

**MINUTES OF THE TOWNSHIP OF PARSIPPANY-TROY HILLS
BOARD OF ADJUSTMENT MEETING
WEDNESDAY, JULY 10, 2019**

Chairman Iracane called to order the Board of Adjustment Meeting of Wednesday, July 10, 2019 at 7:30 PM.

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

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

Absent: Mr. Shah

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".

Chairman Iracane opened the floor to the public for anyone wishing to speak.

Resolutions:

18:68, 19:02, 19:11, 19:12, 19:15, 19:17, 19:23, 18:66, 19:29

Mr. Berkowitz made a motion to approve resolutions 18:68, 19:02, 19:11, 19:12, 19:15, 19:17 and 19:23. Second by Mr. Willans.

Approved by all.

Mr. Willans made a motion to approve resolutions 19:29 and 18:66, second by Mr. Reddy.

Approved by all.

Approval of Minutes:

May 1, 2019 and May 15, 2019

Mr. Berkowitz made a motion to approve the minutes of May 1, 2019 and May 15, 2019, second by Mr. Reddy.

Approved by all.

Agenda:

Application 19:19

Patrick McGann, 92 Lake Shore Drive, Block: 539 Lot: 7 Zone: R-4
'C' Variance to install fencing and legalize an existing fence.
Carried from the July 10, 2019 7:00 PM Special Meeting.

Mr. McGann was not present at this time.

Application 17:74

Littleton Road, LLC, 240 Littleton Road, Block: 412 Lots: 8 & 9 Zone O-1
Preliminary and Final Major Site Plan/'C'/'D' Variance to develop the property with
one building for a 7-11 and unnamed tenant.
Carried from May 1, 2019

Mark Semeraro, Attorney from Kaufman, Semeraro and Liebman was present for the
continuation of the application.

Steve Schaffer, Attorney representing objector Troy Garden Apartments and Jay
Delany, Attorney representing Parsippany Exxon, were also present.

The Applicant's planner, Keenan Hughes, had not been open to the public for
questions. had no other witnesses and reserved the right for rebuttal.

Sigmund Balaban, 10 Grecian Street, questioned the comparison made between the
bank and 7-11; asked about noise from the A/C unit; type of fencing; number and type
of trees and affect the 7-11 would have on other businesses.

Vikas Bhake, 1 Homer Street, asked about the berm.

Warren Singer, 23 Homer Street, asked about the noise that would come from the
A/C unit and if the A/C unit at the Lake Hiawatha 7-11 location was located on the roof.

Opposition Witness, Matt Krauser, Real Estate Managing Director from Newmark
Knight Frank, was sworn by the Board Attorney as an expert witness.

Exhibit O-1, Background and Resume of Matt Krauser, dated July 10, 2019, was
presented to the Board.

The Witness stated that he read the transcript from a past meeting and is familiar
with the site. He spoke about marketability and sales and noted that the for-sale sign
on the subject lot had a non-working phone number. Also specified is that there is a
multiple listing used for commercial properties that should have the listing agent for
this site, but does not.

A vacancy analysis was performed and the Witness felt that a boutique building that is owner occupied with a permitted use would be best for this piece of property. It was stated that a national retailer looking for a new site must consider the demographics, location and traffic flow and that it is to be to the standards a national retailer, such as 7-11. Mr. Krauser felt Mr. Granko, the applicant's real estate broker, does not understand Parsippany's real estate market, nor does he understand what it takes to lease or sell a property such as the subject site.

Mr. Semeraro asked the Witness what testimony he reviewed or transcript he read in preparation of his testimony. The Witness confirmed that he read the transcript of Mr. Grenko, but not that of the contract purchaser who had testified that he personally marketed the property to every bank on the FDIC list in Morris County. Questions were asked about properties being marketed while under contract; what the vacancy rate for medical and office space currently is in Parsippany and if it was more cost effective to construct office space or rent in Parsippany.

Mr. Delany asked the Witness if he felt the property could be used in the capacity of a permitted use.

Mr. Schaffer asked the Witness how he would market the property.

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

Mr. McGann of Application 19:19 did appear but the Board was unable to hear the application.

Mr. Berkowitz made a motion to carry Application 19:19 to August 7, 2019 without further and with any necessary extension required. Second by Mr. Joskowitz.

Approved by all.

Mr. Delany introduced the next opposition witness, Lee Klein, Licensed Engineer from Traffic Consulting LLC, was sworn by the Board Attorney and accepted as an expert witness.

Mr. Klein testified that he attended the October 3, 2018 and July 18, 2018 hearings when the traffic consultant for the applicant appeared and also visited the site. Exhibit A-12, dated November 6, 2018, Sheet T-1 was referred to, to show the site plan improvements to Littleton Road and Parsippany Boulevard. His concern of allowing left turns into the site was explained in there being limited gaps in the free flow traffic to turn in from Parsippany Boulevard, as well as turning right out of the site onto Parsippany Boulevard during peak hours. He also explained that the left turn lane on Parsippany Boulevard backs up and would make it difficult for left turns out

of the site. Briefly discussed was the Littleton Road driveway opening and the difficulty in making left turns in and out. The Witness also felt there were many reasons why deliveries would be difficult for this site.

The Board asked questions about the proposed County improvements, left turns into and out of the site, and the loading area.

The Board took a ten-minute break then reconvened.

Mr. Semeraro confirmed that the witness did not perform his own traffic study, gap study, level of service study nor had any first hand knowledge of the county improvements. It was also asked if the witness was familiar with the letter to the Board from the County Engineer dated October 2, 2018 and if he was familiar with the county's view of making left turns into and out of the site; if he knew of any 7-11 location without a loading zone; if he was present for the hearings of the other 7-11 applications in Parsippany; if he knew whether or not the other Parsippany 7-11's had loading zones and if it was considered unusual for a tractor trailer to span two lane to make a turn.

Mr. Schaffer asked the Witness if he was aware the application was amended verbally for the loading zone dimensions. Mr. Semeraro noted that the loading zone was modified and is now compliant.

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

Witness, Peter Steck, Licensed Planner was sworn and qualified by the Board Attorney.

Mr. Schaffer asked the Witness if he was present for every hearing concerning the application, which was confirmed.

Exhibit O-2, 5 Page Handout, dated July 10, 2019 was passed out to the Board.

Page 1 is an aerial photograph of the subject lot with property lines and zones and a second photo of the existing conditions from December 21, 2017. It was noted that the same conditions exist today.

Page 2 illustrated pictures of Troy Gardens Apartments taken December 21, 2017.

Page 3 is a 2015 aerial photo with the site plan superimposed over it and another photo with the proposed site plan notating the relief being requested.

Page 4 illustrates portions from the December 4, 2014 land use map and Goal 1 of the 2014 Master Plan Reexamination and item 12 of the Land Use Plan.

Page 5 contains the zoning requirements and schedule of area, yard and building requirements for the subject lot.

The Witness described the site, surrounding uses and what had been previously approved; stated he has called the phone number on the real estate sign several times and was greeted with a busy signal each time; described the proposed; spoke about the goals of the Master Plan in regard to the application; gave his opinion as to why the subject lot is not suited for the use; recited the positive and negative criteria and gave his reasons why the application should be denied.

The Board asked if any of the nearby establishments had a buffer zone of 35 ft. or less and if there were any residential lots by these establishments. It was confirmed that there are other establishments with less buffer and nearby residents, but those establishments are permitted in the zone they are located in.

A motion to carry the application to September 18, 2019 without notice and with any necessary extensions was made by Ms. Snyder, second by Mr. Reddy.

Motion to adjourn.