

Present: Canonico, Daly, Roache, Akerblom, Henderson  
Kennedy (Attorney)  
Cranmer (Engineer)

Absent: --

All saluted the flag, and the Presiding Officer's Statement was read

**Minutes:**

A motion was made by Mr. Daly, seconded by Mr. Roache to adopt the minutes of April 4, 2018 meeting minutes as submitted. All approved.

A motion was made by Mr. Daly, seconded by Mr. Roache to adopt the minutes of the Executive Session as submitted. All approved.

**Annual Report:** Hold 6/6/2018

**Unfinished Business:**

**Vincent S Mastro Montessori Academy:**  
49 White Rd: Bl: 34, Lot: 8  
35 White Rd: Bl: 34, Lot: 5.01

Carry Notice to 6/6/2018  
without further notice

Mr. Kennedy announced that this application will not be heard tonight, and will be carried to the June 6, 2018 without further notice.

**508 Broad Street, LLC:**

508 Broad St  
Bl: 20, Lot: 5

**Adoption of Resolution**

A motion was made by Mr. Daly, seconded by Mr. Henderson to adopt & memorialize the resolution of approval for the extension of the use variance for Albarino Restaurant, 508 Broad St., as modified.

Roll Call:

Affirmative: Daly, Henderson

Negative: None

**New Business:**

**Court Reporter – See Transcript for full testimonies**

**KGSC Realty Holdings LLC:  
d/b/a Shadowbrook Rest  
Obre**

**Whispering Woods Settlement  
Hearing**

Mr. Kennedy explained that Ms. Martinelly, Mr. Murphy, Mr. Carnes received notice of this meeting because they are within 200' of the development site, and have recused themselves from this application.

Mr. Kennedy explained procedurally what has been accomplished so far, where we were, where we are now, what we still need to do.

Mr. Kennedy explained that Mr. Edwards will not be participating in tonight's proceedings, his daughters have since secured employment with the Shadowbrook, and he feels that this will be conflict, and out of an abundance of caution Mr. Edwards will recuse himself.

**See Transcript for full explanation of Mr. Kennedy.**

Mr. Kennedy gave the following points:

- 2015 KGSC Realty Holdings d/b/a Shadowbrook – Bl: 26, Lot: 1, Bl: 21, Lot: 7.01 Development Application sought Use Variance, Bulk Variances & Site Plan Approval for the expansion of the existing facility and construction of other site improvements.
- Public Hearings were held on 9/30/2015, 10/7/2015 & 11/4/2015
- Applicant was represented by Mr. Edward McKenna, Esq.
- Application was formally objected to by: Georgia Blair represented by Shawn Byrnes, Esq.
- A number of the public participated with questions and comments, with approximately 24 members of the public.
- Conclusion of all participants the board deliberated.
- On 11/4/2015 – Board voted to approve the application 5-1, and on 12/2/2015 the board adopted the resolution memorializing the approval.

**B-1:** Resolution of Approval 12/2/2015, marked into evidence

- Mr. Ronald Gasiorowski, Esq represented M/M R Winddecker filed A Prerogative Writ Compliant, seeking to overturn or reverse the Zoning Boards Conditional Approval, which was filed within 45 days of when the Resolution was published.  
“Stating that the Zoning Boards approval was arbitrary and capricious and/or unreasonable.
- Beattie Padovano law firm filed an Answer on behalf of the Shadowbrook, Mr. Kennedy filed an Answer on behalf of the Zoning Board resulting in a Trial on 7/29/2016 before

Judge Thornton. In attendance Mr. Gasiorowski, representing his clients Mr. Del Vecchio, representing Shadowbrook & Mr. McKenna, as co-counsel to Shadowbrook & Mr. Kennedy representing the Zoning Board. The Judge reserved her decision or a decision was not rendered from the bench that day.

- Mr. Gasiorowski submitted a Motion to Amend the Trial Brief and to supplement the record – stating that the Shrewsbury Zoning Board did not comply with the Open Public Meeting Act, not publishing the annual meetings in 2 newspapers, and the Court did not agree with the arguments of the Shadowbrook representative or board representatives and the Court was bothered, and the situation had to be remedied, and rectified. The Judges written opinion was ordered on January 17, 2017 – The board had to re-advertise public hearing which took place on 2/8/2017.
- The Remand Hearing took place on 2/8/2018 – Mr. DelVecchio, Shadowbrook, Mr. McKenna co-counsel, Mr. Gasiorowski – M/M Winddecker, Mr. Richard Leahey, After discussion there was another vote and voted to conditionally approve the application.

**B-2** – Round 2 Resolution of Approval 2/1/2017, marked into evidence.

- Mr. Gasiorowski, filed a new Complaint – to reverse or overturn Round 2 decision’
- Judge Thornton advised that the 1<sup>st</sup> Complaint was still open, and Complaint #2 was withdrawn.
- Mr. Bernard Reilly filed a new separate Complaint to overturn the Board’s decision issued at the Remanded Hearing (Round 2 approval). Answers were filed by Mr. Del Vecchio and Mr. Kenned. The Court now consolidated the 2 cases into 1 – and appeared before Judge Thornton for a 2<sup>nd</sup> Trial and no opinion was given from the bench and would write an Opinion.
- While waiting for the Opinion – Shadowbrook wrote to the Court to advertise that the Shadowbrook, M/M Winddecker and M/M Smyth were going to engage in Settlement Negotiations, and asked the Court to “temporarily” hold off on any decision or opinion.
- Mr. Kennedy advised that the Board of Adjustment did not participate in any negotiations.
- Ultimately Shadowbrook/Winddecker/Smyths agreed upon Settlement Terms.
- Mr. Kennedy explained that when there is a Settlement of a Case involving a Zoning Board or Planning Board Decision, a special proceedings need to be observed, specifically any such settlement needs to be effectuated in accordance with the parameters of a “Whispering Woods” Case – with a public hearing....

**Mr. Kennedy explained (See Transcript for description)**

Mr. Kennedy gave a summary of the proposed changes:

- Site Plan Changes – relocation and change in size to the proposed expansion of the existing structure on the property
- Inclusion of certain uncovered terraces and a ceremony pavilion to the exterior of the property
- Increase in the proposed setbacks to the westerly property line
- Proposed berm & buffer area – located to the northwest side of the property

- Limitation to the number of weddings which can occur at one time
- Deletion of an internal ceremony room/chapel
- Restrictions and operations and use to the Shadowbrook facility
- Noise & acoustical improvements – and testing for verification that it is in accordance with prevailing decibel regulations.
- Modifications to lighting, inclusion of the Litigation Case & Settlement mutual releases

Mr. Kennedy marked the following documents which have been signed by all parties of records: Mr. Kennedy said that he signed the Settlement Agreement on behalf of the Board, authorized by the Board, but his signature was expressly conditions upon the Boards ultimate review & approval of the Settlement Agreement & Modified Plan @ the Whispering Woods Hearing. If the board does not approve the Modified Application tonight, does not ratify the Settlement Agreement, he can rescind his signature, subject to formal ratification at this hearing.

**B-3:** Settlement Agreement – signed by all parties

**B-4:** Consent Order – signed by all attorneys of record and the Court, authoring the Whispering Woods Hearing

Mr. Kennedy explained we will hear from the applicant's representatives re: Settlement Agreement, Plan, Modifications, & Conditions under which the Shadowbrook is willing to operate at the site, we will hear from Board members & members of the public. At the end of the presentation, public comments, he assumes, the board will engage in discussions/actions along the following:

- A motion to approve or reject the Settlement Agreement
- A motion to approve or approve with conditions, or reject the modified application
- A potential adoption of a Resolution memorializing the decision

Mr. Kennedy announced that this meeting was duly noticed, printed and advertised in the Boroughs the official newspaper, posted on the Municipal Bulletin Board and filed with the Borough Clerk. This meeting is lawfully convened, satisfying all the prevailing provisions of New Jersey. Notices have been sent to all individuals, entities who own property within 200' of the development site, and printed in the official newspapers. No comments/questions. Mr. Kennedy reviewed the notice and finds everything to be in order.

Mr. Kennedy marked the following into evidence:

**B-5:** Affidavit of Publication

**B-6:** Certification of Service

**B-7:** Beverlee Akerblom – Certification listened to transcripts/tapes

**B-8:** David Henderson – Certification listened to transcripts/tapes

Ms. Canonico, Mr. Daly, Mr. Roache all stated that they were presented for all meetings & either listened to tapes and/or read transcripts.

**A-1:** Settlement Plan – prepared by Kennedy Consulting Engineering – 3/27/2018 1 sheet

**A-2:** Acoustical Report – Jack A Ziboro, PE dated 4/2/2018

**B-9:** Cranmer Engineering Review Letter 4/26/2018

**B-10:** Report Shrewsbury Hose Co #1 – 5/2/2018 -Requesting Fire Hydrant

Mr. Dave Cranmer, Zoning/Engineer was sworn.

Mr. Del Vecchio, Esq, stated that the applicant KGSC Realty Holding, LLC – he was asked to give the principals of the KGSC - **See Transcript for names... no conflicts from board members.**

Mr. Kennedy asked that the attorney's on record give their names for record keeping purposes.

Mr. A Del Vecchio, Esq C0- Counsel, Mr. Edward McKenna, Esq, Co-Counsel,

Mr. Ron Gasiorowski, Esq represents M/M Richard Winddecker & M/M Smyth. –

**See Transcript for Mr. Gasiorowski's comments.**

Mr. Kennedy marked the following:

**A-3:** Architectural Plans, dated JGA Architectural Design 4/17/2018

Mr. Del Vecchio, Esq represented the applicant – He briefly explained what the Whispering Woods Hearing represents.

- An opportunity to come back to the board to explain the Settlement
- Proposed changes, and deviations of variances, and Planning testimony for any new variances – He explained that this Settlement eliminated variances or reduced some of the variances in size the quantum of deviation.
- The proposed change is more conforming than the previous plan that was approved by this board – they will not be representing all the planning testimony previously given at the time of approval. Their project engineer will give testimony to demonstrate the changes.

Mr. Andrew R. Comi, Site Civil Engineer, was sworn, prepared Settlement Plan under the direction of Mr. James Kenney, Kennedy Consulting Engineer, the Engineer of record. He was accepted as an expert witness in Engineering.

Mr. Comi described the Settlement Plan which is consistent with the Settlement Plan which was marked into evidence, see A-3 marked into evidence.

- The exterior treatment of the Settlement addition, remains the same as what was previously presented and approved by the board
- Building height proposed & approved for the original addition remains the same as approved

Mr. Kennedy marked:

**A-4:** Rendering of Illustrated Settlement Plan, prepared by Kennedy Consulting Engineers, dated 3/27/2018 – 11 x 17 versions handed out to board members.

Mr. Comi described the changes:

- The existing building is shown in a lighter tan color, and the addition is shown as a darker tan color
- The proposed addition is in the rear of the building as shown on the rendering, the addition maintains a 178' of setback from the proposed building to the westerly property line. The prior plan had a majority of the improvements to the west of the existing building, as close as 54' to the western property line
- The proposed addition are substantially smaller than what was approved on the 2015 plan, a landscaped berm along the western property line is proposed, 6' tall berm heavily landscaped to provide screening to the proposed addition to the west
- On the eastern property line there will be a proposed ceremony pavilion, to the southeast of the existing building, which will meet the 50' residential setback.
- Covered walkway and gazebo are proposed to connect the main building to the ceremony pavilion.
- To the east of the proposed building addition there will be a garden terrace area, as shown on the rendering, which will be relocated outdoor gardens
- On the 2015 plan there was a variance required for the loading area which did not meet the 50' setback on the western property line, the proposed shows the loading area moved significantly, the closest point will be the turnaround area which meets the 50' setback, and this eliminates the variance that was previously granted, no parking in this area, only turnaround. Adjacent to the loading area there will be a dumpster area and a generator inside an enclosure.
- Parking – due to the reconfiguration 8 parking spaces have been eliminated as a result of the reduction in the building size, 315 parking spaces are proposed vs 323 spaces approved from the 2015 approval, but a variance is still required.
- Buses will be parked in the parking area but there will not be a designated area, and there will not be any idling of buses on site.
- Lighting will now be L.E.D. with cuts offs to the neighboring residential properties, and a device that will lessen the intensity of the lighting, and the applicant agrees to shut off lighting in the parking area when not needed, using security lighting levels. The Board Engineer will review the post construction and the applicant will comply with any recommendations.
- Storm Water Management will remain as approved in 2015, with the use of porous pavers in the parking area, and will be submitted to the Board Engineer.

Mr. Del Vecchio referred to Landscaping Plan, submitted a full size set,

**A-5:** Landscaping Plan, prepared by Tapestry Landscape Architect shows the proposed changes Sheet 1B of the Settlement Agreement – includes Round 1 & Round 2 proposal along the perimeter of the property, both east and west

**See Transcript for full explanation....**

Board questions.

Ms. Canonico asked questions with regards to the Gardens and the Ceremony Pavilion and asked Mr. Comi to describe the Pavilion as a roofed structure, with approximately 250 seats.

**A-6:** Color Exterior Elevation of page 6, prepared by J.G.A. 5/2/2018, Color walkway going to the Pavilion 5.1 Architectural Plan – open, covered area, open garden areas

After a discussion of the 300' Riparian Buffer Area, which is controlled by the D.E.P. which is a natural buffer, so they did not want to go into the extensive buffer, Mr. Cranmer indicated that the D.E.P. would most likely allow additional planting.

**A-7:** Google Earth Aerial Map – which shows the closest house would be on the “other side” Kennedy residence

Mr. Del Vecchio advised what would take place in the Garden Areas:

- No ceremonies – ceremonies will be limited to the Ceremony Pavilion – the garden area will be limited to anyone having an event in the Shadowbrook, or non-wedding outdoor event space. These garden areas were originally in the back of the Shadowbrook when the addition was on the west. Everything has been rotated around the back of the restaurant.
- No food will be served out doors during a wedding, non-wedding events the outdoor space can be used for food, but only during certain hours.
- There will be only 1 wedding event at a time, they will comply with the Building Code for capacity of guests. Staffing will not be impacted, they have a high level of service at the Shadowbrook. The restriction of 1 wedding event will reduce the volume of people that will be on site at one time.
- The Shadowbrook will be considered a destination wedding venue and only 1 wedding will be on site. Mr. De Vecchio explained that the maximum occupancy will not allow them to have more than what is permitted in the building occupancy, whether there is 1 event or 10 events, they are limited to a certain number. They agreed to a noise abatement, their limitations on the noise that will emanate from the building is set, which is another control on the events. He explained that there will be only 1 area inside for a cocktail hour, no proposed 2<sup>nd</sup> room. The room is wrapped with a corridor along the east and back side of the building. There is a substantial storage area which will create a sound vacuum, and is not useable for banquet space.

A motion was made by Mr. Roache, seconded by Mr. Daly to open the meeting to the public for questions of Mr. Comi. All approved.

Ms. Diane Lange, represented her mother Dorothy Kennedy, 45 Meadow Drive was sworn.

Ms. Lange gave her concerns about the landscape near her house, and asked if additional landscaping be continued to shield her home. After discussion it was decided that the applicant would apply to the D.E.P for the addition of trees in the Riparian area. Mr. Cranmer agreed.

Ms. Lange asked if any trucks will be coming through the “T” turn-around? Mr. Del Vecchio said no, it’s marshy & wet.

Ms. Cheryl Peterson 195 Spruce Dr. was sworn. Referred to the Landscaping Plan, and wanted confirmation that there are plantings by her property and is happy that the 50’ buffer will remain. Mr. Del Vecchio said that the trees are being preserved and will be supplementing with an additional row of plantings. It is part of the Settlement Plan.

Ms. Donna Patterson 67 Shadowbrook Rd., was sworn. Concerned that people will meander into her yard. Asked if there will be a berm? Mr. Del Vecchio said no, this area is all planted and supplemented to what is there now, there is vegetation in the area to prevent them from putting a berm in the area.

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

No other witnesses

Mr. Cranmer addressed the issue of the dedication of roads to the Borough:

- Approval that was granted in 2015 obligated the applicant to offer for dedication, to the governing body, Meadow Drive & Maple Road & rights of way
- Currently they are part of Lot: 7.01
- Cross Access Agreements, which the homeowners have to carry separate insurance policies.
- As a measure of good planning the borough has requested that the applicant’s offer for dedication to the Borough so a government entity would maintain the street as opposed to the Shadowbrook, which has not changed as part of the Settlement.
- The applicant is obligated to write a letter to Borough Council stating that they are offering the Rights of Way for Dedication, if the Council chooses to accept it, they would follow up with a Deed of Dedication, and if the Council declines it then the applicant has no further obligation.
- The Board cannot compel it, since it is out of the Boards jurisdiction.

A motion was made by Mr. Daly, seconded by Mr. Roache to open the meeting to the public, for comments on the application. All approved.

Ms. Cheryl Peterson, 195 Spruce Dr. Thanked the board for having the application back for consideration. It’s unfortunate that it took 3 Rounds. Shadowbrook has been a good neighbor for 18 years. The Settlement is a good compromise, and hopes that everything continue, and wishes the applicant good luck, and all of the conditions of approval i.e. sound, lights is controlled and followed through as it progresses.

Mr. Dave Dragonetti, 73 Obre Place, was sworn. Thanked the board for their patience, time & efforts. Referred to the previous approval conditions and asked if they are still in place.

Mr. Kennedy said yes, the initial conditions remain in full force and effect, unless they are specifically superseded by the Settlement Agreement. As a condition of approval, we would include the Settlement Condition in one document, making it easier to find them.

Mr. Del Vecchio agreed, he explained that the conditions that appeared in Round 1 & 2 Resolutions are contained in a consolidated as an exhibit in the Settlement Agreement.

A motion was made by Mr. Daly, seconded by Mr. Roache made a motion to close the meeting to the public. All approved.

Board comments:

Ms. Canonico, was the person who voted no twice on this application. She is very happy to see the changes and thanked the applicant. She had concerns with the moving to the west, but the applicant has done a wonderful job of moving most of it to the back, and the gardens will not have a lot of “ruckus” going on there. She appreciates the increase the buffer, if it is approved, by the DEP, which is good for the neighbors on the east side, as well as the west side. They have reduced the improvements by 57% and her original statement was that they should have a bigger building but it cannot be what they proposed for our town, and it has been done. She wants the business to succeed, but she also wants to see the neighbors happy who have been there a long time. This is a great plan is happy with it. Thank you.

Mr. Kennedy asked board members to give the reasons why they are voting the way they are in order to have a complete record for the Settlement Agreement and Amended Application.

Mr. Daly said that he voted yes for Round 1 & 2, and he is happy with the changes. The applicant has been amendable to everything the neighbors asked for, there was never a flat out no when anyone asked for something. Thank you for taking care of everyone.

Mr. Henderson stated that he listened to the tapes and read all of the documents, and he loves everything the applicant has done, bending over backwards, and is looking forward to it.

Mr. Roache stated that he is happy that it has been settled here, he would hate to see the Shadowbrook go, its part of Shrewsbury.

Ms. Akerblom commended the applicant on the plan revisions, and looking at the materials in review and she commends the applicant for all their work in bringing the project into conformance with the resident’s request. Thank you.

Ms. Canonico thanked the Winddeckers and the Smyths on behalf of all the neighbors who appreciate everything and believing that they can work together.

Mr. Del Vecchio gave a brief summary and thanked the board.

**See Transcript for details..**

A motion was made by Mr. Daly, seconded by Mr. Roache to open the meeting to the public.  
All Approved.

Ms. Gi Gi Blair, 41 Obre Place was sworn. Asked the Zoning Board for future applications and there are residents who have concerns about something that would impact their lives that the board listen carefully, as this cost a lot time and money to oppose what was proposed by Shadowbrook. The Shadowbrook was very cooperative.

Ms. Dena Smyth, 175 Spruce Drive, was sworn. Thanked Ms. Canonico for standing firm and listening to the residents, and this cost a lot time and money to fight. We have been tax payers for 20+ years and echo Ms. Blair's comments to listen. They are happy and they thank the Shadowbrook.

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

Mr. Kennedy suggested:

- First there should be a motion to approve or reject The Settlement Agreement.
- Then A motion to approve or approve with conditions or reject the modified application

Board agreed

**A motion was made by Mr. Daly, seconded by Mr. Roache to approve the Settlement Agreement with modified changes as earlier stated for KGSC Realty Holdings, d/b/a The Shadowbrook.**

**Roll Call:**

**Affirmative: Daly, Roache, Akerblom, Henderson, Canonico**

**Negative: None**

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A motion was made by Mr. Daly, seconded by Mr. Roache to approve the application, with conditions the Modified Application for KGSC Realty, d/b/a The Shadowbrook, with the following conditions:

- Compliance with all the promises & commitments & representations the applicants representative made throughout this public hearing process
- Compliance with the terms and conditions of the prior approval or superseded herein
- Compliance with the terms of the executed Settlement Agreement
- Compliance with the terms and conditions of Cranmer Engineering Review letter
- Submission of a fully engineered version with storm water management included
- Compliance with COAH Regulations & contributions
- Compliance with Fire Department – fire hydrant
- Compliance with any liquor license approval from the State & Borough
- Compliance with Building Construction
- Good faith efforts for the additional row of evergreens on the corner of the garden terraces provided the DEP approves
- Updates to the Board Secretary as to what is being allowed and not allowed
- Settlement Terms in one area

Mr. Del Vecchio stated that there are no acceptions to the conditions.

**Roll Call:**

**Affirmative:** Daly, Roache, Akerblom, Henderson, Canonico

**Negative:** None

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A motion was made by Mr. Daly, seconded by Mr. Henderson to adoption the resolution of approval for KGSC Realty, d/b/a The Shadowbrook for Preliminary & Final Approval with Variances & Bulk Variances, as presented, with the following conditions:

- Findings of fact & conclusions of law as set forth in Resolution #1 & Resolution #2 (prior resolutions & approvals will be attached hereto and incorporated herein at length
- Findings of fact & conclusions of law as set forth in the prior Resolutions are repeated & reaffirmed, ratified, reapproved & re-codified herein.
- Findings of fact & conclusions of law as set forth in the prior Resolutions remain valid, effective, true, and appropriate for the Modified Application approves herein.
- For the testimony & evidence presented and for the terms of Settlement Agreement the plans and modifications associated with Amended Application includes the following:
  - The board finds that aforesaid plan changes significantly approved the overall acceptability of the project
  - The board finds that aforesaid changes and modifications substantially minimize (for the benefit of the surrounding residential communities) any adverse impacts otherwise associated with the prior approvals

- The board finds that the plan modifications approved herein will substantially enhance the project compatibility with the surrounding residential neighborhood
- The board finds that the Plan modification approved herein will minimize the quality of life issues that a pre-existing non-conforming commercial use typically has on a surrounding residential neighborhood
- The findings of fact and conclusions of law associated with the prior approvals are not compromised by the Plan Modifications approved herein
- The findings of fact and conclusions of law associated with the prior approvals are not officiated by the Plan Modifications approved herein
- The findings of fact and conclusions of law associated with the prior approval are not discounted as a result of the Plan Modifications approved herein
- The board is aware that the actual variances associated with the Modified Application approved herein are the same as, or in some cases, less than what was approved in the prior approvals
- The Plan Modifications approved herein are overall less intense than that which was previously approved
- The Plan Modifications approved herein are less extensive than that which was previously approved.
- As part of the Modified Plans the applicant's representatives submitted an Acoustical Report – findings will be represented, the board incorporates the findings and conclusions of the Acoustical Report as set forth at the hearing
- Additionally as part of the referenced Settlement Agreement and is part of the modified plans, after the renovations are completed, the applicant's representatives will arrange for a post construction Acoustical test to be performed to confirm that the post construction noise associated with the site complies with prevailing decibel requirements.
- In the event the post renovation acoustical test reveals that the noise exceeds permitted decibel levels, the applicant's representatives will take affirmative action to have the situation corrected.
- Though not typically standard the applicant's efforts to ensure that any noise emanating from the site complies with prevailing noise/decibel regulations will be beneficial for the surrounding residential uses particularly that the existing Shadowbrook operations constitute a preexisting non-conforming use.
- Currently as a pre-existing nonconforming use there is no requirement for the applicant representatives to engage in acoustical testing and attempt by governmental agencies to force the same could be problematic, controversial and/or expensive. However the required post approval acoustical obligation associated with the Settlement Agreement/Modified Plans will affirmatively ensure that noise testing occurs at the applicant's expense and that the same will help further ensure that the site operates in accordance with the prevailing decibel regulations.
- As part of the Plan Modifications approved herein the applicant's representatives have agreed to one (1) wedding at a time with limitations.
- Currently there is no practical limitation associated with the number of weddings which can take place at the same time thus the obligation agreed to in Settlement Agreement represents a significant improvement, that condition regarding that one

**(1) wedding at a time limitation will help further minimize any impact/expand the Shadowbrook facility will have on surrounding residential areas**

- **All of the conditions referenced in the prior approvals and referred in the Settlement Agreement will help render the pre-existing nonconforming Shadowbrook operations much more compatible with the surrounding residential neighborhood.**
- **All the conditions referenced in the prior approvals and in the Settlement Agreement and in this resolution will minimize the overall impact that the continued/expanded pre-existing nonconforming Shadowbrook use has on the surrounding residential neighborhood**
- **The Plan Modifications approved herein will significantly enlarge the buffer areas between the pre-existing nonconforming structure and the adjacent residential uses. There are significant benefits for those enlarged buffers and the Resolution will reflect visual benefits and noise benefits.**
- **Upon information and belief there are no new bulk variances associated with the modified application approved herein**
- **Many of the bulk variances associated with the modified approval granted herein are less intense than that which were approved in the prior approvals.**
- **Within the Settlement Agreement represents the culmination of good faith & negotiations between the applicant's representatives and some of the surrounding residents.**
- **The Litigation process and this negotiation process are lengthy, time consuming and stressful**
- **The board members appreciate the good faith efforts of the applicants representatives, the objectors, neighbors, and other residents of the public, engineers, attorney's, planners**
- **The modified plans approved herein do not materially compromise the intent of the boards prior approvals, given the case law prior approvals provide that preexisting non-conforming uses can continue and given the legally recognized and legitimate goal of approving applications which make non-conforming uses more compatible with their surrounding environment, the board finds that approval of this applicant is appropriate, correct and beneficial.**
- **Approval of the modified application will not increase the noises otherwise generated at the site, because of the plan modifications and adjustment the board finds it would be less of a noise impact**
- **The plan amendments approved herein are not inconsistent with the findings of fact, associated with the prior approval, and approval of the modified application is beneficial for the site, neighborhood, and for the Borough of Shrewsbury as a whole.**
- **At the increased buffer on the east side and west side, which are affected on the modified plans are beneficial for those surrounding neighbors.**
- **The height of the building remains the same as a result of the modified approval**
- **The modified plans include 6' berm to provide better visual, noise buffer for adjacent uses.**
- **The modified plans increase the buffer from 54' to 178' to better insulate the adjacent residential uses from the continued non-conforming use.**

- **The modified plans illuminated the previously granted variance for the location of a loading area which the board finds it will be better for the neighborhood**
- **The lighting has been enhanced to reduce the overall light spillage and per the Settlement Agreement there will be a dimmer & shut off switch as necessary**
- **For the Settlement Terms the lighting reduction in the future will be possible even for post construction, since it can be manually changed.**
- **The Landscaping Plan previously approved were significant and extensive, and the modified plans are even more increased and enhanced the same.**
- **The board feels that this modified plan overall represents a better zoning alternative for the site, neighborhood and community as a whole.**

**Roll Call:**

**Affirmative: Daly, Roache, Akerblom, Henderson, Canonico**

**Negative:       None**

**Mr. Del Vecchio will publish the decision.**

A motion was made by Mr. Daly, seconded by Mr. Roache to adjourn the meeting at 9:45 pm  
All approved.