

**BOROUGH OF MAGNOLIA  
PLANNING BOARD MINUTES  
NOVEMBER 28, 2007**

The meeting was called to order by Chairman Lawrence Barrar at 7:40 PM. The public statement was read by the Chairman, followed by the flag salute.

**ROLL CALL - CH-Chairman, VC-Vice Chairman, C-Council, MD-Mayors Designee, A-Alternate**

Lawrence Barrar	CH	Present	Richard Krause	MD	Present
Joyce Albrecht		Present	Arthur Loder		Absent
Robert Brown		Present	John Wolf, Jr.		Present
Nick D'Amico	C	Present	VACANT	A1	
John DiBartolomeo	VC	Present	Joseph Conway	A2	Present
Jim Hannold		Present	VACANT	A3&A4	

**ALSO**

David Kreck	Engineer	Absent	Michael Ward	Solicitor	Present
Chris Mecca	Zoning Off.	Absent	Denise O'Kane	Secretary	Present

**APPROVAL OF MINUTES**

Motions were made to approve the October 24, 2007 minutes with corrections. AIF-motion approved.

**OLD BUSINESS**

**VAR07-5 / Dee Sauro – 440 W. Lincoln Avenue**

The applicant was represented by her husband, Joe Sauro. They are requesting the board to reconsider the decision they made at the October 24<sup>th</sup> meeting regarding the 6' fence section for the following reasons: this is a corner property, the address is Lincoln Avenue, but the front door is on Albertson Avenue and the fence company will charge more for the 4' fence section. The applicant took pictures of other corner properties that have a 6' fence on the same side of the property. Councilman D'Amico informed the board that the applicant came before council to appeal the decision of the board. The applicant was referred back to the planning board, because they did not receive a denial for the 6' fence; the applicant agreed to amend the application for the 4' fence along Albertson Avenue. The Chairman said the right to appeal was amended in 1984 and the borough ordinance does not accurately reflect this change. He recommended that code (170:14A) be updated to match the current MLUA, which allows the governing body the right to hear an appeal of the decision of the board regarding "D" variance applications only. The board questioned its ability to rescind the decision. Could this set a precedent? Mr. Ward said this is highly unusual, but the applicant has the right to ask the board to reconsider a decision. If some important information was missing or changed in some way that would alter the boards decision, then the request can be made prior to the resolution being memorialized. Motions were made to open the meeting to the public. Being no further discussion, motions were made to close the meeting to the public. Mr. Ward informed the applicant that the board took careful consideration hearing his application and gave him the opportunity to notify his wife of the recommendation to amend the fence height and the applicant agreed. If the applicant wanted to ask the board to nullify and cancel the prior approval, they can; however, if the board does not approve the request for the 6' fence, then the applicant must file the appeal with the N.J. Superior Court. The applicant agreed and requested the board to cancel the approval made at the October 24<sup>th</sup> meeting. A motion was made to cancel the prior approval. No second motion was made. The motion failed.

Motions were made to approve Resolutions #07-22 and #07-23. Motion approved by roll call vote.

**NEW BUSINESS**

No new business for this months meeting

**COORESPONDENCE**

The board reviewed letters from KLE Consultants regarding the Arby's site plan and the Colombo Liquors site plan. The board questioned the changes that were made "administratively". They do not want another situation, like the FedEx application, to happen again. Mr. Ward informed the board that Mr. Kreck, as a professional, has the right to make the recommendations for administrative changes; however, if the board wished, it has the right to review changes in the future, rather than have them done administratively. If the changes are made due to an outside agency like the Department of Transportation, the board does not have the jurisdiction not to approve the change. The board has the right to ask for an amended site plan application, but Mr. Kreck has the best interests of the board and the borough when he does his review and would make such a recommendation if needed.

The board is confident in the decisions made by Mr. Kreck, but had concerns about the site engineer inspector following the approved plans. Mr. Ward stated to the board; you need to have some faith in the process and maybe your concerns are valid. Mr. Ward suggested that the board be more aware, if possible, during the construction process.

Mr. Brown had to leave the meeting at 8:40 pm.

**OPEN PUBLIC**

A motion was made to open the meeting to the public. Being no further discussion, a motion was made to close the meeting to the public.

**COMMENTS & DISCUSSION**

2008 Professional Appointments: The Chairman said the board has the right to make a recommendation, but feels the governing body would be more informed to handle such appointments.

2008 Planning Board Schedule: Motions were made to approve. AIF-motion approved.

New Planning Board Application: Councilman D'Amico will meet with the board secretary to review the application. It will be available for discussion at the December meeting.

Shropshire Assoc. letter: The Chairman read the letter to the board and Mr. Ward read his response letter regarding the boroughs interest in offsite improvements for the Lions Head Shopping Center expansion.

Councilman D'Amico passed out copies of the recommended ordinance changes for the fence height from 3' to 4' and for the parking space size to change from 10' x20' to 9' x18'. The board suggested under the fence ordinance that the term "walls" not to include retaining walls. Motions were made to approve the changes. AIF-motion approved.

The Chairman announced the next meeting date will be December 19<sup>th</sup> and requested a motion to adjourn the meeting. Motions were made to adjourn the meeting at 9:25 pm. AIF-motion approved.

\*AIF – All in Favor

Respectfully Submitted by: Denise O'Kane, Planning Board Secretary