

**BOROUGH OF NORTHVALE  
COMBINED PLANNING BOARD/BOARD OF ADJUSTMENT  
OCTOBER 19, 2011**

**MINUTES**

**Chairman, Charles Amorosso, reads the Sunshine Statement  
into the record at 8:00 p.m.**

**ATTENDANCE:**

**PRESENT:** MR. AMOROSSO, MR. DELAURA, MR. PERRETTI,  
COUNCILMAN SOKOLOSKI, MR. DEVLIN  
(ALTERNATE #1), MRS. WALKER (ALTERNATE #2),  
MR. SILLERY (ALTERNATE #3), MR. BARGNA  
(ALTERNATE #4)

**ALSO PRESENT:** ATTY. MARC LEIBMAN, MR. PAUL NIEHOFF

**ABSENT:** MAYOR BAZELA, MR. DELISIO, MR. GIANNOTTI,  
MR. TREBINO, MR. VOLLMER

**REGULARLY SCHEDULED FORMAL MEETING**

**APPLICATION OF MAXIM ENTERPRISES – MOE’S SOUTHWEST GRILL,  
271-273 LIVINGSTON STREET, BLOCK 207, LOTS 3, 5 AND 6 –  
CONDITIONAL USE VARIANCE APPLICATION**

Since this is a use variance application, a Board of Adjustment hearing, Councilman Sokoloski steps down from the dais.

At this time, Atty. Stephen Sinisi came forward and represents the applicant, Maxim Enterprises in connection with his application for the relief from the ordinance of the Borough of Northvale which require that restaurants be 1,000 feet from existing restaurants measured from the property line. If this application is approved, they would be within 1,000 feet.

Atty. Sinisi said that the change in this plan is that additional parking is shown. The applicant is providing for 25 parking spaces which would be utilized for employee parking only to free up additional parking at the site.

At this time, Mr. Joey Combs is sworn in by Atty. Leibman. Mr. Combs’ business address is 2403 Eagle View Drive, Belaire, Maryland 21015. Mr. Combs’ position with Moe’s Southwest Grill is a franchise business consultant. He is responsible for supporting the general success of the restaurant. Moe’s Southwest Grill serves southwestern food and the food is all natural.

The plan previously submitted to the Board, consisting of four sheets prepared by Costa Engineering Corporation was discussed. The number of seats within the establishment is 64 seats. Moe's engages in eat-in sales. The hours of operation is from 11:00 a.m. until 9:00 p.m. and on Friday and Saturday the restaurant would be opened until 10:00 p.m. There are two shifts and the typical amount of employees per shift are approximately nine.

Mr. Combs said that the peak hours of operation are from 11:00 a.m. until 1:00 p.m. and 5:00 p.m. until 7:30 p.m. There is no drive through and no special parking needs to accommodate the patrons.

Mr. Sillery asked if alcohol will be served. Mr. Combs said that in his opinion, he tries to get the franchises not to do it because it is just not a big seller. He doesn't think the investment of the liquor license is worth the payoff. Atty. Sinisi said that for the purpose of the application, he never made it part of the application that this would be a location that would rely on or utilize a liquor license for its operation. This is the current state of this franchisee. The owner is present to testify to this.

Mr. DeLaura asked approximately how many customers are served a day. Mr. Combs answered that approximately 300 customers will go in and out of the restaurant.

Board Engineer, Mr. Niehoff asked if the site was visited by Mr. Combs and does he feel that the parking and that the site is adequate for a Moe's Southwest Grill. Mr. Combs said that he does think that the site is adequate.

The meeting was now **opened to the public**. Since no one came forward, the meeting was **closed to the public**.

Mr. Robert Costa, engineer representing the applicant, was sworn in by Atty. Leibman. Mr. Robert Costa of 325 South River Street in Hackensack, came forward. The plans prepared and submitted by Mr. Costa dated August 31, 2011. These plans consisting of four sheets was marked into the record as **Exhibit A-1**.

Mr. Costa said that Moe's Southwest Grill will be in the south side of the mall roughly 25 feet off of the property line. The reason the applicant came back is to show additional parking which was requested by some of the board members on the previous application. The only area where anything can be done to get more spaces is behind the Boston Market. There is a gravel road that goes back there and Mr. Costa said that his client has the right to go through Boston Market. Maxim Enterprises will reach out to Boston Market and Mr. Costa commented that he could not imagine that they would not be willing to change the access.

The surface of the proposed employee parking field will be comprised of crushed stone. Under the ordinance, the requirement for a parking lot is paved, lighted, curbed and drained. He said because it exists, they do not require a permit in order to do this in this location.

The signage will comply with the town's ordinances. Atty. Sinisi said that the applicant will make his proposed signage replacing the beauty salon sign consistent with the signage that they previously approved.

Police Chief St. Angelo's letter dated September 26, 2011 was discussed. The Chief mentioned that if this project were to move forward for approval that he would request the addition of an access lane around the perimeter of the building to be revisited. Mr. Costa said that there is adequate sewers, adequate parking, there are 299 spaces currently on site, eleven are handicapped.

Mr. Costa said that the surface for the extra parking spaces is fine to park on. There will be signs posted at the site, e.g. park at your own risk, danger of flooding. Mr. Perretti has concerns about the cars parking at the site.

Mr. Sillery has concerns about the additional parking lot not being lit. Mr. Costa said that he will discuss with his client to put in solar lighting.

Mr. Niehoff said that he doesn't know if the DEP will allow this. Mr. Costa will check with the DEP. The people would park in the parking lot, walk to Livingston Street and then walk around to their place of employment. Mr. Amorosso recommended that the overgrown area be cleaned up and be maintained.

Mrs. Walker asked if the roadway will have lighting. She is concerned with the safety of teenagers/employees that will be working there. Mr. Costa said that it is gravel, if they cannot get lighting from Boston Market, then the applicant will have to put in a service or solar lighting.

Mr. Amorosso recommends to the applicant that the parking lot and walkway be lit.

The meeting was **opened to the public**. No one came forward and the meeting was **closed to the public**.

At this time, Mr. Jerry Puccio, representative from Maxim Enterprises, came forward. His business address is 26 Paris Avenue, Rockleigh, New Jersey. Mr. Puccio was sworn in by Atty. Leibman.

Mr. Puccio said that there was never a part of any of the negotiations that liquor would be served at this location.

Mr. Puccio said that the walkway to the proposed parking area will be maintained by the applicant. Regarding the projected plans for lighting of the parking lot and walkway, Mr. Puccio said that he looked at Boston Market's lighting and there are two poles that are right on the property line. His idea was to put a double head light on the pole so that the light would shine in to the proposed parking area. Mr. Puccio stated that he intends to

obtain permission from Boston Market to utilize a pole or two for purposes of causing light to be dispersed on the walkway and parking lot.

Mr. Puccio said for the first few months they would have to constantly be there to make sure that employees are parking in the lot. Mr. Sillery asked the applicant why he wouldn't put a bridge across the brook to ease the travel for the employees to get to their work. Mr. Puccio answered that he doesn't think it would be worth doing because wherever he put the bridge, it wouldn't attach to a walkway. They would just be emptying out into traffic by Starbucks. He feels that it is much safer if the employees use the sidewalks that are already there for pedestrian traffic rather than walk off of a bridge into a drive-thru lane. Mr. Niehoff said that the bridge would be problematic with the DEP. He said that it would probably be very hard for the applicant to get approval for a bridge across a creek.

Mr. Sillery said that Mr. Costa mentioned that the people leaving the parking lot could walk across the parking area of Boston Market. Boston Market has a take-out operation along the side in which they would be walking. They could be walking in a traffic lane. Is this a good idea? Mr. Puccio said that he would look into this.

Mr. Perretti commented that he appreciates the applicant trying to satisfy the Board with additional parking. Mr. Amorosso thanks the applicant in taking the steps in trying to make it more customer friendly and if he could work on a sticker or speak to the tenants, it would be a good idea.

Atty. Leibman suggested that if a lighting plan is to be considered and is a condition, the applicant must submit the plan to Mr. Niehoff for his approval to make sure that the residents do not get affected.

The meeting was again **opened to the public**. No one from the public came forward; the meeting was **closed to the public**.

At this time, Mia Petrou of Kenneth Ochab Associates, 12-16 Fair Lawn Avenue, Fair Lawn, NJ, came forward and was sworn in by Atty. Leibman.

Ms. Petrou is a licensed professional associate planner in the State of New Jersey since 2001. She is an associate planner with the company since 2002. Ms. Petrou said that the subject property is in the C-3 LI zone which permits all of the uses in the C-2 zone as conditional. Restaurants are permitted in a C-2 zone and are subject to certain conditions. The only condition that this subject application does not meet is that no restaurant can be located within 1,000 feet of another restaurant.

Ms. Petrou said the use itself continues to be appropriate for the site despite not meeting that specific condition. She feels that in looking at the specific conditions, all the other restaurants, she feels that a Moe's Southwest Grill will fit right in with the other eating establishments. She feels that there is no substantial detriment to the public good and that there is no substantial impairment to the Master Plan and zoning ordinances.

Mr. DeLaura addressed Ms. Petrou. Wouldn't it be a negative impact if you bring in 1,400 cars in one week? Ms. Petrou said that she doesn't think it is a negative impact; all cars would not be coming in all at one time.

The meeting was **opened to the public** for questions to the planner. No one from the public came forward. The meeting was **closed to the public**.

Atty. Leibman reviews the conditions –

- the parking lot will be for employees only and will be told to park there
- the applicant will comply with all zoning ordinances regarding signage
- a sign will be placed at the parking lot to warn people that the site could get flooded if they park in the area
- the applicant will get permission from the DEP if required
- lighting will be installed after a lighting plan is submitted to the Board Engineer for his approval
- the applicant will maintain the nature of the gravel lot

A motion to **approve** the application was made by Mr. Perretti, seconded by Mr. Sillery.

ROLL CALL: Mr. Perretti, Mr. Sillery, Mr. Amorosso, Mr. Devlin, Mrs. Walker, Mr. Bargna – YES

Mr. DeLaura – NO

(Mr. DeLaura refers to the Police Chief's letter which states that the dynamics of the mall will not support the increase in traffic in and out of the area with this additional restaurant) For this reason and for his own comment on that this application will not benefit the residents of Northvale, Mr. DeLaura votes "no".

Mr. DeLisio, Mr. Giannotti, Mr. Trebino, Mr. Vollmer – ABSENT

The application was **approved**.

**APPLICATION OF TAPPAN REALTY, LLC – SHELL STATION / 7-ELEVEN,  
TAPPAN ROAD AND PARIS AVENUE, BLOCK 812, LOT 1 –  
PRELIMINARY AND FINAL SITE PLAN APPLICATION**

Since this application is a Board of Adjustment matter, Councilman Sokoloski steps down from the dais.

At this time, Atty. John M. Marmora of K & L Gates LLP, One Newark Center, Newark, NJ came forward representing the applicant.

Atty. Marmora stated that the applicant was before the board informally in January. At that time, the board made it clear to the applicant that any kind of redevelopment that would involve the residentially zone portion of the site would not be looked upon favorably.

Mr. John Palus of 1904 Main Street in Lake Como, NJ came forward and was sworn in by Atty. Leibman. Mr. Palus stated that the owner of Tappan Realty, LLC is Waseem Chaudhary, the new operator of the store and is now partners with the original owners, the Bradley's.

Atty. Marmora said that the reason why this is a Board of Adjustment matter is because a portion of the property is residentially zoned. This is what led the prior applicant here in 2000 for the approval of the Board when the facility was converted from a gas station auto repair shop to a gas station convenience store facility.

The applicant is not looking to change the use, one of the things Mr. Chaudhary does is a partner with 7 Eleven to operate the convenience stores at his Shell Station. What brings the applicant here tonight is that they hope to change some of the site design.

Kamlesh Shah of 1 Liberty Way in Cranberry, NJ came forward and was sworn in by Atty. Leibman. He is a licensed architect in the State of New Jersey, New York, Pennsylvania and Maryland.

Floor plan, A-1 dated October 6, 2011 - **Exhibit A-1** - Mr. Shah describes the layout of the 7-Eleven building.

The exterior elevation of the building was marked as **Exhibit A-2**. This plan shows the finishes of the building, materials, colors, signage, and façade.

A rendering of the building was marked as **Exhibit A-3**.

**Exhibit A-4** is a photo of a before and after of a 7-Eleven at 25 Route 46 in the Township of Parsippany in Troy Hills, Morris County, New Jersey.

**Exhibit A-5** is a finished material – a prefabricated panel that gets hung on the framing on the exterior.

**Exhibit A-6** is the red brick – it will be red on the top and gray on the bottom.

Atty. Marmora stated that he does not believe that the structure (the convenience store) is a non-conforming use. The non-conforming portion of the property is the residentially zoned portion. The property itself is in the C-1 zone which permits convenience stores and gas stations. He further mentioned that the applicant is not proposing any development in the residential property. They do abut residential property.

The back room would be for the storage of the boxes of items that would be sold in the store. Also, a small employee/manager office will be in that back room.

Atty. Marmora said that the tax map identifies the lot as one lot. Atty. Leibman would like to see the deed of the property. Atty. Marmora will provide this to the Board.

There will be no preparation of food. No cooking physically, but there will be food that has to be warmed – prepackaged food and a hot dog roller. Basically, there is no actual cooking at the premises. The applicant will have to be in contact with the Board of Health.

The meeting was **opened to the public**.

Mr. Denis McPartland of 407 Tappan Road came forward and was sworn in by Atty. Leibman. Mr. McPartland asked about closing hours. Mr. Amorosso said that they would have to follow the Borough ordinance.

The meeting was now **closed to the public**.

Mr. John Palus came forward. Mr. Palus is the engineer representing the applicant.

A colored aerial version, Sheet one of one was marked as **Exhibit A-7**

A colorized rendering of sheet 4 of the site plan dated October 18, 2011 – **Exhibit A-8**

Mr. Palus said that the property was surveyed recently and it was identified as Block 812, Lot 1. The entire property was consolidated. It is called a split zone lot – a residential lot and a commercial lot.

**Exhibit A-9** – a tax record that taxes are current

The property in question consists of one (1) lot designated in block 812, Lot 1. The lot contains approximately 21,478 sq. ft. (0.49 ac +/-) of area. The lot is located on the southeast corner of Tappan Road and Paris Avenue. The northerly section of the property is located in the C-1 zone and the southerly portion is located in the R7.5 zone.

Mr. Palus stated that the existing property is developed as a convenience store with a total of eight (8) parking spaces. There are four (4) dispensers on site, the westerly dispensers face Tappan Road have been blocked off – 4 dispensers with 6 filling positions. There is a trash enclosure located on the southeast side of the building and the A/C, the HVAC units are located on the pad adjacent to the trash enclosure.

The applicant is looking for a 305 sq. ft. addition – the building itself will go to 1,590 sq. ft. The proposal is also to maintain the eight (8) parking spaces, a 10 foot by 18 foot trash enclosure and they will be putting a condenser pad, which will be fully screened, on the south side of the building.

Mr. Amorosso discussed the streetscape plan that the applicant must abide by on Tappan Road and Paris Avenue. Mr. Palus does not know what that includes. Mr. Niehoff, Board Engineer, will contact Mr. Palus with the specifications.

Mr. Sillery said that he thinks the Town had a desire to set the streetscape plan up as far as the Borough Hall on Paris Avenue. We never really went as far as Tappan Road because of residential properties. Mr. Niehoff said that all should address this matter. Mr. Amorosso said that he feels that they should do the streetscape plan on Tappan Road.

Mr. Palus said that there would be no lighting changes, the canopy stays the same and the will offer free air to the public.

Signage was discussed. Refer to Board Engineer's comments in his letter dated October 18, 2011. The applicant proposes a 7-Eleven wall (façade) sign of approximately 124 sq. ft. and there are no landscaping improvements proposed for the site.

Regarding the hours of operation, the applicant will adhere to Borough ordinance. The C zone and C1 zone prohibit from conducting any business whatsoever are between the hours of 12 midnight and 6:00 a.m. and gas stations are prohibited from doing business from 11:00 p.m. and 6:00 a.m. Atty. Marmora said he wants to abide by the ordinance in which he feels the store could stay opened until 12 midnight. Mr. Amorosso feels that the store and the gas station should close at the same time (11:00 p.m.). Atty. Leibman said he would look into this matter.

Mr. Amorosso discusses the planters that are located at the site. It is very difficult to get your car through to get out of the gas station, the side by the sidewalk where you cannot pump gas. Mr. Palus will look into this.

Mr. Sillery refers to the façade sign. Currently Mr. Palus said that there is 8.45 sq. ft. of façade sign. He disagrees with Mr. Palus. He commented that somebody added two (2) signs, approximately 2X4, 2X5, 2 ½ X 5 foot, side by side and they advertise with cardboard printing which is on the side of the building and it is not listed in the square footage of the current existing. Mr. Palus said Mr. Sillery is correct.

Mr. Sillery continues to say that there are two (2) more signs and one is in the area that the applicant would like to enclose and the other one is hanging off the stantion of the vertical sign. He says that the drawing submitted is misleading. Mr. Palus said that he is not taking credit for those signs because they are illegal signs. Mr. Sillery said that unless one goes up and takes a look at it they would not be aware that there is more than 8.45 sq. ft. of existing signs on the building. This is misleading and that there is more than just what the engineer is stating on the plans.

Mr. Palus said that his intent was not to mislead the Board. He did not view them as legal signs. Those illegal signs will be coming down.

A resident from 404 Tappan Road came forward and spoke of his concern about the buffer zone. Mr. Amorosso said nothing is going to be touched with this zone. Who will maintain the premises? It was noted that the applicant will speak more on the maintenance of the property at the next meeting.

This matter will be heard for continued formal hearings on December 7, 2011.  
No further notices will be sent out.

**APPROVAL OF MINUTES OF JULY 6, 2011**

A motion to **approve** the minutes was made by Mr. Perretti, seconded by Mr. DeLaura.

ROLL CALL: Mr. Perretti, Mr. DeLaura, Mr. Amorosso, Councilman Sokoloski,  
Mr. Sillery - YES

**APPROVAL OF MINUTES OF AUGUST 17, 2011**

A motion to **approve** the minutes was made by Mr. Amorosso, seconded by Mr. Perretti.

ROLL CALL: Mr. Amorosso, Mr. Perretti, Councilman Sokoloski, Mr. Devlin,  
Mr. Sillery - YES

*Correspondence* was discussed.

A motion to **adjourn** the meeting at 10:49 p.m. was made by Mrs. Walker, seconded by Mr. Amorosso.

All in Favor – “YES”.

**Meeting adjourned.**

**Respectfully submitted,**



**Laura Benvenuto, Board Secretary**