

**BOARD OF ADJUSTMENT
BOROUGH OF BERNARDSVILLE**

**May 2, 2011 Minutes
7:30 PM PUBLIC MEETING**

1. Adequate Meeting Notice: Chairman Biba read into the record the Open Public Meeting Law Statement.
2. Roll Call: Members present: Chairman Biba, Vice Chairman Greenebaum, Members: Negri, Dee, Peterson, English, Lincoln, Sailliard and Diemar.

Members absent: Omlor and Kramer

Professionals Present: Attorney Lynch, Engineer Brightly and Planner Zimmerman

3. Approval of Minutes: February 22 and April 20
Motion to approve as amended: Mr. Negri
Second: Mr. Greenebaum
Voice Vote: Eligible members present voted in the affirmative.
4. Communications - None
5. Resolutions:
 - Application 07-26 Ext: Request for Extension of “d” Variance Relief Greg Palm, B: 1 L: 2 & 2 and B: 9 L: 3 Stevens Lane & Jackson Road - Listed as error. Vote taken at last meeting.
 - Application 11-02: Michael Balmuth 399-2 Claremont Rd, B: 6 L: 5

Mr. Biba read the Resolution on the record. Amendments were offered and accepted.

Motion to adopt: Mr. Negri

Second: Ms. Lincoln

Roll Call: Aye – Greenebaum, Negri, Dee, Lincoln, Sailliard and Diemar.

Nay - None

- Application 10-07: Roman Grauer, 607 Mine Brook Rd, B: 89
L: 9

Mr. Biba read the Resolution on the record. Amendments were offered and accepted.

Motion to adopt: Mr. Peterson

Second: Mr. Negri

Roll Call: Aye- Biba, Negri, Peterson, English, Lincoln, Sailliard and Diemar.

Nay - None

- Application 11-03: Noel Wortman: 160 Douglas Ave, B: 27
L: 9 – Carried to May 16, 2011

6. Pending Applications: None

7. New Applications: Application 11-04: Zacacard, LLC c/o
Claremont Investments, LLC 27 Mine Mount Rd, B: 41- L: 1
Deemed Complete March 21, 2011

Representing the application is Fred Zelle, Esq. Mr. Zelle stated that this application has been brought to the Board's attention on behalf of a proposed tenant. The proposed use is for a deli/café with the emphasis on bakery with a conditional use for outdoor dining. This is a D variance application. Anticipated hours for operation is Monday – Friday 6:00 AM – 5:00 PM. Saturday 6:00 AM – 3:00 PM and Sunday is undecided. Three witnesses will be called: Property Owner Joseph Rossi, Engineer Craig Villa and Applicant Andrea Zacharias. All three witnesses were sworn to Oath and accepted by the Board.

First witness is Craig Villa from the firm Yannaccone, Villa and Aldrich, LLC Chester, New Jersey. Exhibit A1 was marked which Site Plan, Sheet 2 of 2 is. Mr. Villa presented the location's characteristics including the 20x20 patio. The patio will be on the west side of the building and will house four tables with four chairs at each top; bordered by planting bed. It is the intent to utilize the same ingress and egress drives with proper signage. However one ADA compliant parking stall will be paved and marked, while the rest of the gravel parking lot will have stalls marked with painted lines on the

existing rail road tie border. A two cubic yard metal dumpster is proposed and deliveries with supplies will be made at the front of the building. No new outdoor lighting is proposed and the existing sign location will be utilized with a new business sign with same lighting.

Mr. Zimmerman suggested that given the proximity to the corner intersection, perhaps it might be better to widen the ingress as two ways and close the egress. Granted it will eliminate parking stall # 8 and could jeopardize the street tree.

Next Exhibit is A2 – Proposed patio plans.

Mr. Villa then addressed the parking comments noted in Mr. Mondok's report regarding parking count and need for variance. The plan provides 16, but 17 is required. Employee parking would be near the garage. Mr. Villa has no issues with the reports from Mr. Brightly and Mr. Zimmerman.

There were no questions from the Board for Mr. Villa and the floor was opened for public questions.

Mr. Vincent Paragano, 5 Seney Drive. Neighboring property owner, whose Law Firm is located to the right of the applicant's address. Mr. Paragano questioned if a Traffic Study was conducted? Mr. Villa answered no study was conducted. Where will the trash dumpster be located? Mr. Villas said two locations are possible: front of the garage or behind the build's NE corner. No further questions.

Mr. Scott DePew, 17 Mine Mount Road. Questioned the proposed parking plan and if there will be on street parking. Mr. Villa said on street parking is permitted and any change to that would have been rendered by the Governing Body.

Mr. Anthony Romano, 25 Mine Mount Road. Owns rental property next door and also raised questions about the proposed parking plan.

The time is 9:05 PM

Next witness called is Property Owner, Joseph Rossi. Mr. Rossi testified that he has owned the property for more than ten years. The former use was a hair cutting salon. The Salon was located on the first floor and the second floor was utilized for children theme parties. The parking lot was always sufficient for clients and employees. Never was parking delineation in the gravel lot an issue and no complaints were presented regarding proximity to intersection. This is same for the Police Department. The building has minimal outdoor lighting for security which illuminates the parking lot, and walk ways from front door and garage. The lawn sign also has lights. Mr. Rossi expressed a willingness if needed to shield the light to prevent spillage.

Snow Removal has not been an issue and the gravel is routinely raked and groomed. There was never been a drainage concern and the location does not flood.

Regarding trash Mr. Rossi said he would comply with the Board's wishes. Once suggestion was to utilize rolling drums which could be stored in the garage.

Board had no questions for Mr. Rossi. Public questions:

Mr. Scott DePew, 17 Mine Mount Road. Mr. De Pew questioned what were the hours of operation for the former salon? Mr. Rossi stated that his recall was 9:00 AM – 5:00 PM with perhaps one late night.

There were no further questions for Mr. Rossi. The time is 9:30 PM. Ten Minutes Recess.

Time is 9:40 PM.

Next witness is applicant Andrea Zacharias.

Ms. Zacharias stated that this is a family owned and run business. Primarily it will be a bakery and secondary is deli. Family business has been operational for five years and prior location was off Route 206 in Peapack. Currently the business is closed, for they chose not to renew their lease.

Family members will arrive 4:30 AM to prepare baked goods and coffee in order for business to open at 6:00 AM. Deliveries with supplies would be scheduled for after 2:00 PM and likely to occur twice per week on Tuesdays and Fridays. Bread is not delivered, because they prepare and bake their own bread.

Ms. Zacharias presented four photographs of former shop which were marked as Exhibits A4 – A7. The photos depicted various interior locations of the Peapack Shop. The proposal for this location is similar with a self service coffee bar, pastry case, two bistro tables with two chairs each and service counter. Peapack hours were 5:00 AM – 7:00 PM, which was governed by the Lease. The proposed interior décor would be contemporary and cozy. The goal is to make the customer feel like they are home.

Breads, pastries, cakes, pies, wedding cakes and lunch sandwiches and signature empanadas would be prepared. Catering is for the wedding cakes. No hot meals will be prepared.

Mr. Diemar questioned the price point of their baked goods. Ms. Zacharias stated that only the wedding cakes can be considered high end.

Ms. Zacharias stated that Sunday hours are being considered to cater to the local church parishioners. Perhaps Sunday hours would be 7:00 AM – 2:00 PM. . Outdoor patio would not be serviced by wait staff, but she and other employees would routinely monitor and clean the patio of any debris/trash that has been left behind by a customer.

Ms. Zacharias presented the interior floor plan. Business is primarily functioning on first floor. A convectional oven and deep fryer are used in preparation. Basement use is for storage of flour, sugar and other case goods. The second floor could be used for additional storage and office. Mr. Negri suggested that temporary sleeping quarters be permitted or employees.

An exhaust vent will be installed through the second floor and vent out the roof. A deep fryer is needed for the empanadas. Vent will be operational all day, starting 4:30 AM and continuing until perhaps 5:00 PM.

Discussion regarding the location of used grease storage container suggested that would be best to store the container in the garage.

Board had no questions. Public questions were:

Mr. Vincent Paragano, 5 Seney Drive. Q & A:

Given proximity to school will peanut products be used?

No

When do you expect your peak business hours of operation?

Based on former location between 6:45 AM – 8:00 AM, school busing schedule could alter anticipated peak.

How many employees and cars on site?

Three employees, two cars.

Public Comments:

Ms Mary Neff. 16 Mine Mount Road.

Ms. Neff stated that she is very familiar with property because she was raised in the building. Her Mother ran a Beauty Shop at this location for years. Since 1944 it has been a Beauty Shop. Ms. Neff's concern is primarily traffic. Ms. Neff indicated that she conducted a traffic count today and wanted to present her findings. Mr. Lynch suggested Ms. Neff be sworn as a fact witness. Ms. Neff complied.

Today between the hours of 2:30-3:30 PM 659 cars passed through the five corner intersection and proceeded to provide additional details.

Ms. Neff commented that she would have preferred to hear testimony from a Traffic Expert and will conduct another observation tomorrow.

Mr. and Mrs. DePew, 17 Mine Mount Rd:

This type of business with early morning hours, exhaust vent noise and odor, increased traffic and sound of early customer cars and litter from patio will greatly impact their quality of life.

Mr. Anthony Romano, 25 Mine Mount Rd: Concurrs with same as Mr/Mrs DePew, but also concerned about street parking.

Mr. Vincent Paragano, 5 Seney Drive: Submitted photographs of his property and applicant's property. Concerns are the same as previously mentioned in addition fear that patio will create litter that will blow onto his property and patio will become hang out afterschool and weekends for student s to loiter. The proposed patio planting barrier will be insufficient to screen location.

Also, a traffic study is warranted.

Mr. Negri noted the late hour and still other business needs to be addressed.

Time is 10:55 PM.

Board agreed to grant ten minutes recess for Mr. Zellely to confer with his client. Board proceeded to Bills List.

Motion to extend meeting to 11:15 PM. While applicant was conferring with legal counsel, Board agreed to proceed with meeting Agenda.

8. Old Business: None

9. New Business: None

10. Bill List: Motion to approve Bill List totaling \$4,861.00 – Negri

Second: Peterson

Roll Call: Aye – Biba, Greenebaum, Negri, Dee, Peterson, English, Lincoln, Sailliard and Diemar.

Nay - None

11. Continued hearing – 11:10 PM

It was agreed that the hearing will continue at a later date to be announced at the May 16 meeting. A Traffic Study will be conducted and results of this study will be available ten days prior to next hearing date.

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12. Comments from Members: None

13. Comments from Staff: None

14. Adjournment: 11:20 PM

Motion to adjourn: Mr. Negri

Second: Mr. Peterson

Voice Vote: All members present voted in the affirmative.

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Respectfully submitted,

Teresa Lyons, Administrative Officer

Keywords: minutes-board-of-adjustment-application-07-26-ext.-palm-stevens-lane-jackson-road-application-11-02-balmuth-399-2-claremont-road-application-10-07-grauer-607-mine-brook-road-application-11-03-wortman-160 douglas-avenue-application-11-04-zacacard-llc-27-mine-mount-road

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