

II. **MINUTES - FEBRUARY 16, 2012**

Moved by Member Fomchenko, Seconded by Member Hingos
All present in favor none opposed

III. **PUBLIC HEARINGS**

- 1) CASE NO. 1713
APPLICANT /OWNER Mike and Kathy Dimmick
LOCATION: 6 Appletree Lane Cedar Knolls
BLOCK: 0401 LOT: 11 ZONE R-15
Applicant is seeking permission to construct a 308 sq. ft. addition on the above mentioned premises. Applicant is seeking relief from section 166-173A (2)
Board decision due by: JUNE 9, 2012

Mike and Kathy Dimmick – Applicants- Sworn by Board attorney
Mike Dimmick - Gave an overview of the proposed addition
- One story addition proposed

Gerardo Maceira - Township Engineer - gave an overview of the setbacks existing and proposed

Open to the public

Closed to public

Motion to approve with conditions
Moved by Member Vigilante, Seconded by Member Hingos
Members Voting “AYE” Vigilante, Fomchenko, Hingos, Lupo, Olsen, and Stanziale
Members Voting “NO” None

- 2) CASE NO. 1697
APPLICANT Waseem Enterprises, LLC
OWNER Didit Once Again, LLC
LOCATION: 730 Route 10 West Whippany
BLOCK: 8801 LOT: 11 ZONE B
This is a continuation of the hearings commenced by the Board on April 21, 2011 and continued on May 19, 2011, November 3, and December 15, 2011. The Applicant has filed revised plans with the Zoning Board that reflect certain changes discussed at the November 3, 2011 hearing, including, but not necessarily limited to, (i) a change in signage to reflect the branding of the proposed gas service facility to 7-Eleven (i.e., the same as the convenience store) (eliminating a previously requested variance); (ii) the single two-way driveway access which was centered along Route 10 has been revised so that the exit driveway is located further west; (iii) the proposed canopy signs have been reduced from 13.44 sq. ft. to 9 sq. ft. each; (iv) the pump signage has been reduced from 14.90 sq. ft. to 2.71 sq. ft. per filling location (eliminating a previously requested

variance); (v) the freestanding sign has been reduced from 78 sq. ft. to 60 sq. ft.; (vi) the sign clearance has been increased from 7 ft. to 10 ft. (eliminating a previously requested variance); (vii) the width of the proposed driveway has been reduced from 40 ft. to 25 ft. (eliminating a previously requested variance); (viii) the gas station logo sign has been reduced from 36 sq. ft. to 35 sq. ft. (eliminating a previously requested variance).

In connection with the foregoing, the Applicant seeks all variances, waivers, exceptions and other relief necessitated by the plans it has currently filed with the Board, together with any additional variances, waivers, exceptions and other relief that may be necessitated by changes to the plans requested by the Board, and any and all other relief that the Board may determine to be appropriate or necessary. This relief includes but may not necessarily be limited to: (i) a variance to permit more than one principal building on a lot (gas station canopy / kiosks and convenience store) where the Ordinance may prohibit same; (ii) a variance to permit two principal signs for retail (one sign is proposed for the convenience store and one sign is proposed for the ATM) where the maximum number of principal signs for retail uses permitted by Ordinance is one per tenant; (iii) a variance for a freestanding 7-Eleven sign which is proposed to be illuminated 24/7 where the Ordinance does not permit same; (iv) a variance for a building mounted 7-Eleven logo sign and illuminated stripes with horizontal and vertical dimensions exceeding 2 ft. where the Ordinance only permits one dimension to exceed 2 ft.; (v) a variance for the freestanding fuel price sign area of 24 sq. ft. where the maximum permitted by Ordinance is 9 sq. ft.; (vi) a variance for LED type gasoline price signs where the Ordinance may not permit same; (vii) a variance for canopy signage where same is prohibited; (viii) a variance for a setback of 0 ft. from a public or private school or a playground where the Ordinance requires a minimum of 500 ft.; (ix) a variance for a setback of approximately 1,300 ft. from another service station where the Ordinance requires a minimum of 2,500 ft. (measured along the street right-of way); (x) a variance to allow the illumination of the freestanding sign; and (xi) a variance that allows two signs of non-uniform size, color and style (7-Eleven and ATM sign).

Board decision due by: MARCH 15, 2012

John Mamora - Attorney for the applicant

Richard Marcikawietz - attorney for opposition

Peter Steck - Planner for the opposition

Daniel Bernstein – Board Attorney - Cross examined Mr. Steck

Daniel Bernstein – Board Attorney and Peter Steck – Planner for the opposition - Had a lengthy discussion regarding the number of buildings on the proposed site

Daniel Bernstein – Board Attorney - Read the definition of building from the Hanover Township Zoning Ordinance

Peter Steck – Planner for the opposition - Amended his opinion that the canopy is a building

- After reading definition feels it is not a building
- Feels the 2 principal buildings on one property is a significant variance
- Reviewed previous comments regarding sign variances

Daniel Bernstein – Board Attorney - continued to cross examine Mr. Steck regarding the "D" variances and the Madechie standards

Member Stanziale - Questioned Mr. Steck regarding the definitions of school and daycare center

Blais Brancheau – Township Planner-Questioned Mr. Steck regarding if a school is allowed in the zone

- Questioned who regulates the existing school DCA or Department of Education
- Continued to question Mr. Steck regarding school or Child care
- Quoted excerpt from his memo dated December 15, 2011

Member Stanziale - Questioned Mr. Steck regarding how the school initially applied to the township and how they represented themselves

John Mamora - Attorney for the applicant - Questioned three principal uses on the daycare site Daycare, school and playground

Peter Steck – Planner for the opposition - Agrees there are 3 uses on the daycare site

- Addressed what Coventry square criteria is

Daniel Bernstein – Board Attorney - refers to exhibit A-10 and questioned Mr. Steck regarding where playground is

Opened to public

Frank Brunner - 9 Kitchell Place Whippany

Daniel Bernstein – Board Attorney - Read the definition of School from The Latest illustrated book of Development Definitions

Frank Brunner – 9 Kitchell Place Whippany - Gave brief history of Esso/Shell Station

Closed to public

Break

Back on Record

Al Litwornia- Traffic engineer for the applicant - Gave overview of education and professional experience

- Addressed trip generations at the site, site circulation, Exhibit O-3 9,200 Gallon Fuel tanker truck turning template
- Addressed the truck circulation on the site

Blais Brancheau – Township Planner - Questioned Mr. Litwornia regarding 24 hour access

Exhibit O-4 Comparison of Traffic Generated

Daniel Bernstein – Board Attorney - Questioned Mr. Litwornia regarding Exhibit O-4

John Mamora - Attorney for the applicant - Would like Exhibit O-4 struck from the record

- Gave reasons for his objection

Daniel Bernstein – Board Attorney - suggested board allowed it and take it for what it is worth

Al Litwornia – Traffic Engineer for the applicant -Gave overview of how the localized data is obtained

John Mamora – Attorney for the applicant -Questioned how he came up with the uses listed on Exhibit O-4

- Questioned exhibit O-3 and if the fact that the exhibit was marked by hand and not by computer program

Opened to the public

Fred Brunner - 9 Kitchell Place - Questioned delivery times of gas

Closed to public

Blais Brancheau – Township Planner - sworn by Board attorney

- DYFS regulations for Child Care centers - did not find anything that specifically prohibited locating child care to gas station

Opened to the public

Closed to public

Opened to public for statements

Judy Iradi - 27 Malapardis Road, Whippany - Gave reasons for why the use should not be allowed

Fred Brunner - 9 Kitchell Place - Sworn by board attorney

Entered Exhibits -Photos

OB-1 Photo from 9 Kitchell Place backyard

OB-2 another photo and angle from 9 Kitchell backyard

OB-3 standing on Route 10 facing west looking at the proposed site

- Wanted to show board how close proposed use is to his home and how you can see other gas stations from proposed site

Member Fomchenko - Questioned the entech report submitted by Mr. Garafalo

Blais Brancheau – Township Planner - Reviewed environmental report

John Mamora- Attorney for the applicant - Does not have any objection to the regulations but has an objection to the

O-5 Entech group Inc. submission of N.J.A.C 7:26E Technical requirements for site remediation

O-6 Entech Group Inc. Summary of items applicable to the application

Richard Marcikawietz – Attorney for the opposition- Gave objectors closing arguments

John Mamora – Attorney for the applicant - Gave closing arguments

A-13 Guidance Document Environmental guidance for all child care facilities and Educational Institutions

Daniel Bernstein – Board Attorney - Gave overview of the types of variances to be considered and the site plan considerations

Motion to Deny

Moved by Member Fomchenko, Seconded by Member Hingos

Members Voting “AYE” Fomchenko, Hingos, Lupo

Members Voting “NO” Vigilante, Olsen, Stanziale

Motion to approve with conditions

Moved by Member Olsen, Seconded Member Stanziale

Members Voting “AYE” Vigilante, Olsen, and Stnziale

Members Voting “NO” Fomchenko, Hingos, and Lupo

Application Denied

April 3, 2012 meeting cancelled

Meeting Adjourned at 11:11 P.M.

KIMBERLY A. BONGIORNO, LUA.
BOARD SECRETARY
BOARD OF ADJUSTMENT
TOWNSHIP OF HANOVER
COUNTY OF MORRIS
STATE OF NEW JERSEY