

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

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

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

Minutes:

A motion was made by Mr. Schwartz seconded by Mr. Murphy to approve & adopt the minutes of the January 6, 2016 meeting minutes as submitted. All approved.

Correspondence: none

PB Rep Report:

Ms. Martinelly reported that the Planning Board reorganized on January 20, 2016, there are 5 new members and the protocol of the Planning Board was discuss.

All new members attended the seminar given by Mr. Michael Steib Esq on January 23, 2016

Annual Report will be carried to 3/2/2016.

Unfinished Business: Hold

New Business

Ms. Martinelly recused herself

M/M B Gilmartin:
109 Robinson Pl
Bl: 45, Lot: 2

Front yard setback variance

Mr. Kennedy reviewed service and finds it to be adequate and the board has jurisdiction.

M/M Brendan Gilmartin were sworn.

Mr. Kennedy marked the following:

- A-1: Development Application dated 1/17/16
- A-2: Checklist
- A-3: Floor Plan/Elevations prepared by Anthony Condouris dated 10/25/2015
- A4: Zoning Denial dated 12/17/2015

A-5: Survey – Control Layouts Inc. 8/12/2008
A-6 abcde: 5 Photos of neighboring porticos

Mr. Anderson & Mr. Schwartz disclosed that they are personal friends of M/M Gilmartin and have no conflicts with hearing this matter.

Mr. David Cranmer, Zoning Officer, was sworn.

Ms. Gilmartin testified that they are the owners of the single family home @ 109 Robinson Place for the last 8years. They are seeking permission to construct a new covered porch in the front yard setback of 29'.5 where 35' is required. This would provide coverage from the weather when entering the home. The steps are existing and they will be adding 2 posts, a roof and a light. The dimension of the steps would be 5' x 6' or 30 sq. ft. They are not increasing the existing set back.

No questions or comments from board members.

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

No comments/questions

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

Mr. Kennedy suggested that a condition that the porch is not to be enclosed.

Approval:

A motion was made by Mr. Anderson, seconded by Mr. Murphy to approve the application of M/M B Gilmartin for a front yard setback of 29.5 with the condition that they meet any COAH requirements and the porch will not be enclosed.

Roll Call:

Affirmative: Anderson, Murphy, Daly, Schwartz, Schuster, Edwards

Negative: None

Adoption of Resolution:

A motion was made by Mr. Schwartz, seconded by Mr. Daly to adopt & memorialize the resolution of approval for M/M B Gilmartin as submitted for a front yard setback of 29' 5".

Roll Call:

Affirmative: Anderson, Murphy, Daly Schwartz, Schuster, Edwards

Negative: None

Court Report in attendance for Shore Investments application see transcript for full testimony:

Ms. Martinelly returned to the board

Shore Investments LLC: (Quick Chek)

Continuation of public hearing

Bl: 3, Lot: 5

Mr. Kennedy marked the following:

B-5: Monte Edwards signed certification of 1/6/16 meeting

#1 - Objector LUKOIL – letter from Michael Convery, Esq January 26, 2016

Mr. Michael Convery Esq, Red Bank NJ represents LUKOIL North America, LLC, he doesn't represent Mr. Gulshan Chhabra, who is a tenant at the subject property 219 Newman Springs Road. Mr. Convery will find out for next month who the principals are for LUKOIL LLC – he has been working with Mr. John Sakalow, New York City, board members did not have any conflicts.

Mr. Kennedy discussed the issue of the Transcripts, which Ms. Canonico & Mr. Ventre needs to read the transcript or listen to the tapes, which Ms. Canonico has done so. After a brief discussion of what occurred between Mr. Kennedy, Mr. Shea & Mr. Convery and the issue of the “official Transcript”.

Mr. Kennedy marked

B-6: Ordinance 94-3.3 Transcripts into the record: the issue has been resolved and a copy of the Transcript has been received by Mr. Kennedy on 2/2/2016 which was forwarded to the Board Secretary.

Mr. Anderson asked what was the objection? Mr. Shea explained his reasons – see transcript for full explanation and why he wanted Mr. Convery to verify that the Transcript provided is the “official Transcript”. Mr. Convery feels that this is moot since he did listen to the CD of the meeting. Mr. Anderson asked if the CD was properly recorded? Mr. Convery said yes, he listened to the Shore Investment LLC portion and he feels that this issue is moot.

Mr. Anderson asked if the board members were able to listen to the tapes, Board Secretary verified that Ms. Canonico listened and Mr. Edwards listened.

Mr. Anderson stated that if Mr. Convery finds any discrepancies in the Transcripts vs the CD's, he has 5 days to advise Mr. Kennedy, Mr. Convery agreed.
Both Mr. Shea and Mr. Convery agreed to move forward on the Transcript issue.

Mr. Kennedy marked:

A-24: Letter from Mr. Robert Shea to Mr. Kevin Kennedy dated 2/1/2016

Mr. Kennedy briefly explained the contents of the letter.

Mr. Convery stated that he will be responding to this letter. Mr. Anderson stated that he will give Mr. Convery a time period to answer and get his response to Mr. Kennedy so he can give an Opinion and a recommendation to the board. Mr. Shea agreed, and that that additional information will be provided on other LUKOILS, and he will be providing an addendum in the next 5-7 days, and Mr. Convery will have 10 days to respond before the next meeting. Mr. Anderson asked for 5 days and Mr. Shea agreed to 5 business days. Mr. Shea would like a clarification as to who owns the property, Mr. Convery will work with Mr. Shea on the representations, since there is some confusion on the ownership.

Mr. Kennedy explained to the board why this is being handled in a thorough way, and he recommends that the board not substantively proceed tonight until some of these issues are resolved, and give both parties time to "Brief".

Mr. Kennedy stated that Mr. Convery will do research present the board with his Opinion, Mr. Shea will supplement his Opinion and then he will make a recommendation for the board based upon all of the circumstances presented.

Mr. Convery asked if Mr. Shea will be replying? Mr. Anderson said **no reply**. Mr. Anderson asked Mr. Shea if he will need to reply, he explained that it depends on Mr. Convery, and it will only be 5 pages.

Mr. Kennedy asked Mr. Shea & Mr. Convery to email the Brief, with attachments to the Board Secretary and to Mr. Kennedy.

Mr. Kennedy marked:

A-25: Robert Shea, dated 2/3/2016, 7 pages – Mr. Shea explained his reasons for this letter

Mr. Kennedy announced that this application will be carried to March 2, 2016 without further notice to the public.

Mr. Shea agreed to extend the time frame that the board needs to act.

A motion was made by Mr. Murphy, seconded by Ms. Martinelly to carry the application of Shore Investment LLC d/b/a QuickChek to March 2, 2016 without further notice.

All approved.

Court Reporter in attendance: CSH to provide Transcript – see for full testimony

CSH Shrewsbury LLC:
515 Shrewsbury Ave
Bl: 3, Lot: 1

Use Variance, P/F Site Plan Approval

Mr. Kennedy announced that he has reviewed service and finds it to be in order and the board has jurisdiction to hear this application.

Mr. David Cranmer, Engineer was sworn.

Mr. Kennedy marked the following into evidence:

- A-1: Application for Development
- A-2: Preliminary & Final Major Site Plan – Joseph Jaworski PE – 23 sheets
- A-3: Architectural – George T Wilson 5 sheets 12/7/2015
- A-4: Architectural – Meyer Architecture, 12/7/2015
- A-5: Stormwater Mgmt Report – Joseph G Jaworski PE 12/21/2015
- A-6: E.I.S. Kauker & Kauker 12/21/2015
- A-7: Traffic Eng, Noise & Air Quality – Shropshire Assoc 12/3/2015
- A-8: Geotechnical Eng, Geo Technology Assoc 9/30/2015
- A-9: Planning & Zoning Analysis, Kauker & Kauker 12/28/2015
- A-10ab: 2 photo of existing structure taken 9/9/2015

- B-1: Cranmer Engineering Report 1/29/2016
- B-2: Shade Tree report 2/2/2016
- B-3: Shrewsbury Police Department 1/21/2016
- B-4: Shrewsbury First Aid 2/1/2016
- B-5: Fire Marshall – 1/19/2016
- B-6: Monmouth Cty Planning Board 1/26/2016
- B-7: Environmental Comm 1/19/2016

Mr. Robert Podvey, Esq represents the CSH Shrewsbury LLC. NJ contract purchaser Capitol Seniors Housing JV, III, LLC are the sole owners of CHS Shrewsbury LLC and S Scott Steward is the sole member of Capitol Seniors Housing. Owner of the property is W&E Nursing Home, Inc. (Mrs. Eleanor Johnson). No board members had any conflicts.

Mr. Kennedy noted that the taxes are now current.

Mr. Podvey described the location of the site, and the proposed application
85 units = 58 assisted living units/27 memory units

Referred to: A-7 elevations of the new building, which will replace the existing building
Assisted living will require a use variance, but it is an inherently beneficial use and
planning testimony will address. A “D” variance for the FAR is required, they are
prosing .43% where .40% is allowed. Bulk variances are listed in Cranmer Engineering
review letter.

Mr. Joseph F McElwee, CSH, was sworn, and handed out an outline of his proposed
testimony.

Mr. Kennedy marked:

A-11: Development of an Assisted Living Residence – Shrewsbury NJ 2/3/2016
Distributed to board members, along with the exhibit list prepared by Mr. Podvey

Mr. McElwee gave his background on assisted living, referring to A-11.

See Transcript for full testimony and exhibit A-11 including:

- Number of employees and shift hours
- Certificate of Need – and the formula that is used for Medicaid room (10%)
- Approximately 102 residents will live in the facility
- Suppling a 14 passenger van
- Supplying a private ambulance service for 24/7 nonemergency calls – applicant
will accept as a condition of approval
- Applicant would agree to First Aid, Fire Department, Fire Marshall prior to next
months meeting
- Very few cars on site – parking is over developed .5/unit vs .624/unit
- 3 handicapped parking spaces
- Will comply with Fire Marshall request of no parking around the building
- Delivery of food and trash pick-up 2x/week
- Medicaid rooms are applied to the towns COAH requirement
- Proposing a 3 story building
- Little traffic to generate from this project, typical residents do not have vehicles
- “Sports Bar” explanation – no alcohol – t.v. room
- Certificate of Need does not go to the Borough but to the State which they will
apply for at 90% of completion, which the State cannot change the plan for
anything other than an 85 bed facility.

Ms. Eleanor Johnson, W&E Nursing, sole principal owner, since 1947. No board
members had any conflicts.

Mr. Kennedy asked the time frame that the applicant is looking at if they were successful
at this board? Ms. Martinelly disclosed that she has known Ms. Johnson, and has no
issues with hearing this matter

Ms. Johnson testified that she had:

- 35 in the Shrewsbury Manor until 2011 with 28 residents residing in the Manor when the roof caved in
- The Shrewsbury Manor was purchased in 1947 with 35 skilled nursing patients, licensed by the Department of Health
- In 1981 they petitioned for a Certificate of Need for an increase to 75 beds which was approved, but they followed through with the expansion.
- The Shrewsbury Manor was a Residential Health Care Facility, a pre-cursive to the assisted living in the 1970-1980's
- They were licensed by the Department of Health which was taken over by Department of Community Affairs
- Original license was for skilled nursing beds

Mr. Cranmer asked if there is a prerequisite that must be secured from a doctor for the type of care that will be available or can anyone move in? Mr. McElwee said that you can come in if you are not too frail, but they do have appropriate placement, if you become bedridden or sick or too frail you must be directed out of the community usually to a nursing facility.

Mr. Anderson asked, since the residents are older, will this put a strain on our emergency services? **Mr. McElwee said yes, but they will be providing a private ambulance service for non-emergency services.** Mr. Podvey will accept this a condition of approval, and they will meet with the First Aid Squad to address their concerns.

Mr. McElwee explained:

- Certificate of Need Application would be applied for
- Architect would be commissioned to complete their drawings which could take up to 4 months, which goes to the D.C.A. which is a 90 day review process
- Developers Agreement to be drafted by the attorneys.
- Closing of the property could be in 6 months
- Construction could take 14 months (between demolition & construction)
- 45 days after construction the State to issue a license to the community & training
- 16 months to become fully licensed to break ground

Mr. Cranmer asked who could be the ultimate owner of the property? Mr. McElwee stated Ventas, Health Care, usually the largest health care provider and they usually own hospitals, medical office buildings, nursing homes and assisted living. One of the top 5 institutional buyers in the country.

Mr. Cranmer asked if this was to be sold to another operator is there an assurance or mechanism to ensure that nothing changes? Mr. McElwee said the physical plan cannot change, this is a steel and concrete building and they cannot change the use inside the building. They are going to have a top flight operator in this building.

Mr. Cranmer asked if the memory unit could have a larger percentage of the beds in the facility or could the assisted living be changed? Mr. McElwee said that the memory care unit cannot change, there will be 27 rooms, and these rooms cannot expand into the rest of the building, which do not have the proper safe guards. The assisted living could go into the memory care area. The staffing requirements does not a fixed state staffing requirement as a nursing home does. There is 1 care manager for every 8 memory care residents, and there is 1 care manager for every 12 assisted living residents.

Mr. Anderson asked if what is presented to the board and approved by this board, if the applicant wanted to change that approval in any way, they would have to return to the board.

Mr. Kennedy said that he would include “an intensity regulator”, the approval is based upon what the applicant testified to, and any material deviation to this they would have to return back for approvals. Mr. Podvey stated that he would not have any issues with that condition. Mr. McElwee stated that they would not be increasing any of the units that are approved, nor would they go over their parking ratio.

Discussion on a possible Deed Restriction, Mr. Podvey advised they would agree to record the Resolution and the Developments Agreement.

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

Mr. B Gerth, E End Ave, was sworn, asked how would CSH give back to the community? Mr. McElwee answered his question. See Transcript for his testimony.

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

Mr. Kennedy announced that this application will be adjourned to February 29, 2016 @ 7:00 pm without further notice, a special meeting notice will be published.

A motion was made by Mr. Daly, seconded by Mr. Schwartz for the continuation of the C.H.S. Shrewsbury application without further notice to the public. All approved
Mr. Podvey has agreed to extend the time which the board has to act.

Mr. Cranmer asked if the applicant would be willing to meet with Fire Department, Police Department, First Aid and Fire Marshall prior to the special meeting. Mr. Podvey agreed.

Mr. Kennedy asked Mr. Podvey to clarify the C.O.A.H. requirements Mr. Cranmer stated that he has communicated with Mr. Surinians’s office and the Medicaid beds will count towards the Borough’s Affordable Housing obligation.

A motion was made by Mr. Schwartz, seconded by Mr. Daly to carry the application of C.S.H. Shrewsbury to the February 29, 2016 @ 7:00 pm without further notice. All approved.

Closed Session:

A motion was made by Mr. Murphy, seconded by Ms. Martinelly to go into Closed Session for discussion of Litigation for the Shadowbrook. All approved.

A motion was made by Mr. Schwartz, seconded by Mr. Daly to Close the Executive Session. All approved.

A motion was made by Mr. Schwartz, seconded by Mr. Daly to represent the Board of Adjustment in the Litigation of Windecker vs Zoning Board of Adjustment.

Roll Call:

Affirmative: Anderson, Daly, Schwartz, Schuster, Edwards

Negative: none

A motion was made by Mr. Murphy, seconded by Mr. Daly to adjourn the meeting at 10:40 pm. All approved.