

**BOROUGH OF MAGNOLIA  
PLANNING BOARD MINUTES  
June 24, 2009**

The meeting was called to order by Chairman Lawrence Barrar at 7:45 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	Arthur Loder		Absent
Joyce Albrecht		Present	Mary Martz	C	Present
Robert Brown		Absent	Steven Previtera	A1	Present
Brian Carson		Absent	Edward Hoban	A2	Absent
John DiBartolomeo	VC	Present	Michael Moore	A3	Present
Joseph Dymond		Present	Robert Mastalski	A4	Present
Richard Krause	MD	Present			

**ALSO**

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

**ALTERNATE REPLACEMENT**

A-1 Steven Previtera for Joyce Albrecht, Joyce Albrecht arrived late, A-1 for Brian Carson  
A-3 Michael Moore for Robert Brown, A-4 Robert Mastalski for Arthur Loder

**APPROVAL OF MINUTES**

Motions were made to approve the May 27, 2009 minutes as written. AIF-motions approved.

**OLD BUSINESS**

**Resolution**

Motions were made to approve the amended Resolution #09-02. AIF-motions approved.  
Motions were made to approve Resolution #09-03. AIF-motions approved.

**NEW BUSINESS**

**Major Preliminary/Final Site Plan**

**SPL09-2 / Latty and Amrita Petroleum, Inc. – Block: 3.10 Lot: 1&2**

Chairman Barrar stated that the applicant is requesting a use variance only if the board interprets the need for a use variance. It is the opinion of our engineer in his letter dated May 21, 2009 that a use variance is required for the drive-thru window portion of the application, according to his interpretation to our ordinance. It is up to this board to determine if a use variance is required, and if it is determined to be needed, the following two board members must recuse themselves; Class 1-Richard Krause, Jr., and Class III-Mary Martz. It was decided they could listen to the testimony until the need for a use variance is determined.

David Hodulik, attorney, related that the applicant is proposing to demolish the existing building and certain other improvements and to construct a new 2,700 sq. ft. convenience store, additional pumps and to enlarge the canopy. The improvements were initiated by the adjacent developer's request for frontage along the White Horse Pike to allow for the DOT improvements needed for the redevelopment of Lions Head Plaza. At the time when the DOT requests the frontage along the White Horse Pike, the adjacent developer has agreed to exchange a piece of land located to the rear of the property, which will be consolidated with the site. That proposed subdivision was approved previously by this board.

Mr. Ward swore in the following; Mr. DeNiscia, N.J. Licensed Professional Planner for Bertin Engineering, Mr. Izadmehr, N.J. Licensed Professional Engineer for Bertin Engineering and Mr. Multani, Principal Operator for Latty and Amrita Petroleum, Inc.

Mr. DeNiscia (Planner) presented his professional qualifications and proceeded with the arguments regarding the determination of the need for a use variance. The proposal is to expand the existing service station and retail use. The use variance that needs to be determined pertains to the proposal of a drive-thru window for the retail

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section of the building. The applicant will reconfigure the site to include a rear exit for the access road, created by the adjacent developer, which continues out to the White Horse Pike. The proposed drive-thru window lane will start at said rear exit, go around the building, and exit through the gas station out to White Horse Pike. Mr. DeNiscia further explained about the remaining site improvements and stated that the site is currently not used suitably, needs to be upgraded, and has no storm water management system. Mr. DeNiscia feels the proposed use of the drive-thru is appropriate for the commercial district, and it is his opinion that a use variance is not required.

The board discussed if the use of a drive-thru window for the convenience store is a permitted use or not. Mr. DeNiscia stated that the convenience store will act as a retail food store and a general retail merchandise store. The retail food section will have a coffee bar; therefore that would qualify the use as a restaurant and that is a permitted use or a permitted ancillary use. The board noted that on the site plan the coffee bar does not allow for a person to sit down and drink coffee or eat food; there is no kitchen for food preparation, so this would be counter service and walkthrough service only. There was further discussion regarding the definition of restaurant and restaurant drive-in versus drive-thru. The board noted that the principal use of the land is a gas station with a retail store, and with the addition of a drive-thru, the board had several concerns regarding traffic flow for the multiple uses.

The board determined that a use variance is required and the Chairman required the Class I and Class III board members to recuse themselves and leave the board table prior to further testimony. The remaining seven (7) member planning board was now ready to hear testimony for the Site Plan application with a Use Variance.

Mr. Izadmehr (Engineer) presented his professional qualifications and proceeded with his testimony. As a result of the DOT taking some frontage from the property, the driveways and the utility pole will be moved and some drainage work will be done by DOT. The entire site will be reconfigured to include: an access road from the rear of the property to the road created by the redevelopment behind the property; ADA parking; a loading zone; an additional fueling island; an enlarged canopy; a drainage retention system, a new building for an office, a retail store, and a drive-thru window; new signs; landscaping; etc.

Mr. Ward and Mr. Kreck are concerned about the drive-thru without an emergency bypass lane and have to look at the application for any future use. Mr. Kreck stated he was against the drive-thru; they are expanding the site, doubling the gas station capacity, adding a convenience store and now adding a drive-thru window service without an escape lane. Mr. Kreck is concerned about the traffic congestion and pedestrian activity for the entire site for all of the proposed uses. Mr. Kreck questioned if the DOT is aware of the expanded use of the site, and would like a copy of the access permit and a Traffic Impact Report.

Mr. Kreck and the board were concerned with the following: the passing lane between the fueling islands, the turning radius versus one way access for the multiple uses, the size of the space between the parking stalls, and the cars at the fueling island, tractor trailer activity for diesel fuel, retail delivery from the loading zone, etc.

Chairman Barrar requested a break at 10pm, the meeting resumed at 10:10. Chairman Barrar asked how vital is the drive-thru portion of the operation? Mr. Hodulik stated very vital, and the applicant would like to take the design suggestions from the board and Mr. Kreck, redesign the site, confer with Mr. Kreck and then come back before the board. Mr. Kreck stated he would like a traffic impact report to address all the traffic issues, and wanted the applicant to re-submit the DOT access permit, so DOT can see the full development of the site to include the change of use. Mr. Kreck would like the applicant to receive from DOT a letter of no interest or another access permit, because of the increase traffic activity. The applicant asked for a continuance to the July meeting. Motions were made to table the application until the July 22<sup>nd</sup> meeting. AIF - motions approved.

Mr. Ward and Mr. Kreck asked Mr. Hodulik to follow up on the following: has anyone provided the metes and bounds description of the conditional piece of property and has a proposed deed of subdivision and

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consolidation been prepared? The previous subdivision approval was for immediate consolidation, and will be a condition of Final approval.

The two recused board members Richard Krause, Jr. and Mary Martz returned to the board and the meeting continued.

**OPEN PUBLIC**

Motions were made to open the meeting to the public. AIF – motions approved.

Mr. Kreck discussed with the board a zoning application denial for a sign permit from Bill's Wonderland of Pets because the sign was too large. The owner of the property, John Soubasis was in the audience earlier, but had to leave. He wanted an interpretation from the board about the approved resolution for the site. The application showed a proposed six units, and the board granted a sign variance for each proposed unit for 20 sq. ft. of wall mounted signage for a total of 120 sq. ft., regardless of the configuration of the building, because the applicant was not sure how many tenants would occupy the building. The building is now occupied by one tenant, Bill's Wonderland of Pets, and was the intent of the board to allow 120 sq ft for one tenant when granting the variance? After some discussion the board decided that it was not the intent of the board to allow a 120 sq. ft. sign for one tenant. The relief granted was for the maximum tenant usage, so he would not have to come back before the board for a sign variance. Mr. Kreck said he would relay the information to Mr. Soubasis that he would have to come back to the board for a sign variance.

Being no further discussion, motions were made to close the meeting to the public. AIF – motions approved.

**COMMENTS & DISCUSSION**

Councilwoman Mary Martz stated that the governing body has approved a new company to update our Codification Book and showed the board a sample book. The book content will be on our web site for review, will be printable and the company will update the web site, but the book will still continue to have amended inserts to look-up. Ms. Martz needed to know how many members would actually like a book. Chairman Barrar stated, since it will be available on line, each member does not need a book, and for those who do not have a computer the board secretary could print the needed information. It was decided that three books will be ordered for the following: Chairman, Vice Chairman and the Construction/Zoning office.

Chairman Barrar stated that discussion for the Master Plan and the Temporary sign ordinances will have to be postponed until the next meeting.

Joyce Albrecht inquired about a new recording system for the board meetings, since our current system is inadequate. Mr. Ward stated it is critical for our system to be updated and other towns use a Commercial Digital recording system. Mary Martz stated that a system may be available and she will look into it.

**ADJOURNMENT**

Being no further discussion motions were made to adjourn the meeting at 11:00 pm. AIF-motion approved.

\*AIF – All in Favor

\*DOT – Department of Transportation