

Present: Anderson, Waterbury, Canonico, Murphy, Schwartz, Ventre, Schuster,
Kennedy (attorney)
Cranmer (Engineer)
Absent : Fisher, Daly

Vice Chairman Anderson called the meeting to order @ 7:30 pm

Salute to the flag, roll call, open public statement read

Oath of Office – Richard Schwartz – regular member 4 year term

Minutes:

A motion was made by Ms. Waterbury, seconded by Ms. Canonico to approve & adopt the minutes of the January 7, 2015 and the minutes of the March 4, 2015 meeting minutes as submitted. All approved.

Correspondence:

Letter received from Goodwill Industries, dated May 14, 2015 for an extension of time in accordance with the Permit Extension Act. Mr. Kennedy advised that the Permit Extension applies to a one year extension at one time, where Mr. Warren is requesting 2 years.

A motion was made by Ms. Waterbury, seconded by Mr. Ventre to grant a 1 year extension to June 30, 2016.

Roll Call:

Affirmative: Anderson, Waterbury, Canonico, Murphy, Schwartz, Ventre, Schuster

Negative: None

Resolution 8/5/2015.....

PB Rep Report:

MS. Waterbury advised that the 471-475 LLC application will be presented at the July 15, 2015 meeting.

Unfinished Business: none

New Business:

Mr. Murphy stepped down from the application as he was noticed.

M/M Andrew White:

Bulk variance/generator in front yard

30 Meadow Drive

Bl: 21, Lot: 7.03

Mr. Kennedy accepted service at the 6/2/2015 meeting and was carried to tonight and found it to be in order and the board has jurisdiction to hear this application.

Mr. Kennedy marked the following into evidence:

A-1: Application package undated

A-2: Zoning Permit denial letter dated 4/30/2015

A-3: Survey prepared by Richard Stockton, dated 2/17/2016

A-4: Generator specifications

A-5: Photos taken by Ms. White

Mr. David Cranmer, Engineer was sworn.

M/M White were both sworn.

Mr. White testified that he and his wife are the owners of 30 Meadow Drive since 2006, it is a single family home which they both reside in.

Mr. White testified that he would like to install a whole house generator, after Sandy they feel that it would be the best thing for their family. The generator would be installed on the east side of the house which faces Maple Rd (front yard area), this location would be the best since the gas meter is located there and it would be considerable expense to move the gas line. He will landscape around the generator to avoid it from being seen from the street.

Mr. Anderson said that there has been other homeowners who have appeared before the board for the same relief that is being requested tonight. Mr. Cranmer agreed and the proposed generator must meet the performance standards outline in 94-5.28 of the Ordinance. Mr. Anderson asked if he has any concerns with the proposal. Mr. Cranmer said that the only reason he denied the application was due to the generator was to be installed in a front yard area, between the house and street line, even though Maple Rd is a private street and not a public road.

A motion was made by Ms. Waterbury, seconded by Mr. Schwartz to open the meeting to the public. All approved.

No comments/questions

A motion was made by Ms. Waterbury, seconded by Mr. Schwartz to close the meeting to the public. All approved.

No questions from board members.

Approval:

A motion was made by Ms. Waterbury, seconded Ms. Canonico to approve the application of M/M White, 30 Meadow Drive for a generator located in the front yard, which is a corner lot, with fronts facing Meadow Drive & Maple Road (private street), with the condition that the generator be landscaped and maintained.

Roll Call:

Affirmative: Anderson, Waterbury, Canonico, Schwartz, Ventre, Schuster

Negative: None

Adoption of Resolution:

A motion was made by Ms. Waterbury, seconded by Ms. Canonico to adopt & memorialize the resolution of approval for M/M Andrew White to allow a generator in the front yard area with conditions, as submitted and read into the record.

Roll Call:

Affirmative: Anderson, Waterbury, Canonico, Schwartz, Ventre, Schuster

Negative: None

7:50 pm Mr. Murphy returned to the board table.

508 Broad Street & Shrewsbury Common:

a/k/a Grove West

Bl: 20 & 21, Lot: 1.01

Amended P/F Site Plan Approval
& restaurant use variance

Mr. Kennedy announced that he has reviewed the service and finds it to be adequate and the board has jurisdiction to hear this matter.

Mr. Kennedy marked the following into evidence:

A-1: Zoning Application dated 5/6/2015

A-2: Ownership Disclosure

A-3: Letter from Mr. Brodsky to Tax Collector, 4/27/2015

A-4: Site Plan Preliminary/Final Major Site Plan, Grove West, prepared by Kennedy Consulting Engineers dated 3/4/2015 7 sheets

A-5: Zoning Permit Denial letter, dated 3/25/2015

A-6: Cranmer Engineer review letter dated 6/26/2015

Mr. David Cranmer, Engineer, was sworn.

Mr. Kennedy asked if any board members have any conflicts with the 508 Broad St/Grove West application, there were none.

Mr. Brodsky described the application which is being presented tonight. He explained that there are two properties involved which are located in the Borough, the Grove West @ 550 Broad and an adjacent property located at 508 Broad St (Mosaic Spa which is now vacant). They are proposing to use the 508 Broad St property, with no change to the footprint of the building but there will be upgrades to the site and parking lot as well as the building with significant architectural improvements. The building is 4,775 sq. ft. and they are proposing to use half (2,400 sq. ft.) as a restaurant and the other half (2,375 sq.ft) for retail. Since the building is adjacent to the Grove West and the Patterson Ave parking lot they would like to connect the two properties, in order to open the parking lot to be utilized by the 508 Broad St (Mosaic Spa property). He explained that at this time they would, at this time, like to square off the front of the Harmons site with a 310 sq. ft. addition.

Completeness Hearing:

A-4: Tax Certification – taxes are current

A-5: Application/Escrow fees have been paid

Waivers:

B-23: Location of streams, flood plains etc within 200' of site

B.25: List of design waivers or exceptions

B-32: Solid waste management & recycling plan

D-2: Deed restrictions or covenants

D-3: Freshwater wetlands LOI

D-4: Fiscal Impact Statement

D-5: Traffic Impact Statement

D-8: Storm Water Mgmt. calculations

D-9: Soil Boring Logs

Mr. Cranmer said that this is already developed site and the Planning Board has already looked at this site in 2002, adjacent to developed properties. He believes that the board could grant submission waivers that testimony will be heard tonight. Mr. Cranmer said that he would have no exception if the board acts favorably in granting the submission waivers.

A motion was made by Ms. Waterbury, seconded by Mr. Ventre to grant the submission waivers for the A-4, A-5, B-23, B-25, B-32, D-2, D-3, D-4, D-5, D-8, D-9 and to **deem the application complete.**

Roll Call:

Affirmative: Fisher, Waterbury, Canonico, Murphy, Schwartz, Ventre, Schuster

Negative: None

Following were sworn;

Mr. Chris Cole, Principal owner

Mr. James Kennedy, Engineer, Kennedy Engineer

Mr. John Rae, Traffic Engineer

Mr. Justin Auciello, Planner, Cofone Planning

Mr. Chris Cole, Principal of the applying entities. He testified that in the past the customers from Mosaic Spa and Grove West have been parking on each other property for years. They are planning on 2 tenants for this project, one retail use and the other a restaurant use which they are applying for a use variance to allow the restaurant. They are also requesting a small addition on the Harmons retail space of 320 sq. ft., this will allow them to reorient the store and create a more efficient store. This proposal will allow them to finish the exterior of the building with green space and trellises.

Following marked into evidence:

- A-8:** South Elevation, prepared by Mark Vanderzandon Architect, Oregon
Mr. Cole described the exhibit. Building will be raised and will still be in compliance with the height Ordinance. Pop up and outdoor seating for the restaurant and the retail will be located in the back portion of the building closest to the residential area, and he has met with the residents of the neighborhood and addressed their concerns i.e.; trash, venting and noise, all were in support of the application.
- A-9:** Photo of what Harmons looks like today and the proposed rendering, prepared by Bud Johnson, Johnson Lyman Architects dated 10/10/2014.
Mr. Cole described the proposed changes which will include wood trellises and cedar planks, wisteria and grape vines will decorate the building. No changes are proposed for the interior only to create more efficient aisles, which will include an entire store renovation.
- A-10:** Four elevations of the building prepared by Mark Vanderzandon, dated 7/1/2015.
Mr. Cole described the exterior of the building which is to be standing seam metal on the roof, raised glassed in one area, cedar on both the west and east elevations, a trellis area in the seating area with climbing wisteria.
- A-11:** Footprint of the existing building, prepared by Federal Realty, dated 3/13/2015
Mr. Cole described the exhibit, restaurant will be 2,369 sq. ft. in the front portion of the building, and 2,400 sq. ft for the retail space in the rear portion.

Mr. Anderson asked if the owner of the Grove West will execute any and all necessary Cross Access Agreements? Mr. Brodsky said yes, and they will be recorded which will run with the land regardless of who owns the property.

Ms. Waterbury asked if they are bringing a Liquor License to the site? Mr. Cole explained “possibly” and it is not their intentions to make this site a “bar”, It’s going to be more of a family oriented restaurant where food is the primary reason for the restaurant being there and not liquor. Ms. Waterbury asked if they would accept that language to be included in the resolution? Mr. Brodsky said that wouldn’t be a problem.

A motion was made by Ms. Waterbury, seconded by Ms. Canonico to open the meeting to the public. All approved.

No comments/Questions.

A motion was made by Ms. Waterbury, seconded by Ms. Canonico to close the meeting to the public. All approved.

Mr. James Kennedy, Kennedy Engineer accepted as an expert in engineering.

Mr. Kennedy described the site and marked the following:

A-12: Site Plan rendering, dated 6/18/2015, prepared by Kennedy Engineering.
Mr. Kennedy referred to A-7 and described the area behind the Grove West, this area is environmentally sensitive and no development will be done in this area. In 2007 Wetlands Presence Absence Determination was issued and there are no wetlands that would impact the developed portions of this site. The 310 sq. ft. retail addition will have no obstruction issues at the corner/intersection where the addition is proposed, since the stop bar is in front of the addition there will not be a site visibility issues and no site plan changes will be made to accommodate the addition.

Mr. Anderson asked if the addition will be closing in the vestibule area of the store? Mr. Kennedy said yes, they are squaring off the portion which currently has a canopy over the doorway.

Mr. Kennedy referred to A-12, handout (11 x 17) given to board members. This exhibit shows the Fidelity Investments and the porous pavement parking area that was constructed as part of the Pops Garage, Billabong (Grove West application). The Mosaic Spa is a 4,475 sq ft block masonry structure, 22 parking spaces, there is a loading area, without pedestrian access other than the public sidewalk. They are proposing both vehicular and pedestrian access between the 2 sites. There will be a 7% slope in the rear of the property to allow vehicular access and a stairway for pedestrian access between the sites, and grading of the patio area. The impervious coverage will be increased slightly 350 sq. ft. of impervious surface will be added, and it will be remediated through planters on the site which would be in excess of 100 sq. ft. total. They are proposing to remove 2 parking spaces for a total of 20 spaces with 1 barrier free space. The outside dining area will be seasonal and will be used as the entrance way to the building since the parking is so close to the building. After a brief discussion they lighting will be mounted on the

Shrewsbury Common building eliminating the poles, which will be in accordance with the Lighting Ordinance @ 1.5 foot candles and they will not be utilizing any of the surrounding lighting from other sites, they will be in compliant for their own site.

Mr. Kennedy advised that the planters will also be receptors for rain water. The surface run off will be addressed by repairing a 10" underground pipe which is currently blocked which will take care of the current ponding on the site.

Mr. Kennedy discussed the trash/recycling area, which will build a refuse enclosure in tandem containers will be front to back, which the refuse hauler will be in agreeance to that system. Mr. Kennedy also indicated that no additional screening will be installed. Mr. Cranmer stated that there would be an additional Design Waiver from the buffering and screening Section 94-8.21.

Mr. Cranmer asked Mr. Kennedy their plans for rodent control? Mr. Kennedy said that the applicant will have the refuse collected on a frequent basis to provide a clean atmosphere, and refuse must be covered.

Mr. Kennedy stated that the existing sanitary sewer system will be reused on the site, and a grease trap in accordance with the Two River Water Reclamation will be added along the south east corner of the site, they are working with the TRWC, they will receive a letter from them for the change in the use on the site. The water connection will remain on site, they are not anticipating on opening Rt 35 for any reason, their improvements are isolated to the lot line. They are expecting a Letter of no Interest from the D.O.T. for the Access Permit.

Mr. Kennedy explained the pedestrian access, it's a traditional in its layout for a 60' wide bay, 2 – 18' deep stalls on either side of a 24' wide aisle. He doesn't see any reason for vehicles to speed through this access way where the entrance to Grove West and Patterson Ave parking is much wider and more conducive to accommodate more traffic. This is a huge upgrade to the site by connecting pedestrian continuity and vehicle continuity. He feels that the users of the restaurant will be parking in the front of the building, and then onto the parking area. There will be **a right turn out only**, which is required by the D.O.T., there will be a right turn in from Rt. 35. Mr. Schwartz asked if the site could be one way only? Mr. Kennedy said that they would lose parking with the angled parking and would be less efficient & convenient.

After a brief discussion it was decided to eliminate the closest parking space to Broad Street at the corner of the restaurant area, and add additional landscaping which will lessen the impervious surface.

There was a discussion on the trash enclosure and the screening, they need the 14' in width because there is an egress door there and there is some grading which pitches toward the building forward. The dumpster will be 3' – 4' from the building, and they will screen the dumpsters to shield the view from the bank with a 2 sided fence along the back of the building which will create an "L" 10' on the northwest property line, to be determined at time of construction.

Mr. Kennedy advised that he will work with Mr. Cranmer on the details of his review letter.

Mr. Cranmer referred to the sidewalks along Broad Street, Mr. Kennedy explained that they will address the sidewalks after construction and not make them part of this project. The sidewalks will be repaired or replaced if needed.

Mr. Cranmer asked if the outdoor seating will be covered or uncovered, are they proposing a roof or a trellis. Mr. Cranmer asked if this area could be constructed from a permeable paver? Mr. Kennedy feels that the permeable pavers that work best right now, the gaps are too large and he would be concerns with the chair edges would catch. They would use either a stamped concrete or solid paver with closed gaps.

A motion was made by Ms. Waterbury, seconded by Ms. Canonico to open the meeting to the public. All approved.

No comments/questions.

A motion was made by Ms. Waterbury, seconded by Ms. Canonico to close the meeting to the public. All approved.

Mr. John Rea, Traffic Engineer, was accepted as an expert witness.

Mr. Rea testified that he did a Parking Study for the underutilized parking in the northern section to determine if the parking would serve the needs of the combination of the restaurant and retail use.

A-13: Summary of Parking Counts, dated 7/1/2015, prepared by McDonough & Rea
Mr. Rea described the exhibit.

Mr. Rea testified that the area of The Grove parking is always full, but the northern section of the parking lot is currently underutilized. The capacity is 84 parking spaces, when the drive aisle is constructed the new capacity will be 81 spaces. With the 81 spaces plus 19 that will be provided at 508 Broad St, the overall parking spaces will be approximately 100 parking spaces.

The critical time is the lunch time trade (12-2 pm) and Friday and Saturday evening peaks, and he found that there was always at least 40 spaces available in the northern section during the lunch peak hours, allowing 60 spaces available. He feels that the Ordinance requirement of 1/50 for a restaurant is on the high

side, a more common ratio is 1 parking space/3 seats and the applicant has agreed that 90 seats would be the maximum for both indoor and outdoor seating or a demand of 30 spaces, where the balance of the retail space would be 16 spaces needed for a total of 46 space for both uses. Mr. Rea feels that there will not be a parking problem and there will be spaces available in the norther parking area north of the Grove West. These two uses will work well together and there is adequate parking.

Mr. Rea said that they are applying for a Letter of No Interest from the D.O.T. therefore leaving the driveway as it currently existing, with No Left Turn out. The Letter of No Interest will require NO work in the State Right of Way.

Ms. Waterbury asked what are the thresholds on the traffic counts that would require a permit? Mr. Rea said if the change of use generates less than 100 additional peak hour trips compared to the current use, and they meet that requirement, there is a lot conformance issue, and they have a limited amount of trips that the lot can generate and they will look at that or 73 peak hour trips. They will receive a “credit” for the access to Meadow Drive & Patterson Ave.

A motion was made by Ms. Canonico, seconded by Ms. Waterbury to open the meeting to the public. All approved.

No comments/questions.

A motion was made by Ms. Canonico, seconded by Ms. Waterbury to close the meeting to the public. All approved.

Justin Aucciello, Planner Cofone Associates, was accepted as an expert witness in Planning.

Mr. Aucciello described how he prepared for this application:

- Review the relief that is required by visiting the site and taking an inventory of the site.
- Reviewed the Zoning Ordinance & Master Plan
- “D” variance which is associated with the proposed restaurant which is not permitted.
 - First is to determine if the site is suited for the use, and he analyzed the macro of the relationship between the property and surrounding area. Highway commercial property with The Grove to the south, and the restaurant is well suited for this location.
 - The micro sense the site is suited for the use because the building exists and is a proper size to accommodate the 2 uses, and it has the ability to interconnect with The Grove West property. This will create a good synergy between the 2 sites when the cross access agreements and allow them to function as one cohesive unit, which drives the suitability on this property.

- The applicant must determine that the propose use will further the purpose of the MLUL for a positive criteria or special reasons which will outweigh the detriments. The site will have substantial upgrades from the current conditions, which will drive a major portion of this application with respect to the benefits to the community.
- The Storm Water Management to the site will be improved, which will help the current ponding. The site will be able to function in a safe manner with access from Rt. 35 and circulate into The Grove West property.
- The intention of the application is to connect the two site and to rectify a condition since this site sits in an isolated manner.
- This application will advance criteria's C-G-H-I&M of the MLUL

Mr. Aucciello reviewed the updated Master Plan, dated October 8, 2014. They do match the intent and purpose of the MLUL, and they will advance Policy "D" to encourage mix use, retail & food service development He feels that this location is appropriate for this use.

Mr. Aucciello addressed the negative criteria, there are 2 prongs, showing that the granting of this variance will have a substantial detriment to the public good. He feels that this applicant involves a substantial improvement to the property, not only to the esthetics of the property but it is also an improvement to the overall function and usage of the property. By granting this Use Variance it will not be any detriment to the public good. They must show whether or not it will impair the Zone Plan or Zoning Ordinance, which mirrors the MLUL. He feels that this application does meet the purposes of the MLUL. The Zone District (B1) allows stores, shops, banks, offices etc. Restaurants are not permitted in any district in the Municipality, however, they are defined in the Ordinance, and the site is appropriate for the use, and will be a low impact use and will not have a detrimental affect to the Zone Plan or Zoning Ordinance.

Ms. Waterbury explained that one of the reason why there is a disconnect between the Master Plan and Ordinance since we just completed the Master Plan in the fall and the Ordinances have not be prepared. Ms. Waterbury explained that having restaurants in shopping centers would be one of the better places for a restaurant to be due to the parking. Restaurants were not included at that time.

Mr. Cranmer asked Mr. Aucciello if he reviewed the bulk variances for the application? Mr. Aucciello said yes, and he feels that they can be granted without creating a substantial impairment to the Zone Plan & Zoning Ordinance: referred to page 5 of Mr. Cranmer's review letter. He explained that there will be a slight increase in the impervious coverage, but that has changed after the redesign of Mr. Kennedy's testimony.

A motion was made by Ms. Canonico, seconded by Ms. Waterbury to open the meeting to the public. All approved.

No comments/questions

A motion was made by Ms. Canonico, seconded by Mr. Ventre to close the meeting to the public. All approved.

Mr. Anderson asked if the board can impose certain restrictions on the use of the restaurant? Mr. Cranmer said yes, the board has the right to impose reasonable restrictions and conditions on any variance that is considered by the board:

- Mr. Brodsky offered the condition of no fast food in this location or a bar as a primary use in this sit down restaurant with table service. This site will not primarily be geared for a take-out/fast food restaurant but there will be a take-out component. Mr. Ventre asked if a bar will be attached to this sit down restaurant? Mr. Cole said yes, there could be a bar in the front of the restaurant, Mr. Cole indicated that he does have a Liquor License in his name, which is a “pocket license”. It will depend on the restaurant as to whether they use the license.

Mr. Kennedy stated that the board can regulate the intensity which will bring any future users under the parameters that are being set for this application.

Mr. Cranmer suggested the following conditions:

- No fast food establishments/no fast food – Mr. Cole agreed
- The primary function shall be for eat-in table service – Mr. Cole agreed
- Restaurant to be limited to 90 seats which includes indoor & outdoor seating, if the use is expanded the applicant will have to return to the board

Ms. Waterbury asked Mr. Rea questions with regard to his parking analysis. Mr. Rea said that they did talk about 90 seats for this restaurant and he feels that his calculations were justified. Mr. Cranmer stated that the use is a dining establishment which provides table service with a limit on take out with no fast food and no deliveries, with a maximum number of seats to be held at 90. Mr. Cole agreed to conditions.

Mr. Cranmer asked Mr. Cole where would the deliveries occur? Mr. Cole said it would be the same as the Grove West unloading in front of the stores in the mornings. He doesn't feel that there will be large tractor trailer trucks, and there is adequate space for the trucks on the site. Mr. Rae explained that they will be using a 28' truck on the site, and they will stage in the northern parking lot for the retail and in the drive aisle for the restaurant. The trucks would be able to stage in the Grove West parking lot.

Mr. Cranmer asked Mr. Cole if they are proposing any new signs? Mr. Cole said each tenant will have a sign and they will reface the pylon sign with additional landscaping. They are requesting 4 façade signs one on 2- Broad Street & 2 - primary facades, but if they use the trellis they will only need one sign, Section 94-8.34 – 2 signs per tenant where 1 per tenant is allowed @ 10%.

A motion was made by Mr. Schwartz, seconded by Ms. Canonico to open the meeting to the public. All approved.

No comments/questions

A motion was made by Mr. Murphy, seconded by Mr. Schwartz to close the meeting to the public. All approved.

A motion was made by Mr. Murphy, seconded by Mr. Schwartz to approve the application of 508 Broad LLC for Use Variance relief to permit a restaurant in the B1 Zone with conditions & Preliminary & Final Site Plan approval with associated bulk variances & design waivers.

Roll Call:

Affirmative: Anderson, Waterbury, Canonico, Murphy, Schwartz, Ventre, Schuster

Negative: None

Resolution 8/5/2015.....

A motion was made by Mr. Schultz, seconded by Ms. Waterbury to adjourn the meeting @ 10:00 pm. All approved.