

Present: Waterbury, Peterson, Canonico, Walsh, Stambaugh, Betesh, Anderson  
Kennedy (Attorney)  
Cranmer (Planner)

Absent: Fisher

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:**

A motion was made by Mr. Betesh, seconded Mr. Anderson to adopt & memorialize the minutes of the public portion of the August 3, 2011 meeting minutes as submitted.  
All approved.

**Correspondence:** none

**Planning Board Representative:**

Ms. Waterbury reported that the Master Plan Committee continues to work on the Re examination, next meeting will be September 15, 2011 @ 1:00 pm

Ms. Waterbury reported that both the Solar Ordinance & Check List Ordinance have been adopted.

**Unfinished Business:**

**Treasure Island Plaza, LLC:**

**Adoption of Resolution**

Bl: 70.01, Lot: 2

A motion was made by Ms. Peterson, seconded by Ms. Stambaugh to adopt & memorialize the resolution of approval for the directional sign & denial on the free standing sign in the Municipal right of way to Treasure Island LLC, Broad St, as submitted.

Roll Call:

Affirmative: Waterbury, Peterson, Walsh, Stambaugh, Anderson

Negative: None

**M/M James Fanizzi:**

**Adoption of Resolution**

Bl: 50, Lot: 1

A motion was made by Mr. Betesh, seconded by Ms. Stambaugh to adopt & memorialize the resolution of approval as amended to M/M James Fanizzi for a 6' fence in front yard area.

Roll Call:

Affirmative: Waterbury, Stambaugh, Betesh, Anderson

Negative: None

**New Business:**

**M/M E Duffy:**

312 Sycamore Ave  
Bl: 61, Lot: 1

**Fence in front yard area**

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

Mr. Kennedy marked the following into evidence:

- A-1:** Application dated 8/15/2011
- A-2:** Zoning Permit Denial, dated 6/12/2011
- A-3:** Survey, prepared by Land Surveys Inc, 8/31/201
- A-4:** 3 photos of existing conditions

Mr. Edward Duffy & Mrs. Lisa Duffy were both sworn. Mr. Duffy testified that they have been the owners of 312 Sycamore Ave since 2010, located on the corner of Sycamore Ave & Silverbrook Rd.

Mr. Duffy explained that since they are on a corner lot they have 2 front yards, and the fence is located in the front yard running along Silverbrook Rd the fence is shown on his survey which has been provided in his application. The fence is a natural, solid wood fence. Mrs. Duffy testified that approximately 38' of the fence is located behind the shrubbery from the corner of the garage to the back property line, with only 25' exposed along Silverbrook Rd.

Mr. Duffy explained that the side yard is used as his backyard for his 3 small children and dog. He testified that the shrubbery will remain. As the pictures show in exhibit A-4 the fence is already up they did not realize that they needed a permit. The fence facing Sycamore Ave is 74' from the street which complies with the Ordinance.

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

No comments

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

Mr. Kennedy asked Mr. Duffy if the fence will compromise any site distances for motorists? Mr. Duffy said that it is no where need the corner of Sycamore & Silverbrook Rd it is approximately 73'+ and their immediate neighbor has the same fence and situation for their fence.

A motion was made by Mr. Betesh, seconded by Ms. Peterson to open the meeting to the public for comments. All approved.

There were none

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

**Board discussion:**

All board members agreed that the placement of the fence is far enough back from Sycamore Ave & behind existing shrubbery and is innocuous and no negative impact to the area, and the fence is for the safety and security of their young children, but a condition should be attached that the shrubbery should remain and maintained.

**Approval:**

A motion was made by Mr. Betesh, seconded by Mr. Walsh to approve the application of M/M Duffy for a 6' fence in the front yard area as shown in exhibit A-4 with the condition that the shrubbery remain on the outside of the fence which currently covers approximately 70% of the fence.

Roll Call:

Affirmative: Waterbury, Peterson, Canonico, Walsh, Stambaugh, Betesh, Anderson

Negative: None

**Resolution:**

A motion was made by Mr. Betesh, seconded by Mr. Walsh to adopt & memorialize the resolution of approval for M/M E Duffy as submitted.

Roll Call:

Affirmative: Waterbury, Peterson, Canonico, Walsh, Stambaugh, Betesh, Anderson

Negative: None

**M/M Marshall Wright:**

**Solar Panels**

4 Corn Lane  
Bl: 62, Lot: 2

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

Mr. Kennedy marked the following into evidence:

A-1: Application dated 8/17/2011

A-2: Zoning Application Denial Letter dated 6/26/2011

A-3: Aerial view of home with details

Ms Sara Wright & Mr. Marshall Wright, 4 Corn Lane were both sworn. Mr. Wright testified that they are the owners of 4 Corn Lane for 23 years.

Mr. Wright testified that he is going to install solar panels in order to be more “green” and he will be leasing the panels for 20 years for New Jersey Natural Gas and after the lease he will be responsible for the maintenance of the panels.

Mr. Wright testified that the number of panels that will be placed on his roof is based on the consumption of gas in the prior year and if they are sized correctly will be a net 0 for his costs for the year. Mr. Wright provided a detail of the layout of the panels which was originally going to be 45 panels, but they could not fit 45 panels and they will be putting 44 panels.

**A-4:** Details of the layout of 44 panels, each panel approximately 17 sq ft - 38” x 65” on the southern portion of the roof which was prepared by Sea Bright Solar.

Mr. Brian Kelly, owner of Sea Bright Solar was sworn. He testified that the panels that will be constructed on Mr. Wright’s house will be flat mounted system, black in color and non glare, covering approximately 85% of the roof or 800 sq. ft. The panels will be attached with lag bolts with flashing. Mr. Wright testified that his existing roof is 10 years old and they used 50 year shingles.

Mr. Anderson asked Mr. Wright that he will be responsible to keep the panels working and if the decide not to continue with the use they will be removed from the roof?  
Mr. Wright said yes.

A motion was made by Mr. Betesh, seconded by Mr. Anderson to open the meeting to the public for any comments/questions. All approved.

There were none

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

**Approval:**

A motion was made by Ms. Peterson, seconded by Mr. Walsh, to approve the application of M/M Marshall Wright to install 44 solar panels at 4 Corn Lane as submitted.

Roll Call:

Affirmative: Waterbury, Peterson, Canonico, Walsh, Stambaugh, Betesh, Anderson

Negative: None

**Resolution:**

A motion was made by Ms. Peterson, seconded by Mr. Walsh to adopt & memorialize the resolution of approval for M/M Marshall Wright for solar panels as amended.

Roll Call:

Affirmative: Waterbury, Peterson, Canonico, Walsh, Stambaugh, Betesh, Anderson

Negative: None

A motion was made by Ms. Peterson, seconded by Mr. Anderson to forward a letter to the Construction Dept advising application has been approved, resolution to follow. All approved.

**Special Meeting Request:**

Mr. Mark Aikins, Esquire has requested a special meeting for the Colonial American Bank, d/b/a Access Bank, the application has been deemed complete and his client would like to move as quickly as possible. After a discussion it was decided that a special meeting could be held on **September 27, 2011 @ 7:30 pm -** a new meeting notice will be published.

*A motion was made by Mr. Betesh, seconded by Mr. Walsh to hold a special meeting for Colonial American Bank d/b/a Direct Access on September 27, 2011 @ 7:30 pm. All approved.*

**New Business:**

**VECKK Enterprises, LLC:**  
**d/b/a Let's Yo! Shrewsbury**  
1021-1103 Broad St  
Bl: 70.01, Lot: 2

**Use Variance & Waiver of Site Plan**

Mr. Philip San Filippo, Esq represented the applicant.

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

Mr. Kennedy marked the following into evidence:

- A-1:** Application Hearing package dated 7/22/2011
- A-2:** Narrative of Use, dated 7/20/2011
- A-3:** Statement of Variances
- A-4:** Resolution - Treasure Island free standing identification sign, dated 3/2/2011
- A-5:** Architectural Plan, prepared by Philip Robinowitz, 6/29/2011
- A-6:** Cranmer Engineering Use Variance review letter dated 8/31/2011
- A-7:** Revised Statement of Variances dated 7/26/2011
- A-8:** Zoning Denial Letter dated 8/27/2011
- A-9:** 2 Photos - façade & freestanding sign
- A-10:** Minor Site Plan, prepared by KCE Engineering dated 5/12/2010, revised 12/8/2010 - 1 page

Mr. Eric Casaburi, 4 Michael Way, Colts Neck, NJ, CEO VECKK Enterprises, was sworn. He testified that he is currently under contract to lease store #111 in Treasure Island Plaza, contingent upon approval of this board for a use variance.

Mr. Casaburi described the proposed store as approximately 1,700 sq. ft. and he prepared the interior layout as shown in A-5 which accurately depicts the store layout. There will be 27 seats with a seasonal outdoor seating area of 3 tables and 12 seats from April through November, and removed and stored after the fall season. He explained that there will be take out and eat in yogurt products. The hours of operation will be Monday through Friday 8:00 am to 10:00 pm with a later opening on Saturday & Sunday. He hopes to have 2 shifts with one floating shift of part time people from 4:00 pm to 7:00 pm, which would include 4 employees and 1 manager on each full time shift. Mr. Casaburi testified that there will be 1 employee to littler patrol for both inside and outside maintenance.

Mr. Casaburi described the background of "Lets Yo". It is a self service business, allowing the consumer to control the amount of yogurt and the price they pay or a "weigh and pay". This system controls the amount of yogurt and the amount that you spend. They plan on having a cereal line that will also be on a self serve basis. There will be staff to help people and a cleaning staff.

Mr. Casaburi testified that the "Lets Yo" product line is a low fat/non fat/gluten free line it is a health conscious environment. He has a line of fitness centers that he owns. Only fresh strawberries etc are used for a more health conscious person.

Mr. San Filippo asked how would he receive deliveries to the store? Mr. Casaburi said that all deliveries will be made in the rear of the building by a straight line truck or a smaller delivery truck, in the morning or by mid day.

Mr. San Filippo asked other than yogurt products and cereal what other items are you planning on serving beverages? Mr. Casaburi said that they will be on a grab & go system, a cooler with soda and self serving coffee machine.

Mr. Casaburi testified that they would like to open as soon as possible, he feels that this use would be a good add to the shopping center.

Mr. Casaburi testified that he is the franchisor/owner of this location, but there are approximately 30 stores going into New Jersey. He advised that they do not have a interior floor plan yet, it is a white tile interior.

**A-11**: Minor site plan, dated 5/12/2010, revised 12/8/2010 showing the store location in the plaza marked in green

Mr. Walsh asked what is the distance from the front of the building to the curb line, he has concerns with the outdoor seating, will it be out of the pedestrian walkway. Mr. San Filippo referred to the full set of plans and he will have his Planner address this concern.

Mr. Cranmer referred to his review letter dated 8/31/2011. He asked Mr. Casaburi to describe how he will dispose of the yogurt at the end of the day. Mr. Casaburi described the process that is used for preparation and disposal. He explained that any over run of the yogurt is used in pies, it is not wasted, if it is not sold over a certain amount of time then the product is given to employees to take home or melt the yogurt.

Mr. San Filippo stated that the hours of operation will be amended to 10:00 pm which is consistent with the shopping center. The restaurants in the plaza are open to 10:00 pm. and site lighting he will be requesting to stay on later if it is needed. The Planner will address any questions with regard to the lighting.

Mr. Cranmer asked Mr. Casaburi if all of his product will be stored inside, and not requesting any additional outside freezers? Mr. Casaburi said no he has a 6' x 12' large indoor freezer.

No audience in attendance.

Ms. Stambaugh asked if the back room can be seen from the restaurant? Mr. Casaburi said no there is a door there. Ms. Stambaugh asked if he knew the size of the outdoor tables will be? Mr. Casaburi said that they will purchase the smallest tables they can find, they are not going to hold a lot of food.

Mr. Cranmer feels that this use does not constitute a restaurant use and he has concerns if this use leaves then a more intense use could move in. Mr. San Filippo said that they are bound by the Ordinance which stipulates that if you sit down to eat it's a restaurant. He said that the Ordinance is broad and he wasn't sure where to go with it which is the reason he is before the board. Mr. Betesh asked if restrictions could be placed on this use variance? Mr. San Filippo said that there will be no cooking, no baking, etc on the premises.

Mr. Kennedy said that a finding could be made that the use variance is being granted based upon the nature of the activity and intensity with no baking, no cooking and state what exactly the board would approve and that any significant change or deviation would require the applicant returning to this board.

Ms. Waterbury announced that Ms. Peterson left at 9:17 pm

Mr. Robert Persichetti, owner of Affective Sign Works since 1996, he gave his experience and was accepted as an expert witness in sign design and manufacturing.

Mr. Persichetti testified that he prepared the proposed the façade sign & marquee signs as shown in A-9 - (2 photos), and he understands that a variance is needed for the façade sign. He explained how he arrived at the wall area in order to prepare the sign, with horizontal & vertical measurements (817.6 sq ft) and 10% of signage, and the 2 panels equal less than the 10% or 80.3 sq ft where 81.7% is the allowable sq. ft. He feels that

the 2 panels are one sign not 2 which is represented by other signs in the shopping center which are multiple components, which he has provided photos of.

**A-12:** 3 sheets (photos) of other signs in Treasure Island Shopping Plaza, taken by Mr. Persichetti in July - and described each sign.

Mr. San Filippo asked Mr. Persichetti if he feels that the board could grant the 2 component signs of “Lets Yo” “A yogurt experience”? He said yes, from a construction standpoint alone the construction is the same, and it can be granted without it being adverse to the public good, as it relates to other stores in the center or the Borough? He said yes, and it could be granted without substantially impaired Shrewsbury’s Zone Plan and Zoning Ordinance as it relates to signage, and that the sign is consistent.

Mr. Walsh asked if the coloring as shown in A-9 the trade mark of Lets Yo? Mr. Persichetti said yes, it is the registered trade mark, and the pylon sign is red as dictated by the landlord. Board members pointed out that the predominant color in the shopping center is red and white.

Ms. Stambaugh asked if both signs could be incorporated into one sign? Mr. Persichetti said that doing that would be a detriment to the brand, the message of “Lets Yo” is displayed in a digital caption, a modern form of communication, which is unique to this brand and new age atmosphere, which “Let Yo” creates, being consistent with a Blackberry and that type of message with both lettering and coloring.

Mr. Betesh asked if they measured the entire roof line to determine the total amount of square footage? Mr. Cranmer said that he feels that the roof line is not to be included but it is not defined in the Ordinance. The variance request may be larger than what we have on the table currently depending on how they arrived at the numbers. Mr. Cranmer feels that they should exclude roof calculation.

Ms. Waterbury pointed out that the façade extends past the tenant space and across the Sals Pizzeria space, did they include that in the calculations. Mr. Persichetti said that he does consider that part of their façade. Mr. San Filippo feels that due to the way the space jogs in there is another section of wall & window and he would consider that part of the Lets Yo space. They would not use that portion of the store for seating they would just utilize the front of the store. Mr. Betesh asked if the Landlord has approved Lets Yo to use this area? Mr. Persichetti said that he has the Landlord approval.

Mr. Betesh asked if Sals Pizzeria was notified that the sign is proposed over his space? Mr. Kennedy explained that only the property owner is notified, not the individual tenants.

Mr. Cranmer said that the Ordinance doesn’t state that the area is limited from tenant wall to tenant wall, it states “the sign shall not exceed an area equal to 10% of the façade on which the sign is to be located” Section: 94-8.34J-3.

Ms. Waterbury questioned whether Sals Pizza included that area in his calculations for his sign area, and what part of the façade they included.

Mr. Betesh asked why are they seeking a variance for the sign? Mr. Persichetti said that it was considered 2 signs, and they are stating that it is only one. Mr. Donlon identified the coverage as over the 10% allowed.

There was lengthy discussion of what Mr. Donlon's calculations were for the proposed sign and what the square foot overage was. Ms. Waterbury asked if the applicant would be willing to carry the sign aspect of the application to the next meeting? Mr. Casaburi said that it is not ideal because if he gets the store built he doesn't have a sign and it takes time to build the sign.

Mr. Cranmer suggested that if the board uses the B2 zone as a "guide" then 390 sq. ft. or approximately 40 sq ft. sign would be permitted under the B2 Standards, LIR88 states that they could use 10% of store front including the other tenant front, with the Landlords permission. Do we know if Sals Pizza counted that space for their sign area, therefore making a double counting in a certain area? Ms. Waterbury suggested using 668.9 sq. ft. or a 66.8 sq. ft. sign, without a variance where the applicant is requesting an 81 sq. ft. sign. Mr. Betesh suggested using 475 sq ft. which does not include the square footage over Sals Pizza or 48 sq. ft. where they are request 81 sq. ft.

Mr. Anderson expressed his concerns with the color of the proposed signs, which he feels is inconsistent with the rest of the shopping center. Mr. Persichetti explained that other signs are capsuled in the center. He presented a rendering of what the sign will look like without the capsules.

Mr. San Filippo doesn't feel that there is a prohibition on coloring of signs in this shopping center or any where in the Borough, other than signs that confuse a public safety officer with public safety device. He explained that The Grove has all measures of colors because every tenant in The Grove is a national brands tenant. You will not get a national brands tenant to modify their sign which is an instant identification all over the country. The Landlord is not imposing that restriction, nor does the Ordinance stipulate that, and it is not fair since Sals next door has green, white and yellow in their signs. It is not in the Ordinance that states that you have to have a red and white sign in Treasure Island Plaza. Mr. Betesh feels that since it is a variance the board could set the tone for the sign.

Ms. Canonico feels that it is a "fluke" that the signs are red and there is no consistency in the center. She agrees with Mr. San Filippo about the national brand identification, and Sals & Boston Market has multiple colors, but she also doesn't like the color of the proposed sign.

Ms. Waterbury said that her calculations for the façade are 632 sq. ft. allowing a 63 sq. ft. sign where 81 sq. ft. is being requested.

Ms. Stambaugh doesn't like the "comic strip" look of the sign. The shopping center has turned around and now they will put 2 neon green signs up.

No audience

Mr. San Filippo advised that he has spoken to his client and he will reduce the size of the size of the sign to 63 sq. ft., the color is national brand identification. He feels that they are allowed the 2 components to the sign, which is why the Zoning Officer sent him for both sign size and being 2 signs.

Mr. Cranmer asked Mr. Kennedy if the applicant could appeal the determination of the Zoning Officer that the size 63 sq. ft. would be only 1 component and not 2 as he previously determined. Mr. Kennedy said yes. Mr. San Filippo said that he doesn't want to go into an Appeal process, since Mr. Donlon has to appear at an Appeal Hearing. Mr. Cranmer asked in the absence of an Appeal can the board make a determination that the proposed sign is not 2 signs? Mr. San Filippo said that the board has the power of an interpretation under the Land Use Law and the Ordinance.

**Straw Poll vote for a 63 sq ft green in color sign which would eliminate the variance for the size of the sign, leaving 1 variance for the number of sign being proposed:**

Mr. Betesh feels that the proposed is 1 sign, unless  $\frac{3}{4}$  of the signs in the shopping center is 2 or more signs, which no one is looking at them, it is a different color, and this sign is no different than Sals Original sign or other signs in the center. In terms of the color scheme he understands about the national brand theme, if the landlord is not imposing a restriction that all the signs must be red and white, obviously that is not the case, his opinion is that the signs are big and if the applicant is offering to reduce them slightly that would make them "fit" a little bit better, and he would be able to approve the signs to the extent that is require.

Ms. Canonico said that hears Mr. Betesh, but she sees them as 2 different signs, due to the fact when she looks at the other signs in the center, the "tag line" is under the sign and this sign is visual and she would agree that if it meets the square footage and if there is no restriction on the coloring. If she doesn't like the color it's irrelevant and it would be ok with her.

Mr. Walsh stated that he interprets the sign as one sign, agreeing with Mr. Betesh's comments, he like the style of the sign but he like the uniformity of the red and white sign, he understands the trade markings. The center has improved 1000% and he likes the uniformity and he would like to see the sign a little smaller but in red.

Ms. Stambaugh agrees with the comments made by Ms. Canonico, it is 2 signs and she doesn't like the color and would like to see the red staying with the uniformity of the center. She isn't opposed to the size of the proposed sign, it is more the color and that it is 2 signs.

Mr. Anderson stated that he feels that it is 1 sign, he has issues with the color and would like to see a condition that the sign be red and white.

Ms. Waterbury said she doesn't have any concerns being 1 or 2 signs. The "tag" on the other signs blends in; even the other signs have colors that blend in more. She can understand the concept of the sign, she would tend to go with the red as well, but if it ends up that it is something that the board has no control over ..... The marquis sign she has no concerns with the red and white.

Mr. Betesh said that this center has been in the "dumps" for a long time and now that they are getting some national brands in the center where the majority of users are small operators but as this center attracts more national brand tenants we are going to come across this more and more. If those new tenants come before the board they are going to insist on their colors and we will have to impose a condition that signs will only be a red color scheme. Mr. Walsh said that if they keep the sign within the Ordinance then they will not have to come before us. Mr. Betesh that they could withdraw the proposed sign, and stay within the 10% and make it one sign and not come before us. Ms. Waterbury said that this sign is going to stand out, and she feels that the sign should "tie in" a little bit more.

Mr. Richard Kniesler, Planner, was sworn, gave his educational & professional background and was accepted as an expert witness in planning.

Mr. Kniesler testified that when he received the Zoning Officers determination to apply for a use variance with respect to Section 94-10.12A Permitted Uses in LIR-88 - 94-10.3A Prohibited Uses 94-6.6 Minor Site Plan Approval, dated 8/27/2011. A self service yogurt dispensing restaurant with 27 seats inside and 12 seats outdoors, and he described the surrounding uses, which including other restaurant uses.

Mr. Kniesler referred to the 10' canopy across the entire site. The applicant is proposing small ice cream soda tables past the corner, located in front of Lets Yo, and there will be plenty of room since there is 3' of sidewalk past the 10' canopy, giving 13' from the front wall of the store to the curb.

Mr. Kniesler read the permitted/non permitted uses in the LIR-88 zone into the record. He stated that the restaurant use of Lets Yo is not permitted in LIR-88 therefore requiring a use variance. Mr. Kniesler stated that the applicant is not proposing any changes to the recently approved site plan. He feels that the proposed use will incorporate with the approval with the conditions of the previous action of this board. Mr. Kniesler stated that the entire use of the shopping center in LIR-88 zone is not a conforming use permitted.

Mr. Kniesler pointed out that the use of Lets Yo will not have a full service kitchen. They are not heating any food, no stove, no ranges, no grills, no dishes or service staff, but they will have a clean up staff in front and in the rear of the store. This use will not have panninies, bagels etc.

Mr. Kniesler stated that this site suits this use, since it is a large piece of property, provides off street parking for all customer parking & services. This use is self contained. No change to approve a site plan, no impact to public safety and no impact to traffic flow within the site. At the present time food related uses including are the majority of uses within this complex. The site conditions have already been approved by this board, and the outdoor seating is only 12 seats.

Mr. Kniesler discussed the sign that has already been discussed by this board. He feels that the sign promotes the general welfare since the sign is particularly suited for this use. There are 5 other food uses in this shopping center and compliment the general retail uses of the area. The hours of operation will be open at mid day when the plaza is not busy. He also feels that the use is consistent with the intent & purpose of the Borough of Shrewsbury's Zone Plan & Zoning Ordinance.

Mr. Kniesler reviewed the attributes of this site. This site is suited for this particular use; the use is compatible with other retail business within the shopping center and does not compete with other businesses in the area. It is self contained for recycling and there is access to the existing dumpster from the rear door, no additional coolers, no external noise.

Mr. Kniesler reviewed the negative criteria's. He stated that the applicant is seeking outdoor relief with a minor component with no exterior changes to the building except for a corporate standard sign. He doesn't feel that there isn't any impairment to the Zone Plan from the proposed sign. Mr. Kniesler that the edge of the property is located at the Ave of the Common which is 500'; this operation is at the farthest southern point of the center and will not have an impact. The interior lights will light the side walk; flush mounted lights under the canopy with a parking lot light at the front door, creating a safe zone.

Mr. Kniesler stated that the granting of the use variance would not impact the intent and purpose of the Shrewsbury Zoning Master Plan & Ordinance. Benefits of the applicant include a proposed use which is consistent, the access will not be changed and sufficient parking will be provided for the use. The "D" variance will not be a full service restaurant and the use will advance the general purpose and will not be a detriment to the public good.

No audience

Mr. Cranmer asked Mr. Kniesler to comment on the waiver of site plan approval. Mr. Kniesler stated that did receive a set of plans from and he feels that the approval would be adequate for this site plan since there is a cross walk right in front of the door, and the trip generations would be consistent with any use that was contemplated at the time of the construction of the plaza. The proposed use would be harmonious with the other uses in the center, and the traffic patterns would not be affected by this use.

Mr. San Filippo summarized the application:

**Use Variance & bulk variances:**

A use variance for the use relief which needs 5 affirmative votes & bulk variances for the signs which requires a simply majority

**Waiver of Site Plan Approval:**

Nothing about this application which warrants approval, they are not making any modifications to the parking spaces or store façade, waiver of site plan would be appropriate.

Mr. San Filippo stated that the use is an excellent use for the center as testified by Mr. Casaburi & Mr. Kniesler, this use would produce synergy throughout the shopping center and another food element for the uses around the center including office complexes, library, nursing home, and residential in the rear of the center. He feels that the use warrants approval:

**Signs:**

Mr. San Filippo feels that the national identity is necessary for the trademark and will become the standard for this use throughout New Jersey.

The applicant has indicated that they will reduce the size of the sign to 63 sq. ft. so the sign falls within allowable measurable area for the front wall area of the space.

It is clear that the other tenants used the façade area above the wall area as well as the front wall area to arrive at the calculations.

The color is different, but some of the other signs are different colors as well.

Waiver of site plan is warranted due to the testimony provided by Mr. Kniesler

Mr. San Filippo asked the board to bifurcate the vote, vote on the use variance and the bulk variances under separate approvals, which would be fair to the applicant.

Ms. Waterbury asked what color scheme option is the applicant taking on the freestanding sign?

Mr. San Filippo said that the marquis sign is not in question, but they will be doing Option B (A-9) red and white sign, as mandated by the Landlord.

**Board discussion:**

Mr. Walsh stated that he is in favor of the use variance; it is a good use for the center and a nice addition.

Ms. Stambaugh likes the concept of the use & facility, it will be an asset to the town, and she would be in favor of the use variance.

Mr. Betesh agrees with the comments made, with the appropriate conditions in terms of cooking etc, it will be a nice addition to the center.

Ms. Canonico agreed with the comments, and she also would like to see restrictions with respect to cooking.

Mr. Anderson agreed to the restrictions of no cooking with the use variance, he wants to make sure that the town is protected.

Ms. Waterbury agreed with all the comments that have been made.

**Use Variance & Waiver of Site Plan Approval:**

A motion was made by Mr. Walsh, seconded by Ms. Canonico to approve the application by Lets Yo for a use variance and waiver of site plan approval, with the following conditions:

- No baking, cooking, frying or anything associated with general cooking
- No waitress service
- Clarification that this is not the typical restaurant use
- Any significant or material deviation will require the applicant to return back to the board for approval
- Limited to 27 seats inside and 12 seats under the canopy only, to be stored off site when not in use
- Table & chairs to be placed in front of Lets Yo only
- Compliance with Cranmer Engineering Review letter dated 8/31/2011
- Hours of operation must match the centers hours of operation & compliance with the Borough Ordinance #139
- Trash receptacle to be placed outside the tenant and maintained by the tenant

Roll Call:

Affirmative: Waterbury, Canonico, Walsh, Stambaugh, Betesh, Anderson

Negative: None

**Resolution 10/5/2011**

**Sign:**

Ms. Waterbury said that the height variance has been eliminated, leaving the variance for the number of signs, color, shape and for directory sign option "B".

Mr. Betesh asked if the board could grant a variance without ruling that it is 2 signs, in the alternative if it is 2 signs grant...Mr. Kennedy said that it could be a finding of fact that it is unknown even if it is 2 signs, and make a ruling then.... Mr. Betesh feels that is the appropriate way, he doesn't feel that the board should make a determination whether its one or two sign.

Ms. Waterbury said that the Zoning Officer determined that it is 2 signs and indicated that they need a variance, and there has been no request for interpretation of that.

Mr. Anderson asked what is before the board right now. The applicant has indicated that they will reduce the sign to 63 sq. ft., what are we voting on? Mr. Kennedy said that the issue is the sign has been presented, as modified, is 63 sq. ft. which would eliminate the variance exceeding the 10%, but it is 2 signs as Mr. Donlon has referenced, as in A-9 but for 63 sq. ft. only.

There was a lengthy discussion on what Mr. Donlon's calculations were in order to determine the overage of 10%. Mr. Cranmer said that Mr. Donlon did not indicate the square footage; he indicated that "it was greater than 10%".

Mr. Betesh asked Mr. Kennedy if the board could grant a 63 sq. ft. sign, not knowing what the total square foot calculations were? Mr. Kennedy said that you can ask Mr. Donlon to come to the next meeting or to write a memo explaining how he calculated the number, and we could carry this portion of the hearing to next month to hear that what the information was and how he made his calculation. Mr. Walsh asked if the board could grant a variance for a sign 63 sq. ft. in size?

Mr. San Filippo said that the board could grant the variance for 2 signs, they couldn't use any other portion of the façade area, and if they wanted to deviate from that they would have to come back to the board. Ms. Waterbury said that the board would be approving the sign based upon what they brought before us and any difference may have changed their findings. Mr. Betesh said that he would be ok with granting the variance.

Mr. San Filippo said that he consulted with his client and they do not have any say on the "trade mark" color for identity and marketing. The Landlord is mandating the red and white on the marquis sign. They can go back to Mr. Donlon and do some measuring.

Mr. San Filippo stated that they will withdraw the request for the sign variance and meet with Mr. Donlon to see if they can come up with a calculation that is compatible....

Mr. Betesh asked if he was withdrawing the sign request? Mr. San Filippo said that they can request the withdrawal but the board doesn't have to approve it. Ms. Waterbury said that they can also ask for the resolution on the use, and if didn't work out with Mr. Donlon you are still on for the next meeting.

Mr. San Filippo said that since they received the approval for the use variance, they are requesting to be carried on the issue of the sign variance.

Mr. San Filippo advised that he has agreed to extend the time frame of approval.

A motion was made by Mr. Betesh, seconded by Ms. Canonico to carry the sign variance issue to the October 5, 2011 @ 7:30 pm.

Roll Call:

Affirmative: Waterbury, Peterson, Canonico, Walsh, Stambaugh, Betesh, Anderson

Negative: None

Ms. Waterbury asked the Board Secretary to write a memo to Mr. Donlon asking for his calculations on the signs.

No audience

Mr. Kennedy announced that the application of Let's Yo will be carried to the 10/5/2011 meeting without further notice.

A motion was made by Mr. Walsh, seconded by Ms. Stambaugh that a letter will be sent to the Construction Department advising that a use variance was granted with waiver of site plan approval, and resolution to follow, and that the applicant can submit for construction permits. All approved.

A motion was made by Mr. Betesh, seconded by Ms. Canonico to adjourn the meeting at 11:07pm. All approved.