare the plan and is a licensed professional engineer in the State of NJ and has testified in front of this board. John Alice, Solicitor, added that he has testified before this board not too long ago. Mr. Simonds has reviewed Mr. Bitgood's letter. That review letter is dated after the date of the last revision of the plan. We already talked about the consolidation of the lots.

In regards to the buffering and landscaping. They require screening around trash enclosures as requested with landscaping. There is six foot wood stockade fencing along the rear of the property. There is a six foot PVC vinyl fence located along the property line of lot one. In meeting with the property owners, the applicant has agreed to provide landscaping along the property line of lot two to screen the seating and play areas. This will be reflected in the revised plan. With the buffer, the trees will grow pretty quickly probably in about two years and should be about ten feet tall. There is a six foot fence there now. Twin Kiss is going to maintain the buffer. Joe Abate added that watering is part of the maintenance.

In regards to drainage, no new curbs are proposed. Mr. Simonds believes that the drainage, as is, is adequate. There is not going to be any impact or runoff in regards to the drainage. In regards to paving, there is a small patch which is approximately 466 sq. ft. and the applicant is proposing to square it off and pave it. It will have a minimal affect in regards to draining as it is in the rear of the lot. Stan Bitgood added he doesn't have an issue with drainage. He asked that the concrete area be shown in detailed topography to verify that it won't affect the adjacent lots.

In regards to environmental conditions of the property, he did not see any hazardous environmental conditions. It's not going to change much from what it is now. He also doesn't believe that there will be any damage to the existing trees with the work being done. Mr. Carter added that the deeds of consolidation will be sent to Mr. Bitgood and Mr. Alice directly for review and indicated that the lot is now #20 which was obtained from the County.

There are some existing spot lights in the play area and on the garage which are going to be removed. They are proposing a shoebox type light fixture with full shields. Mr. Simonds thinks it will be an improvement. It will increase the lighting around the parking lot. The shields will reduce the glare and the visibility from the neighboring properties. Stan Bitgood advised that he hasn't really had a chance to go over it. He doesn't have an issue with the LED lighting. The main concern is the shielding. The level on the plans will probably change slightly. The shields have to be effective enough that the lenses cannot be seen on Delsea Drive and from the adjacent properties. This can't be stressed enough. The applicant will work with the board's professionals. They want the lot lit for safety reasons but not so it's affecting the neighbors, etc...

Stan Bitgood asked about the hours of illumination. John Chamberlin said they turn them off at 11 p.m. Summer hours they are open until 11 p.m. During school they close at 10 p.m. Sunday-Thursday and 11 p.m. Friday and Saturday. They are open approximately March 1<sup>st</sup> to November 1<sup>st</sup> depending on how they feel. When they are closed November – February there is no lighting. The lights on the parking lot are turned off. The lights on the building under the eaves are left on for security reasons. Stan added that as long as those lights are recessed. John Chamberlin answered that they can always be turned off. John Alice asked what time do they open and John responded 11 a.m.

The parking lot lights are most likely shut off around 11 p.m. no later than 11:30 p.m. when the workers leave. If they are really busy, they are there sometimes till about 11:30 p.m. They keep them on until they leave.

In regards to parking, they are proposing a slight reconfiguration. They will be adding striping. The existing parking spaces adjacent to lot 18 will remain. The parking spaces in the rear we will provide parking bumpers to control the vehicles. There is also some angled parking by the exit. There is one way through the parking lot with cars entering one way and you circle around the parking lot. The fencing is going to be reconfigured to channel the flow into the store into the crosswalk into the front. They will be adding signage, a speed bump, and a crosswalk. They are proposing a sign on both sides of the crosswalk indicating that you stop for pedestrians.

Mr. Carter asked how do patrons get to the play area now. They can walk from anywhere on the parking lot and access the play area. They are going to channelize it with the fencing and the crosswalk to make it a safer condition. They have additional fencing on the plan along the building to direct the flow of anyone going to that area. Joe Abate asked if the crosswalk is going to be reflective striping. Stan Bitgood indicated that it is more visible but typically not required on a private commercial lot. Joe Abate would like reflective striping. The applicant is fine with that and they will change that on the plan. Stan Bitgood asked Greg to clarify where the proposed fencing will be to channel everyone to the play area. Greg indicated it will be in the left front corner of the store. That access is proposed fencing there it's going to close off that access point. The existing amusement rides are going to be removed. Then the fencing will be opened up as you enter the crosswalk.

They discussed with the neighbors about changing the mesh wire in the split rail fence to make it more aesthetic. We agreed that we will be able to do that if that's what they were requesting. It's more like construction wire and it's sturdier.

They will put the length and width of the parallel parking spaces on the revised plan. Mr. Carter asked Mr. Simonds to talk about the parking spaces currently on the side parking lot. They are asking for a waiver for the proximity of the parking to the property line to keep that parking there. They are trying to utilize and get as much parking as they can. The handicapped spot will be relocated signed and striped appropriately to the rear of the building. Mr. Carter asked if they can discuss the parking located across the back lot

line. They are proposing additional wheel stops which will be located two feet from the edge of pavement which will be approximately 4.4 feet from the fence line. The dimensions will be provided on the plan. Mr. Carter asked about the three spaces on the southerly lot and asked if there is a reason why they can't move them out. Greg Simonds answered that it will conflict with the driveway. It's best to have those spaces close to the property line. Stan asked if they can cut the 19.4 to 15 or 16 which should be adequate. It will allow the person to exit on the passenger side without going into the neighbor's yard. Stan added that he thinks it will slow the vehicles down as they come in. They agree to 16.

There are no stormwater issues on the property. There will be vegetation added in regards to the trash enclosures from the street.

They referenced Paul Breier's letter dated May 12, 2022. They do not require additional trees for this project and trees will not be removed. Mr. Breier added that there are a good amount there now. Paul asked if any were in bad shape that they need shaping or pruning. John Chamberlin responded that they can probably do that. Paul added that if any are dying/dead branches especially where people are going to be walking. John added he will have a guy come out and take care of it. Paul asked how the building is heated. John answered it's gas. Paul added that they make sure to put the length and width of the parking lot dimensions. Also add the name and address of the applicant and owner.

James Carter, Esquire asked Mr. Simonds about the requested waivers. They are not requesting any change in drainage patterns so the existing and proposed contours should stay the same. Waivers for general soil information as we are not actually making changes to the property. All elevations will be maintained at all property corners. They are asking for a waiver from providing parking behind or to the side of all buildings. Parking is proposed between S. Delsea Dr. and the existing front building line. Lastly, parking lot design waiver is requested from providing parking areas more than 3 feet from any property lines. It will be changed to 3.4 feet. Paul Breier, P.P. indicated with the changes they are going to make he is fine with the waivers.

John Chamberlin, Co-Owner along with his wife Stacy Chamberlin. He asked John to describe the play area. Currently, it is a sitting area with tables. There are a couple of kids games like tic tac toe and a couple of toss games. They took down the basketball court and they do have a volleyball net. They do not use an actual volleyball but a beach type ball instead, and badminton. They do have sand and small toys. They also have swings and a slide.

John was present at the meeting with the neighbors and attorneys. The one neighbor behind the playground was concerned with balls and different things going into his yard. He was also concerned with hearing the music loudly at times. The speakers in that sitting/playground area have since been removed. Currently, the volleyball net in that area is facing horizontal. They are going to move it so it's facing perpendicular to Delsea Drive which was one of their suggestions. Mr. Carter advised John Chamberlin that you

have agreed to add vegetation along the fence and he said yes and he is aware that he must maintain it and take care of it. There is a net along that property now which is approximately 12 feet. The neighbor still has concerns about that net. They agreed that if the net is reconfigured that it would alleviate the balls going into the neighbor's yard. The one end of the protective net is actually affixed to the neighbor's tree and he has asked that it be removed. Mr. Chamberlin will be removing it.

Currently, they have two speakers that were originally on the Twin Kiss business sign on Delsea Drive and facing towards Twin Kiss. One of the neighbor's suggested that I face it the other direction. He didn't think it was a big deal and he changed it. They were changed to face Acme now. There was also concern about a speaker on the corner of the building. John acknowledged that there is a speaker there and believes that the neighbor thinks he put that in after their meeting. However, it was actually installed approximately three weeks prior. It was on the day we had our meeting. John Chamberlin was asked if he plans to do anything with the speaker on the building. He advised that it is not facing the neighbor's property. If it was a problem for him, Mr. Chamberlin said he would remove it. Mr. Carter asked Mr. Chamberlin if he had at some point speakers in the play area to which Mr. Chamberlin responded yes. These speakers have since been removed. The speakers were used for music and to call out orders to customers who are waiting for their food.

Mr. Carter acknowledged to Mr. Chamberlin that he is proposing to make some changes to the lighting. Mr. Chamberlin acknowledged that he will work with the board's professionals in regards to making sure the lighting is satisfactory for both himself and the neighbors.

Mr. Chamberlin is not aware of any amusements currently on his property that need State approval and would not have anything on his property if it needed State approval. Currently, there is a volleyball net, small yard games like cornhole, ladder toss game, and tic tac toe. John Chamberlin was asked if the neighbor to the north of their property has complained about the games and he advised no. This property is primarily used by families and kids who are patrons at the property. People are not invited to use the area who are not patrons of the shop. If they do, they will be asked to leave. The playground area is fenced in for safety reasons and it will continue to be fenced in. John Chamberlin feels you should be able to sit in the sitting area during operating hours and eat. The play area can be shut down at 10 p.m. There are currently six tables in the area. It was discussed with the neighbors to possibly move those tables forward. Mr. Chamberlin is willing to do this.

The Chamberlins' have owned his property approximately 22/23 years. They are not aware of any environmental issues with the property. They did have to sign a paper that they will not dig into the property. There was never an oil tank there it has always been gas. Stan Bitgood asked if the lot recently acquired ever had storage tanks or any kind of tanks on the property. Mr. Carter clarified to Mr. Bitgood that they have always owned the lot in some form of either Mr. Chamberlin or Mrs. Chamberlin. They were acquired

at the same time. John Chamberlin advised that since he has owned the property it has always been used for storage for boxes with paper products, etc.

Mr. Carter asked John Chamberlin that when they do the work is he aware of anything that will damage the trees etc... John Chamberlin responded no it will just be pruning, etc...

Joe Abate asked John Chamberlin about what type of security cameras they are going to have. Mr. Chamberlin responded that they have security cameras now that are on the building and in the play area. Joe asked if it will cover all of lot 20 and he responded yes. Joe asked Mr. Chamberlin that he said he would ask walk ons to leave the property but since you will not be there all of the time who will enforce that. What happens if kids decide to come to the property at 2 a.m. in the morning to play volleyball. John Alice advised Mr. Abate that those are troubling scenarios. He said if people come to play in the play yard and are not patrons and they get fresh mouthed unfortunately you are going to have to call the cops. John Chamberlin added that the play area will be locked. We will bring in the balls and badminton racquets when the play area is closed. The cameras are on 24/7.

Mr. Carter added that he had a conversation with a neighbor who indicated that there were kids on the property at approximately 1 a.m./1:30 a.m. Mr. Carter suggested that they call the cops if they see anyone on the property. Sue asked if there are signs that say patrons only. John Chamberlin advised he thinks he does have it but will have to get something more visible. John Alice added it would probably be better to have something like that. Bill Culver also added that maybe they should also have a sign with the hours of operation. John Chamberlin said he would like to avoid any kind of conflict. Further brief discussion took place.

The play area is mulch and the depth is about a foot deep. As the year goes, it thins out but they will get it where it needs to be and were going to work on it this year. James Carter, Esquire asked that John Chamberlin tell them what the surfaces are on that third lot. The further property where the tables are are gravel. The other side will be sand. The mulch area is where the swing set is. Doc Cerone asked about the trash cans. John answered there is a trash can in the entrance area and in the table area. He asked if the patrons leave the tables dirty who cleans it. John answered that he does every day and power washes it daily. For the most part it is kept pretty clean. Sue Miller asked if their insurance company has weighed in and if they require anything. John said no.

Stan Bitgood, P.E. asked about the stockade fence showed along lot 2 which is well into lot 2 by a few feet. John Chamberlin answered that the neighbor put the fence up and it is on his own property. The neighbor does maintain it and has replaced some panels. Stan has some concerns since the play area is right next to it in case the fence gets damaged by the balls or kids. Is the neighbor willing to replace it. John Chamberlin responded that he has some suggestions and is willing to do whatever he needs to do. Brief discussion took place. John Chamberlin was told to use a shorter netting that the neighbor doesn't have to look at. John responded that the netting was the neighbor's suggestion which is why

he put it up but it didn't work out too well. He suggested that it be angled the other way which is what is going to be done.

Rose Ann Lafferty, Zoning Officer, wants the resolution delineated since she has to do the enforcing. She wants it clearly stated what is going to be where, if there are going to be any changes made by the applicant that they come to the zoning office and get permits for any changes. Have there been tables added. John responded no that they actually took away some tables. She also asked if the play area can be locked. She feels 10 p.m. is kind of late if there are going to be kids playing. This is left up to the board to decide but kids tend to get loud. The noise ordinance is 7 p.m. at night. The board will need to decide on what can and cannot be there, hours of operation, days of operation, etc. Joe Abate asked that when they met with the neighbors did they indicate anything regarding the hours of operation. Mr. Carter responded that he thinks there was a discussion about shutting down the play area an hour before closing but still allow seating to be opened so the people can still eat their food. It will be hard to police but maybe the lighting can be turned down in the play area and just have the seating area lit. John Chamberlin added that maybe they can take down the one side of the volleyball net and lock up the balls and the corn hole so they can play with it. They can't lock up the gate because there is only one gate for the whole area. They can gather up anything that can be played with and lock it in the tote. The lighting is also going to be removed from the play area except for the string lighting. Doc Cerone asked if they are no longer have basketball and they told him no.

#### **MOTION TO OPEN TO THE PUBLIC**

M/ B. Saban, S/ Thomas

Ayes: Unanimous

Leonard Schwartz, Esquire of the Law Firm Slotnick & Schwartz, Williamstown, NJ -- As indicated, we did have a meeting at the site and a number of the items that have been brought up speak to what we have agreed upon. There are some items that have not been discussed in detail which I would like to raise with the board. John Alice asked who he represents. He represents Howard and Patricia Shinn who lives behind the property. Ralph Molock who owns the garage on the other side of this property. Warren Collins, owns the property on the other side of the playground where the dentist office is. Patrick MacNeil owns the property behind the parking area. Mr. Shinn initially retained me. When we had the meeting at the property these other gentleman came in to try and work everything out.

Before anyone testified, Mr. Schwartz spoke briefly. In regards to Ralph Molock's property, in the back of his garages there is a driveway that comes off of Linden Street which will interfere with the pattern of the parking. They agreed that bollards be put up and they have already been taken care of. Mr. Carter added that they did agree on site. He didn't want it completely fenced off so they came up with the bollards. In regards to the speakers, they are to be reinstalled so they are facing out to Delsea Drive and not towards the residential area. Any speakers facing the residential area will be turned away from the residential area. There are two speakers on the sign that have been removed



and the third speaker will be taken care of. John Chamberlin added that it is not facing the residential area it's facing the garage.

In regards to Mr. Shinn's area there will be enough arborvitaes put along the rear of the playground area. In a matter of time, they will grow enough so that make a proper buffer area. The biggest problem he has had and he has photos and videos of it balls of all types that land in his yard. The other day a bowling pin was thrown over his fence. A book bag was also thrown over into his yard. He indicated at the meeting that does not like the wire fence that is up there now. Joe Abate added that's why he asked about the security cameras because they can identify the perpetrators. Mr. Schwartz also asked that maybe they can put all of the equipment away that's in the play area at an earlier time and lock it up. John Alice, Solicitor, added that the applicant has already agreed to close the play area one hour earlier than the ice cream place. Mr. Schwartz also said that he agrees Mr. Chamberlin indicated he can roll up the one side of the volley ball net as well. John doesn't have an issue with that.

Mr. Schwartz added that he thinks that there was some discussion that the volley ball net would be turned perpendicular and moved more towards Delsea Drive. John Alice added that he did agree for it to be perpendicular. There was brief discussion with Greg Simonds about moving it towards Delsea Drive. There was also a discussion about signs with the hours of operation. Brief discussion took place about the fencing.

Twin Kiss will be maintaining the landscaping and the Shinns will also be watering it and maintaining it to help the trees grow. Mr. Schwartz added that they will work with the professionals in regards to the lighting and shielding, etc...

Patrick MacNeil – 21 E. Linden St. – He was sworn in by John Alice, Solicitor. His concern is reducing the buffer zone in the parking lot closer to his fence. He's afraid the fence is going to come down and someone is going to run into his fence. John Alice asked Mr. MacNeil to show it to them on the plan. Greg Simonds added that they are not proposing any new paving in that area. They are just proposing putting in new parking bumpers in that location. They are going to be a little closer to the fence. The bumpers will be 4.4 feet. They can make the bumpers 5.4 feet instead of 4.4 feet. They all agreed to this.

Warren Collins - 1 S. Delsea Dr. - He was sworn in by John Alice, Solicitor. He is the owner of this property and rents it out. He was the one that suggested they turn the volley ball court around so the balls go north and south instead of east and west. He asked if he could have a net put above his fence and would like it on record. He doesn't want the balls coming over the fence. He doesn't want his tenants' cars getting hit with the balls. That fence is also white vinyl fence and he hopes it doesn't take a beating. He believes that the applicant will take care of that is well. The net was his only concern. James Carter, Esquire showed it on the plan.

Howard Shinn – 20 East Clayton Ave. – He was sworn in by John Alice, Solicitor. John indicated that his attorney, Leonard Schwarz, Esquire, spoke on his behalf and asked if

there was anything else that he would like to add. He had a bag with a bunch of balls that he dropped all over in the court room. A bowling pin was also tossed on the court room floor. John Alice, Solicitor indicated that he understands and that's why they are here tonight. Mr. Shinn asked when it is going to stop. He also has noise of the audio. Mr. Schwartz spoke to Mr. Shinn explaining in detail about the volley net direction being changed which will eliminate the balls coming into his yard. He also agreed to the arborvitaes. Mr. Shinn indicated that he wants the higher mesh net on the trees removed. The board engineer suggested that a lower netting area be put up as the trees are growing. Mr. Shinn said no he wants the net down. He wants no netting. John Alice asked Mr. Shinn to show his attorney what he wants and his attorney will make a decision. He showed a picture of the net and thinks its ridiculous.

Mr. Schwartz's understanding is that the volley ball net after hours will be down, the play area stuff will also come down and be locked up. That is correct. James Carter, Esquire advised that Mr. Chamberlin will take the net down tomorrow that he is complaining about. He will also take the volley ball net down until it is reconfigured. John Alice, Solicitor advised Mr. Shinn that he took his picture and marked it Shinn 1 and it will be part of the record along with Mr. Shinn 2. The picture of the book bag was thrown at his grandson from over where the swing set is. It hit the fence and he has the audio of it hitting the fence which is why he's upset. Mr. Shinn walked out.

Patricia Shinn – 20 East Clayton Ave. – She was sworn in by John Alice, Solicitor. She is Howard Shinn's wife. She wants the board to rethink this application. They have lived there for 15 years. Everything was going well for seven years and they loved Clayton. Twin Kiss decides to rip down their trees, put a swing set in and a basketball court. Her husband, Howard, is upset. They deal with noise all of the time, screaming. We deal with teenagers screaming, volleyball games going on until 2 a.m. in the morning. Picture living there. We sit out on the side patio and look at this big net. We have been dealing with this for years and they didn't even get permits to do it. They want to know why they have to put up with this. Joe Abate explained that's why they are there tonight and they are here to take care of the issues. They have tried talking to the owners. She is tired of being harassed.

Mr. Schwartz added that the court room will be cleaned up and that this all goes to the positive/negative criteria. Hopefully with the combination of attorneys, engineers, and the owners of the property that it will be able to resolved so there are no issues.

Joe Abate asked Mr. Chamberlin to testify right now that he is going to address all of these problems so they will not occur again. Bill Culver added that he doesn't think it is fair to say Mr. Chamberlin has to be responsible for everything. There is a picture of a backpack on there and he asked is that your backpack Mr. Chamberlin. Mr. Chamberlin responded no. Bill Culver also stated that you can't wave a magic wand and make everything go away. Joe wants him to address it.

John Alice, Solicitor, advised that it took too long to get here but going forward you know the score. James Carter, Esquire advised that there were a lot of people talking so

he wants to make it clear that Mr. Chamberlin is going to take down the net and the volley ball net until it is reconfigured. They hope that that will resolve all of the issues. Mr. Carter reiterated what he said earlier that if there are people on his business property when the business is closed that is trespassing and unacceptable to us. They hope that someone would call the police.

Doc Cerone asked if it is safe to say that the volley ball is the biggest disturbance and the answer was yes. He also asked if it can be reconfigured closer to Delsea Drive with the tables closer to the back and nothing by his fence. Mr. Carter answered that Mr. Simonds testified that once the net is reconfigured the far post is going to be 15' in. The sand will be removed and pushed up. There will be a 15' barrier there that presently doesn't exist. Mr. Carter also said that he left that meeting with the understanding that it was acceptable. Bill Culver added that you need to keep the balls off of Delsea Drive as well.

Virginia Watkins – Franklinville, NJ – She was sworn in by John Alice, Solicitor. I take my 2 year old autistic granddaughter to Twin Kiss all of the time. She feels safe at Twin Kiss. I don't take her to other public playgrounds because there is water. She loves the place and thinks it should be left. They have little toys there which is good for her and other kids. She said she would rather see kids playing here. John Alice told her that there have been a lot of neighbors suffering and very upset.

#### **MOTION TO CLOSE TO THE PUBLIC**

M/ B. Saban, S/ Thomas

Ayes: Unanimous

#### **MOTION TO APPROVE USE VARIANCE AND MINOR SITE PLAN W/CONTINGENT W/THE STIPULATIONS AND AGREEING TO WORK WITH THE BOARD'S PROFESSIONALS**

M/ B. Saban, S/ Thomas

Ayes: Abate, Cerone, Culver, Miller, B. Saban, Thomas

Barb Saban addressed the applicants, John & Stacy Chamberlin, and thanked them for being so cooperative.

#### **MOTION TO OPEN TO THE PUBLIC**

M/ Miller, S/ Thomas

Ayes: Unanimous

#### **MOTION TO CLOSE TO THE PUBLIC**

M/ Miller, S/ Thomas

Ayes: Unanimous

#### **CORRESPONDENCE:**

None

**DISCUSSION:**

None

**RESOLUTIONS:**

Res. #09-22 – Land Use Board Granting Use & Bulk Variance Relief with Minor Site Plan Relief – Block 1001, Lot 30 – Applicant – Brothers Auto Center, LLC

John Alice, Solicitor, advised the board that he had to make a few changes to the resolution that was initially provided to the board as he heard from the Fire Chief last minute. He read the four items into the record of what the Fire Chief requested.

M/ Miller, S/ Thomas

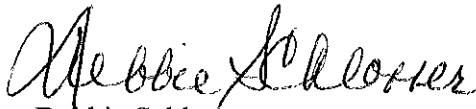
Ayes: Abate, Cerone, Culver, Miller, B. Saban, T. Saban, Thomas, Vondran

**ADJOURNMENT**

M/ Vondran, S/ Miller

Ayes: Unanimous

Submitted by,

A handwritten signature in cursive script, appearing to read "Debbie Schlosser".

Debbie Schlosser

Planning Board Secretary

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