

**MINUTES OF THE TOWNSHIP OF PARSIPPANY-TROY HILLS
BOARD OF ADJUSTMENT MEETING
WEDNESDAY, FEBRUARY 27, 2019**

Vice-Chairwoman Snyder called to order the Board of Adjustment Meeting of Wednesday, February 27, 2019 at 7:30 PM.

Members Present: Mr. Berkowitz, Mr. Joskowitz, Mr. Kaplan, Mr. Persaud,
Mr. Shah, Ms. Snyder, Mr. Willans, Chairman Iracane

Also Present: Mr. Hirniak, Board Attorney
Mr. Chadwick, Board Planner
Mr. Holloway, Board Engineer

Absent: Mr. Reddy

Announcement is made that adequate notice of this meeting has been given, that it is being conducted in accordance with N. J. S. A. 10:4-6 et seq. of the New Jersey "Open Public Meetings Act".

Pledge of Allegiance

Vice-Chairwoman Snyder opened the floor to the public for anyone wishing to speak.

Resolutions:

Application 18:56

Nakul Kasadwala, 23 Ridgewood Avenue, Block: 583 Lot: 5 Zone: R-4

'C' Variance to construct a 1,170 sq. ft., two-story, single family dwelling with front porch; attached garage and 165 sq. ft. open deck with stairs.

Motion to adopt was made by Mr. Kaplan, second by Mr. Joskowitz.

Approved by Joskowitz, Kaplan, Shah.

Application 18:62

Iris and Daniel Caprioni, 11 Lodge Lane, Block: 706 Lot: 26 Zone: R-3

'C' Variance to construct a one-story, 10 ft. X 10 ft. 10 in. addition to the rear of a single-family dwelling.

Motion to adopt was made by Mr. Kaplan, second by Mr. Joskowitz.

Approved by Joskowitz, Kaplan, Shah.

Application 18:65

Alejandro Martinez, 90 St. Johns Avenue, Block: 79, Lot: 4 Zone: R-3

'C' Variance to install a generator and legalize two A/C units in the front yard of a corner lot.

Motion to adopt was made by Mr. Kaplan, second by Mr. Joskowitz.

Approved by Joskowitz, Kaplan, Shah.

Application 18:59

K & S Real Estate Investments, 7 & 9 North Beverwyck Road, Block: 611 Lots: 8 & 9 Zone: B-5, 'C'/'D' Variance/Preliminary and Final Major Site Plan/Soil Moving Permit to construct a two-story building for retail use with second floor apartments.

Motion to adopt was made by Mr. Berkowitz, second by Mr. Joskowitz.

Approved by Berkowitz, Joskowitz, Kaplan.

Agenda:

Application 17:74

Littleton Road, LLC, 240 Littleton Road, Block: 412 Lots: 8 and 9 Zone O-1

'C'/'D'/Preliminary and Final Major Site Plan to develop the property for a 7-11 and an unnamed tenant. Carried from February 6, 2019.

Mark Semeraro, Attorney from Kaufman, Semeraro & Leibman was present for the continuation of the Application.

Witness, Patrick Grenko, Licensed Real Estate Broker from JLL Properties and Fact Witness, was sworn by the Board Attorney and accepted as an expert in real estate markets.

Chairman Iracane and Mr. Persaud were noted as present.

The Witness testified that he has been actively marketing the subject property since 2014 and that he manages client Fulton Bank who currently owns the property. There was prior approval for three drive through lanes with the nearest lane 26 ft. from the property line. The bank was not constructed due to the decision not to move forward with this branch. The property has been under contract twice but both times fell out of contract during the diligence period. Since that time there have been no other interested parties, other than the current applicant. The permitted uses in the Zone were noted, followed by the state of the current office market in the area vs. retail. For the record it was noted that there was no interest in constructing office space on the subject lot and that it was less expensive to rent than to construct. Efforts to market the property were described and even though it is

currently under contract, it is still being marketed. It was felt that office, school and medical uses were not viable for this site.

The Board asked why Fulton Bank did not continue with this site; why the site was not suitable for medical, dental or the other permitted uses; why it would be more expensive to construct a medical building vs. a 7-11; if there currently was a building on the site; if there were any other Fulton branches in town; about the marketing; if the property would be more marketable without the house on the lot; how it is being marketed; reason inquiries on the property did not work out; how a property is marketed while under contract; if persons interested in the property are told of likelihood of approvals.

Steve Shaffer, Attorney representing Troy Gardens Apartments asked the Witness why not put a 9:00-5:00 retail on the site; if he was aware of any other high use stores in the area; if the site would be suitable for 9:00-5:00 retail; if it was possible to market the site to non 24 hour retail tenant; if it was possible the bank does not want to sale to another bank or if the market could change.

Chairman Iracane opened the floor to anyone in the public wishing to ask questions of the Witness.

Sigmund Balaban, 10 Grecian Street, asked about the term 'boots on the ground' and what it means and if the property was marketed to anyone in the brokerage industry.

Warren Singer, 23 Homer Street, asked if email was used for marketing and why no one answers the phone provided on the realtor sign that is on the property.

Witness, Stuart Kimmel, Real Estate Manager for 7-11 and Fact Witness was sworn by the Board Attorney testified that he identifies new locations for development for 7-11 stores. He looks for what works, does not work, size, access, visibility, how the property will layout, traffic counts, population density, developers, landlords, proximity to competition and highways. The size of the store in question is 2,838 sq. ft. and felt to be a viable size for this location.

The hours of operation will be 24/7 with three shifts, two employees per shift for a total of 10-12 employees. The average number of customers per day is 700-800 with the bulk during peak hours which is between 6-9am and 4-7pm. The trips at this time would be approximately 75 per hour. From 12-2pm the numbers are not quite at peak but near at a number of 56 customers. At any given time during peak hours ten customers are expected at a single time with less than ten at any other time. For a store of this size and based on the number of customers, the minimum number of parking spaces would be 12 for a new 7-11 however 19 are being proposed. Tractor Trailer deliveries will average 1-2 per week with each visit typically lasting 30-40 minutes. Each truck operates on a two-person buddy system with the use of hand

trucks to unload and deliver through the front door. If there is an ordinance that trucks should not idol, they will not. Box trucks will make deliveries twice a day and can fit into parking stalls and the loading area. Delivery times do not occur during peak hours but can come during evening hours. The Witness testified that there has never been a problem with tractor trailers not associated with 7-11 locations stopping for a cup of coffee because it is not convenient and there are better options for them in town. There will also be a sign that says no trucks except for deliveries.

No food is prepared on site because there is no kitchen however, they do have microwaves for packaged foods.

A banner sign comes in 70” length pieces that runs across the top of the building and is part of their identification. The sign on the side of the building will be a medallion sign only.

The 7-11 safety system is their large window area at the store front; a camera system in the store; drop safes for cash; employee training and brightly lit stores.

The Board asked about soda delivery trucks; the ease of ingress and egress; idling trucks; if the trucks have the back up alarms and if complaints are anticipated because of it. It was questioned if a study of crime during evening hours vs. daytime hours has been performed; about security; alarms systems or panic buttons in case of a robbery; peak time hours; if any other 7-11 locations in town have a gas station; protocol for nearby locations; size of the other locations in town and the property they are located on; if all 7-11’s are 24/7; if they would accept limited hours for the site in question; if it was possible for a tractor trailer and box truck to make deliveries at the same time; if there was a schedule to keep multiple trucks from showing up at the same time; if there could be possible overnight deliveries and number of customers overnight. Also asked were a number of questions comparing the new 7-11 location in Denville vs. the proposed location in Parsippany.

The Board took a five-minute break then reconvened.

Steve Schaffer, Attorney representing Troy Garden Apartments asked if there was any consideration for the apartment building next door when choosing this location; about topography, lighting and elevation; if there have been noise, crime or litter complaints from residents nearby other 7-11 sites; if other 7-11 locations have adjoining retail uses; why some locations would have store hours that are not 24/7; any occasion where a town would not allow 24/7. It was confirmed that this location will not be equipped with an outdoor alarm for loitering.

Jay Delany, Attorney from Lindabury, McCormick, Estabrook & Cooper representing Parsippany Exxon confirmed the Applicant would not be willing to a condition of operations less than 24 hours a day; asked about the adjoining tenant and who it may

be; if there will be any conditions for the unnamed; about the function of the site; if the Witness observed the traffic patterns and congestion in the area; and if he was a trucker.

Chairman Iracane opened the floor to anyone in the public wishing to ask questions of the Witness.

Lois Livreri, 12 Princess Street, asked about noise from trash and snow removal.

Warren Singer, 23 Homer Street, asked about the other 7-11's in town; other convenience stores in the area; the number of those stores and the competition they could bring. Also asked about was cooking on the premises; if the Witness was aware of an article in the Wall Street Journal regarding 7-11's; trucks idling; if the trucks were refrigerated and noise.

Fahad Kananeh, 7 Ulysses Street, asked how competition is scored in site selection; if 7-11 offers products that cannot be bought elsewhere; if there is an awards system for people who purchase from their stores and if it would cause an increase in traffic.

With 20 minutes remaining it was chosen to voir dire the next witness in preparation of the following meeting.

Witness Keenan Hughes, Licensed Professional Planner, was sworn by the Board Attorney and accepted as an expert witness.

A motion was made to carry the Application to May 1, 2019 without notice and with any extensions necessary, second by Mr. Joskowitz.

Approved by All.