

Present: Waterbury, Peterson, Canonico, Betesh, Stambaugh
Steib (Attorney)

Absent: Walsh, Fisher, Clark, Garley

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

Minutes:

Planning Board Representative:

K Hovnanian application still be heard, next hearing 3/17/10

Correspondence: none

Unfinished Business:

Odoba Mexican Grill:

Use variance/waiver of site plan approval

Shrewsbury Plaza

Bl: 31, Lot: 1

A motion was made by Mr. Betesh, seconded by Ms. Canonico granting the request to carry the Qdoba application to the March 24, 2010 meeting without further notice.

Roll Call:

Affirmative: Waterbury, Peterson, Canonico, Stambaugh, Betesh

Negative: None

New Business:

Shrewsbury Common, LP Merritt Corp & Cole Grove West LLC: Use Variance
d/b/a: Pops Garage & waiver of site plan

Bl: 20/21, Lots: 1/1.01

Mr. Steib announced that there was an issue with the notice on the application of Pops Garage for a restaurant in the Grove West which is not a permitted use, they have also included outdoor seating which is not permitted, the notice for the restaurant use did not include any reference to the outdoor dining and he feels that they did not give adequate notice for the proposed use of outdoor seating, which could impact the surrounding neighbors. Mr. Steib explained that the applicant has conceded and is requesting to be carry the April 7, 2010 and new notices will be sent.

A motion was made by Mr. Betesh, seconded by Ms. Peterson to carry the application of **Pops Garage to the April 7, 2010 with the condition that new notices must be sent**

Roll Call:

Affirmative: Waterbury, Peterson, Canonico, Stambaugh, Betesh

Negative: None

Red Bank Volvo:

Appeal of Zoning Officers Decision

Henry St.

Bl: 7, Lots: 16 & 17

Mr. Forrester reviewed the service and found it to be satisfactory and the board has jurisdiction.

Mr. Steib said in order for the board to accept jurisdiction of the application at this time, there has been a request to continue the matter to April 7, 2010 by the applicant. The applicant's counsel & the objectors counsel would like to address the board. Mr. Steib advised that the board should entertain the statements of counsel before making a determination to carry the application.

Ms. Waterbury said that the board will accept jurisdiction based on the recommendation of the board's counsel.

Mr. Marc Leckstein, Leckstein & Leckstein appeared for the applicant. He stated that he has submitted correspondence and the board has reviewed the correspondence and he has read the memo from Mr. Steib and agrees with the recommendations. He explained that their Planner is not available and he will be available on April 7, 2010, and he is requesting that the matter be adjourned to April 7, 2010 without further notice.

Mr. Philip San Filippo, Esq represented Azgara Bowl/Gorwin. He explained that he represents the owner of the bowling alley property and he has submitted a letter to the board indicating that he has difficulty with the request for the adjournment. He was not troubled by the idea that the expert was not available, which happens all the time. In view that this appeal was file in January and set for this evening which is more than sufficient time to allow the applicant to prepare for the review of Mr. Donlon's determination of December 14, 2009 and that his client is out of business, he was looking to have the board to grant the adjournment on a "preemptory" basis which mean that they would proceed on April 7, 2010 or their appeal would be dismissed. There may be testimony presented by Mr. Gemma (Planner for applicant) in his opinion this is a matter of law and he feels that any delay would hurt his client significantly more than Red Bank Volvo. He is here solely to encourage the board grant the adjournment on the preemptory basis on April 7, 2010.

Mr. San Filippo said that he has read Mr. Steib's memo and he understands the legal reasoning, but this is a very unusual request for a board to consider, but he would ask for a fair(inaudible) for his client.

Mr. Steib said that his memorandum states that there is some liberality to be given in considering the request of an applicant for an adjournment, particularly where there are proper reasons and courts have talked about the unavailability of witnesses, which is the case here and he doesn't feel that either counsel is contesting that at this point.

Mr. Steib said that Mr. San Filippo is asking the board to put a preemptory stamp on this matter for next hearing. Mr. Steib understands his reasoning for that. He feels that at this point there is a reasonable basis to grant the applicant's request for a continuance. Once the request is granted for a good cause, he doesn't feel that the board should "hand cuff" themselves to having to proceed at the next meeting. It may be at the next meeting that the applicant would request a further adjournment, and it would be at that point in time you would get the sense that the bonifides aren't there and then the board could take such action as you wish at that time, you could either grant the continuance or say no today is the day lets get it done. At that point it's up to the applicant to either "put up or shut up" as the phrase may go.

Ms. Waterbury stated that after reading both letters from the attorneys and Mr. Steib's memo, she is inclined from her own perspective to accept the carrying of the application to April 7th and to deal with each meeting as each meeting arises. At this moment her own thought would be to carry it to April 7th and on April 7th we would deal with whatever we will have to deal with. The applicant has indicated that the professionals are available on that evening and we have heard the concerns of the objector's attorney and we hope that it will move forward on that night. Ms. Waterbury said that she would vote not to take a stand on an action on that night until that night.

Mr. Betesh agreed. There is no indication that the delay tonight is intentionally designed to cause injury or is unnecessary. He understands Mr. San Filippo's argument that they did have adequate notice and they should be here with their expert, but this is not a repeated offense, this is the first time this has happened here on this application and he would tend to agree.

Ms. Waterbury asked for other comments from the board, there were none.

A motion was made by Mr. Betesh, seconded by Ms. Canonico, to carry the application of Red Bank Volvo to April 7, 2010 without further notice.

Roll Call:

Affirmative: Waterbury, Peterson, Canonico, Stambaugh, Betesh

Negative: None

A motion was made by Ms. Canonico, seconded by Ms. Peterson to adjourn the meeting at 8:00 pm. All approved.