

Present: Hartmann, Peterson, Connors, DeNofa, Stambaugh, Betesh, Dodge  
Forrester (Attorney)  
A. Thomas (Planner)  
Absent: Canonico, Walsh

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. Connors, seconded by, Mr. DeNofa to adopt the minutes of the meeting. All approved.

**Planning Board Representative:**

Mr. DeNofa reported that the Planning Board reorganized on January 16, 2008

**Correspondence:**

- Annual Report 2007 reviewed
- Shrewsbury Patterson, LLC: request to be carried to the 5/7/08, the board discussed the service and feels that the attorney should renotice for 5/7/08  
A motion was made by Mrs. Peterson, seconded by Mr. Connors to carry the Shrewsbury/Patterson LLC application to the 5/7/08 and new notice will be required. All approved.
- Mr. Forrester announced that the service for **Mrs. Evelyn Bonanno, 440 Sycamore Ave.** was deficient and will be renoticed for March 5, 2008.

**Unfinished Business:**

**Ann Taylor Loft:**

Grove West  
B: 21, Lot: 1

**Adoption of Resolution**

A motion was made by Mrs. Peterson, seconded Mrs. Stambaugh to adopt the resolution of approval for additional signs as amended to Ann Taylor Loft.

Roll Call:

Affirmative: Hartmann, Peterson, DeNofa, Stambaugh

Negative: None

**New Business:**

**Vincent Russo Realty Co.**

d/b/a: A.J. Village Deli  
555 Shrewsbury Ave  
Bl: 3, Lot: 4

**Use variance/waiver of site plan**  
expansion of non conforming use

Mr. Forrester stated that he reviewed service and finds it to be adequate and the boards has jurisdiction to hear this matter.

Mr. John Brogan, Esq, Shrewsbury represented the application.

Mr. William R. Miller, III Architect, was sworn. Mr. Miller testified that he prepared the plans submitted 9/1/07. Mr. Miller gave his educational & professional background and was accepted as an expert witness. Mr. Miller advised that he testified on the original site plan application.

Mr. Brogan gave a brief history of the property as a “deli” and advised that the owner of AJ’s would like to close in a driveway that currently exists between AJ’s Deli and Rosina’s Italian Restaurant in order to increase AJ’s space of approximately 419 sq. ft.

Mr. Brogan advised that the space would include a small office, toilet area and a food storage/preparation area. Currently AJ’s does not have any seating nor are they planning to have any seating in the deli, but the additional space is needed. The original plan was approved for a drive through bank and the area that is being requested by AJ’s would have been the drive through driveway, which never happened. Currently the 2 drive throughs do not serve any vehicular or pedestrian access for customers, and AJ’s would like to use the southern driveway for an expansion of his non conforming use.

Mr. Forrester pointed out that they are also seeking a waiver of a formal site plan submission. Mr. Brogan agreed.

Mr. Forrester said that he has concerns with what was originally approved if there were any conditions attached to the resolution since the original resolution of approval was not submitted with the application. The applicant is requesting an expansion of the non conforming use and a waiver of site plan, and he does feel that it would be relatively dominimus. But he does have concerns as to what was approved.

Mr. Brogan presented the “As Built Survey” as to what was built on the property. He stated that the reason he is before the board tonight is that the use was granted in the HC/PO zone and they are now seeking a 419 sq. ft. expansion of the previously approved non conforming use.

Mr. Forrester again stated that he doesn’t know if there were any conditions attached to the original approval with regard to the drive through bank, which he doesn’t feel there would be problem with the expansion of the 419 sq. ft. non conforming use.

Mr. Forrester marked the following into evidence:

**A-1:** Architectural Drawings – 3 sheets dated 9/1/07

**A-2:** 4 photos of existing building showing the existing drive through

**A-3:** As Built Plan dated 6/5/92, prepared by Thomas Santry

Mr. Hartmann asked what the differences are between the “As Built” and the new 9/1/07 drawing? Mr. Miller said the only difference is the addition of the 419 sq. ft. onto AJ’s. The entire shopping center area remains the same.

Mr. Miller testified that the addition will be finished with the same siding and sidewalks will be all be connected in order to eliminate the driveway portion with the same Belgium block curbing, which is a minor alteration to the site.

**Review of Planner letter dated 1/22/08**

**Page 3, Paragraph 2:** Mr. Miller agreed with Mr. Thomas that the elimination of the Northern driveway access would be beneficial for pedestrian & circulation safety. There will be one less pedestrian vs. vehicle conflict which could occur on site. The sidewalk would be extended from Rosina’s and connected to toward AJ’s, which would eliminate vehicular traffic entirely and it would be a safety improvement to the site.

**Page 3: #2:** the Belgium block curb, siding, and sidewalks will all match the existing.

**#3:** Construction vehicles will be taken care by the contractor. There is a limited area that they can work in and cannot use large vehicles since they are not changing the height of the building. Most of the construction will be done by hand, Delivery of materials will be made early in the mornings.

**#4:** The drive through window on Rosina’s will be eliminated since it is required by code for a fire rating since they are constructing right up to the window.

Mr. Forrester explained that the application is not to change the footprint of the buildings. Mr. Thomas did address the parking due to the increase of 419 sq. ft. If the board wanted to see minor changes to the site plan as long as they are minor the applicant would not have to file an amended site plan application. Mr. Betesh asked what would be the consequences to the town of not proceeding with a site plan process, what are we risking? Mr. Forrester said that there is an approved site plan showing what was previously approved, and without a revised site plan and if you amend it without another site plan the construction department has no way to enforce it.

Mr. Brogan asked if the change could be made to accommodate a tenant by giving him 419 sq. ft. more of framed in enclosed space, no seating, no restaurant, and they will eliminate the window on the Rosina’s side. He doesn’t feel that the resolution from 1991 would refer to the drive through window that was originally put in for a bank must stay

forever. Mr. Hartmann stated that the board would like to have all the facts before making their decision with reference to closing in the drive through window.

Mr. Forrester suggested that the applicant proceed with the application with what they intend to do and why they don't feel they need an amended site plan, the board can then make a decision if they feel that they have enough information. The board agreed to hear the application and will reserve the right for a decision for next month after additional information is provided.

**Continuation review of Mr. Thomas' report:**

Page 3: elimination of the northern driveway will not be done by this applicant, under the terms of the tenant's lease he demanded that the window remain, which required them to request that the southern driveway be eliminated.

Mr. Thomas suggested that a restriction of pedestrian use only be placed on the northern driveway. Mr. Brogan said that he would have to check with Mr. Russo, the owner of the property. Mr. Brogan stated that these driveways cannot accommodate a delivery size truck.

Mr. Frank Barbagallo, owner of AJ's Deli, was sworn. Mr. Barbagallo explained that the northern driveway should be left open for emergency vehicles and for recycling and deliveries for both his business and Rosina's and he really wouldn't want to see the driveway limited to pedestrians. Mr. Thomas stated that the truck could traveling in the back of all the stores to exit.

Mr. Betesh said that he is sure that no one of the board has any concerns with the expansion of 419 sq. ft., but he doesn't feel that the board should be addressing the issue of traffic flow on the site. Mr. Miller explained to the board that trucks can traverse in the rear of the shopping center, which is existing today. He explained that due to the extreme grade of the shopping center (west to east) down to the business center called for an additional exit out to Patterson Ave.

Mr. Connors stated that there hasn't been any pedestrian first aid calls on the site, but there is a potential for one, he feels the elimination of the southern driveway and the restriction to pedestrian only is a welcome addition.

Mr. Forrester advised the board that they must determine if the proposed change of 419 sq. ft. is insignificant enough that is would not require any change to the site plan or any testimony with regard to the site plan. Mr. Forrester asked the applicant to put some testimony on the record with regard to the parking.

Mr. Brogan explained that currently AJ's Deli does not have any seating, and the new proposed 419 sq. ft. will not provide any additional seating. Mr. Miller testified that his drawing shows that the number of parking spaces required was 119 spaces where 119 spaces are proposed, as shown in A-3, As Built Survey dated 1991. The additional 419 sq. ft. would require 2.8 spaces. Mr. Miller testified that there is more than sufficient parking within the total shopping center that would be needed for the additional square

footage and he doesn't feel that a modification to the site plan would be necessary due to the use in the 419 sq. ft. area. The work that will be done in the 419 sq. ft. is already being done on site and would be redundant.

Mr. Forrester asked Mr. Barbagallo if the parking lot is every full? Mr. Barbagallo said the 119 spaces are never all taken, he has seen it 70% at most.

Mrs. Peterson feels that the enclosed area would add to the safety factors and the 419 sq. ft. is insignificant, but with the discussion of the delivery trucks and access is needed she feels that the board needs to discuss the delivery truck issues.

Mr. Dodge asked Mr. Miller if the modification have the potential to change the current delivery access pattern? Mr. Miller said no, since the other driveway still would remain open. There would be no adverse impact on the site. He feels that if there were a bank with 3 drive ups that would have an impact, and they would be effectively eliminating a major traffic & pedestrian conflict by putting in AJ's Deli with only a few delivery trucks. He feels that they could ask Mr. Barbagallo to control the delivery trucks, which are usually in the early morning and would not affect the day time traffic.

Mr. Forrester asked Mr. Miller if a portion of the driveway between the two Belgium block curbs could be made a parking area for trucks, to be constructed in accordance with the Borough Engineer, since this is a minor change to the plan.

Mr. Betesh asked if the truck pattern would change as a result of this application, the trucks would essentially enter and exit as it is today? Mr. Barbagallo explained that closing the driveway would not change the traffic flow at all.

Mrs. Peterson feels that if signs arrows are used to indicate to traffic one way entering into the back of the shopping center. Mr. Forrester said that could be a condition of approval since it is a minor change.

Mr. Miller indicated to the board that he would submit a sketch to Mr. Thomas which would be a condition of approval that all of the issues that the board has would be included on the plan, as well as the changes to the sidewalk & curbing. Mr. Thomas asked Mr. Miller to add the extension of the existing sidewalk and the extension of the landscaped area.

Mr. Brogan asked for a consensus of the board that on the northern driveway or the northern side of AJ's that driveway will be limited to going east and marked with signs, and a "Do Not Enter" signs on the southern end of Rosina's.

After a brief discussion the board would like to see any resolutions applied to this site.

Mr. Forrester suggested that a straw poll vote be taken, subject to the review of a draft resolution for the March 5, 2008 meeting which could be approved & adopted, if the board does not see any concerns.

Mr. Hartmann asked the board if they all agree that the parking is insignificant. All board members agreed.

Mr. Thomas asked to have testimony on the record with regard to the expansion of the use variance.

Mr. Brogan asked Mr. Miller, if the board granted the application is it his opinion that there would not be any substantial detriment to the public good? Mr. Miller said that it would not be a detriment to the public good, in fact, with regard to the traffic & pedestrian access would have a positive affect. Nor, would it substantially impair the intent and purposes of the zoning plan of the Borough.

Mr. Forrester asked if the business center was built after this project? Mr. Miller stated that it was built simultaneously. Mr. Forrester asked if any thing has changed substantially in the surrounding area? Mr. Miller said no, they are exactly as they were when the shopping center was built.

Mr. Forrester explained that the board will have to grant a variance for the parking requirement of 2.8 spaces. Mr. Thomas explained that there has been testimony that there will not be any additional seating.

A motion was made by Mr. Betesh, seconded by Mr. DeNofa to open the meeting to the public. All approved.

There were no comments/questions.

A motion was made by Mr. Connors, seconded by Mrs. Peterson to close the meeting to the public. All approved.

**Consensus of board for the expansion of the use variance & waiver of site:**

All board members agreed that after a discussion it is their opinion, at the present time, that a use variance for the 2.8 parking spaces should be granted, and a waiver of the site plan to permit 419 sq. ft. with the general conditions that were discussed by the board and this application will remain open.

Mr. Forrester announced that the application of Russo Properties will be carried to March 5, 2008 without further notice.

A motion was made by Mr. Betesh, seconded by Mr. DeNofa to adjourn the meeting at 9:00 p.m. All approved.