

Present: Peterson, Canonico, Walsh, Dodge, Waterbury  
Forrester (Attorney)  
Cranmer (Planner)  
Absent: DeNofa, Stambaugh, Betesh

The Chairman, Mr. Hartmann, called the meeting to order at, 7:30 p.m.  
All saluted the flag, and the presiding officer's statement was read.

**Minutes:**

A motion was made by, Mr. Walsh, seconded by, Mr. Dodge to adopt the minutes of the September 3, 2008 meeting. All approved.

**Planning Board Representative:** work continues on the new Zoning Ordinances

**Correspondence:**

- Request to carry the Mussorafiti application to the **December 3, 2008** without further notice

**Unfinished Business:**

**Shrewsbury Patterson, LLC:**

d/b/ Walgreens  
Bl: 2, Lot: 10

**Adoption of Resolution**

A motion was made by Mr. Walsh, seconded by Mrs. Peterson to adopt & memorialize the resolution of approval for a use variance to Shrewsbury Patterson, LLC., as amended.

Roll Call:

Affirmative: Peterson, Walsh

Negative: None

**Nevada Exchange Trading Post:**

Bl: 40, Lot: 10

**Adoption of Resolution**

outdoor display/storage

A motion was made by Ms. Waterbury, seconded by Mr. Walsh to adopt & memorialize the resolution of approval to Nevada Exchange Trading Post for outdoor display/storage as corrected.

Roll Call:

Affirmative: Walsh, Dodge, Waterbury

Negative: None

**New Business:**

**Estella Nails:**

464 Broad St  
Bl: 14, Lot: 13

Bulk: s/y variance

Mr. Forrester announced that he reviewed service and finds it adequate and the board has jurisdiction to hear this matter.

Mr. Richard Sciria, Esq represents the applicant.

Mr. In-Koo-Jo, principle owner of Estella Nails, 464 Broad Street, was sworn.

Mr. Sciria stated that Estella Nails is located in the B1 zone, where the use of a nail salon is permitted. The proper permits were secured for the interior renovations in order to open the nail salon in the one story building, with an attached "green house". The green house was there as an existing structure for the previous use as a flower shop. The green house was shaped as a "V" which is only 8' in height with 3' ½ sides. His wanted to use the green house and in order to do that he had to correct the steep slope by adding 3' ½' to the sides which pushed the roof up giving additional height on the sides but not to the overall height of the building. His client was under the impression that because he did have a building permit that he would be able to fix the slope and it would be covered, not realizing that additional approvals were needed.

Mr. Sciria explained that by expanding the sides of the building he also expanded the non conformity to the side yard set back along Thomas Ave, and needs variance relief for that non conforming use. This application is only for the modifications to the green house roof. The salon will not be intensified by the roof, its does not increase the need for additional employees or the nature of the business, it does not increase the building footprint, building height, set backs.

Mr. Sciria explained that his client made modifications so the building would be functionable by expanding the "V" to make it more practical for his business, and they are seeking a variance for the expansion of the non conforming structure.

Mrs. Peterson asked if the work has been completed? Mr. Sciria said yes it is, and during his clients testimony he will be presenting photos of the before and after.

Mr. Forrester marked the following into evidence:

**A-1:** Remediation Plan, prepared by XL Architecture Studios, 8/20/08 - 3 pages  
Shows the green house which they have altered the roof line only.

**A-2:** Approved Building Plans, prepared by XL Architecture Studio, 7/23/08, 12 pages  
Approval of interior & construction detail for the front building for a building permit

Mr. Forrester identified the following:

Section 94-4.1A2 - expansion of non conforming structure

Section 94-4.5B - expansion of the height of the non conforming structure

Section 94-10.1A2 - zoning schedule requirements

Mr. Sciria explained that the height was not expanded; only the walls were expanded.

Mr. Forrester marked the following:

**A-3:** 1-3: photos of the front of the shop and the green house prior to lifting the sides

**A-4:** 1-3: photos of the renovated green house

Mr. In Koo Jo (Perry), testified that he is one of the principals of Estella Nails @ 464 Broad St, where he rents space from Mr. David Chounard who has given his consent for the expansion of the walls.

Mr. Jo testified that he is familiar with the plans which have been marked into evidence and it is his intention to develop a “first class” salon in Shrewsbury. He testified that he has 7 years experience in the cosmetology field. They will give manicures, pedicures and waxing on site, which he has a license from the State of New Jersey to do these services. He explained that he is currently waiting for the Shop License from the State to be issued, he explained that after the construction is completed the State will come in an inspect the shop. He feels that this location is good for him since he lives in Long Branch, his church is in Eatontown.

Mr. Jo testified that he did go to the Borough for permits to inquire on how to obtain a business license and the construction in order to open his shop. He has received all of his permits, demolition, electric, plumbing and construction, and he has received all of the inspections.

Mr. Jo described the surrounding area and the condition of the “green house” as being in bad shape, the ventilation was terrible and he could stand in the center of the building but due to the “V” shape the sides were so low that it was unusable. The beams on the roof and the rafters were also in need of replacement.

Mr. Sciria asked Mr. Jo what will he be using the “green house” area for? Mr. Jo explained that he will use is for storage, washer/dryer and for mechanicals for the shop. There is a regulation from the ADA for the bathroom and by expanding the sides gives additional room down the center aisle, but the height of the roof is the same. The regulations of the State for Cosmetology regulates that the linens have to be contained in either a cabinet or a closet and the additional area gives him the storage that he needs. Mr. Jo explained that the old roof was so low that he had safety concerns that children could jump on the roof, and by doing the sides brought the roof up higher.

Mr. Jo testified that the changing the roof line did not change the footprint of the building, the roof ridge height, or the distance to the curb, but it did give him more usable storage space. He also testified that there would not be any change in the number of

customers, expectations of the number of clients, the number of employees, parking or the intensity of the use to the site.

Mr. Sciria asked Mr. Jo why didn't you obtain permits to change the slope of the roof? Mr. Jo testified that once he started the construction he thought he was complying to all the regulations of Shrewsbury. He explained that it is very hard to try and understand the whole process even though he spent a lot of time in the Borough; he thought that it would be covered.

Mrs. Peterson asked if this was intentional not to receive permits, you thought that you had everything and you could continue? Mr. Jo said yes.

Mr. Sciria had no further questions.

A motion was made by Ms. Canonico, seconded by Mr. Dodge to open the meeting to the public. All approved.

There were no comments/questions.

A motion was made by Ms. Canonico, seconded by Mr. Dodge to close the meeting to the public. All approved.

**Board comments:**

Ms. Waterbury stated that she has no concerns with the change of the roof line but she would like to see a condition that stipulates that **“this area would not be used for customer use, only an employee area.”**

Mr. Forrester suggested adding a condition **“that the building shall not be used for any thing other than what has been represented without compliance of the build requirements of the zone or return to the board.”**

A motion was made by Mr. Walsh, seconded by Ms. Canonico to approve the application of Estella Nails as submitted with the following conditions:

- “green house” area is not used for any else other than employees & mechanicals as represented

Roll Call:

Affirmative: Peterson, Canonico, Walsh, Dodge, Waterbury

Negative: None

**Resolution 11/5/08.....**

Ms. Waterbury recused herself on the Montesorri application for professional reasons, she left at 8:32 pm.

**Vincent S. Matro Montessori Academy:**

**Conditional “D” use variance**

35 & 45 White Rd.

Bl: 34, Lots: 5,6, 7

Mr. Forrester announced that the service has been carried from a previous meeting.

Mr. Rick Brodsky, Esq. represented the applicant.

Mr. Brodsky explained to the board that they are here on a bifurcated application only the “D3” variance for an educational use. This inherently beneficial use is conditionally permitted in the zone, if all the conditions can be met, they cannot meet the following:

- Minimum lot size of 5 acres is required, they are proposing -1 acre for this smaller school use, which will not have the larger recreational play area in this non traditional use.
- Buffer requirement for the parking area, 20’ required, 5’ is proposed (approved as part of a prior site plan approval from the Planning Board for a 7,050 sq. ft. medical office building). The proposed use is less intense than the previously approved use.

Mr. Brodsky advised that he will have the traffic expert next month to answer any traffic concerns, as well as their Planner.

Mr. James Kennedy, Kennedy Consulting, Red Bank, was sworn and accepted as an expert witness.

Mr. Kennedy presented a color site plan rendering, dated 8/4/08 marked as A-1 into evidence.

Mr. Kennedy described the site of 35 & 45 White Rd, located in B1:

- Site is located approximately 500’ from Rt. 35
- Lot 3 has a parking area for the gymnastics school
- Lot 8 existing residential use, which at the previous Planning Board meeting they were requested to ship the project to the west away from this residential use to create a buffer along the eastern portion of the site, with a 5’ set back to the building as required by the Ordinance.
- 2 story school of 8,252 sq. ft., with a “loop parking area” for easier access to the site for drop off and pick up, with a larger set back from White Road.
- 17 parking spaces will be provided which complies with the Ordinance 1 space/500 sq. ft. (includes staff parking, handicapped parking or visitor parking)
- outdoor recreation area is proposed in the rear along with the loading areas

Mr. Kennedy testified that the school is currently operating in Little Silver for the last 40 years and they are designing this site to ensure they “fix the things” that are quite perfect in their existing building.

Mr. Kennedy stated that this is a conditionally permitted use with 2 variances the 5 acre lot area cannot be met, they are providing less than 1 acre and their Planner will give testimony to this variance. Mr. Kennedy explained that the 5 acre requirement anticipates ball fields, and a full recreational compliment that would be provided in a full elementary school. The lot coverage of 30% is conditionally permitted, where the lot coverage for B1 is 40% that would allow them additional building coverage. They are currently at 35.6% and their Planner will address this issue.

Mr. Kennedy feels that this property is suited for the use and it can safety function from a site plan perspective, even though they are not before the board for site plan approval.

Mr. Kennedy explained the “loop system” they come in and drop off their children, parents never leave their cars for drop off, staff members open the car door and remove the child from the safety seat and walk them inside. This is a functional site.

Mr. Kennedy stated that they will meet the Storm Water Management requirements for this site. This site was previously approved for a medical office with a storm water system designed with soil testing, which had additional impervious coverage with 47 parking spaces. They will be providing additional landscaping and green areas vs the medical building. At the time of site plan they will not be seeking a variance for Stormwater management. Mr. Forrester asked if they will accept that as a condition of the use variance approval. Mr. Kennedy said yes.

Mr. Michael Bradbury, Business Administrator, for 12 years was sworn. Mr. Bradbury gave his educational & professional background, and accepted as an expert witness with Montessori Academy. Mr. Bradbury explained that the original owner of the school is currently on the Board of Trustees for the non profit organization.

Mr. Bradbury explained the scope of the school:

- mixed age classes - 2 -primary classes (ages 3,4,5)
- elementary classes -1 -lower elementary (ages 6-9) - which goes to the 3<sup>rd</sup> grade

Mr. Bradbury described the current problems they have in the Little Silver location due to lack of space. Currently they have 3 classrooms and 1 office and when the nurse, special education teacher, reading teacher needs to come into the school he has to leave his office to let them use an office. The music teacher teaches music in the classroom, and she needs her own room. When there are parent/teacher conferences they have to use 1 of class rooms, but in the new building will have a community room to accommodate group meetings. They are proposing a music room, and a room all the special teachers, with the addition of an additional class room for an upper elementary age group 9 - 12 years, allowing their students to stay longer in the system. Mr. Bradbury explained that currently they do not have a lunch room, and the bathrooms are in the classrooms.

Mr. Bradbury explained that the current site has less parking than they are requesting at the new site. Currently they have a 20 minute window for parent drop offs and they will expand that in the new site to a 30 minute window for drop offs. Currently they use the drop off system in the morning but for pick up in the afternoons the parents walk to the school and take their children to the car and exit the site.

Mr. Bradbury explained that approximately  $\frac{1}{2}$  of the children attend for  $\frac{1}{2}$  day, from 8:30 am to 11:30 am and then the rest of the children leave at 3:30 pm. All of the children come 5 days a week and are dropped off and picked up by their parents; they do not have any buses or vans for transportation.

Mr. Brodsky asked Mr. Bradbury what is the current enrollment? Mr. Bradbury testified that this year they have 50 students, but normally they would have 70 students for the year,  $\frac{1}{2}$  of the current 50 students are  $\frac{1}{2}$  day. The commitment for this school is 3 years in the primary classrooms, 3 & 4 year olds have the choice of  $\frac{1}{2}$  day or full day, but at 5 years or kindergarten they must come for a full day.

Mr. Bradbury described the teaching staff for each room has a teacher and an assistant. So they would have 3 teachers, 3 assistants and 2 part time teachers for music & French.

Mr. Bradbury explained the outdoor area. They have a playground area and the younger & older children go out separately. They do not have any team sports for the school. Their school year is the normal school term September through June for 5 days a week. This is not a day care.

Mr. Bradbury explained the Montessori program/name and they are certified by the Association Montessori International which they are one of the two originals of Maria Montessori. Their teachers have 9 months of training at the A.M.I. training center. He feels having an A.M.I. school in the community is an asset. They have had a good relationship with Little Silver in developing their development classes and they include them in their parent education session as well. All A.M.I. schools are set up in the same way.

Mr. Walsh asked what is the current square footage of the school in Little Silver? Mr. Bradbury said approximately 4,000 sq. ft., and they hope to increase their enrollment to 90.

Ms. Canonico asked if they anticipate opening in the summer? Mr. Bradbury said they have been open in the summer, and if they do it would be the same structure as regular school year on a  $\frac{1}{2}$  day schedule.

Mr. Cranmer asked what the hours of operation are? Mr. Bradbury said 8:30 am to 3:30 pm, with a morning drop off between 8:20 - 8:40 pm. He explained that a lot of their parents do car pool and they do have a number of siblings that attend.

Mr. Dodge asked if any one will be walking to school? Mr. Bradbury said no, but they have had children ride their bikes. They have a 50% ratio of mothers dropping off on their way to work and mothers dropping off who are stay-at-home moms.

Mr. Forrester asked questions with regard to the certifications that are required. Mr. Bradbury stated that every 3 years the AMI send consultants in to audit the school in order to stay in compliance. Mr. Bradbury explained that they use to be a licensed day care center, and they were licensed from the Division of Youth and Family Services, and now they are considered a private elementary school and they operate within those parameters. Mr. Forrester asked if there are regulations with regard to the number of students per teacher/assistant and square footage requirements for classrooms per student? Mr. Bradbury explained that traditionally it has been 38 sq. ft. per student, which they comply with the audit every 3 years.

Mr. Bradbury stated that there will be approximately 3-4 night time events and the traffic will be addressed during site plan. Mr. Brodsky explained that they may stagger the events between the age groups in order to limit the number of cars.

Mr. Bradbury stated that the entire site in Shrewsbury will be significantly better with the building, parking, recreation area, as compared to what they have now. The outdoor area is reviewed by the AMI as part of the entire curriculum.

Mr. Brodsky requested that this matter be carried for further discussion at the 11/5/08.

A motion was made by Mr. Dodge, seconded by Ms. Canonico to open the meeting to the public. All approved.

There were no comments/questions.

A motion was made by Ms. Canonico, seconded by Mr. Dodge to close the meeting to the public. All approved.

Mr. Forrester announced that this matter will be carried to the November 5, 2008 without any further notice.

Mr. Brodsky stated that anyone could visit the site at the Birch Ave, Little Silver location. Mr. Forrester stated that if anyone does visit the site they must state their observations that they may take into consideration on any decisions that they would be making. He suggested that they take notes while there, don't go with anyone, and don't speak to anyone.

Mr. Cranmer stated that this Conditional D use variance is different from what the board has seen in the past. The applicant does not meet certain conditions that are provided.

- Lot size of 5 acres
- 20' perimeter buffer
- lot coverage
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The use is considered a permitted use in the zone provided that they do meet the 3 conditions set in the Ordinance, if they could meet the requirements the applicant would not be before this board, they would be before the Planning Board for a site plan.

Mr. Cranmer suggested that board members refer to the Cox Book (page 448) Case law re: Coventry Square vs West Wood in 1994. He reminds the board that they must focus on the deviations of the conditions only (lot size, perimeter buffer & lot coverage), and not so much on the drop off/pick up. This is not your standard use variance where the board would talk about the impact on the zone, standards or zone plan. This is a permitted use. It's the conditions that the applicant does not meet. The board must focus on the deviations from the conditions only.

A motion was made by Ms. Canonico, seconded by Mr. Walsh to adjourn the meeting at 9:30 pm. All approved.