

Lodi Planning Board
Minutes
January 13, 2010

The meeting was called to order by Chairperson Al Norieka at 7:00 p.m.

Members Present: Mr. Borelli
 Mr. Carrasco
 Mrs. Breitwieser
 Mrs. Fiduccia
 Mr. Ingenito
 Mr. Palumbo
 Mr. Norieka

Also Present: Planning Board Attorney Joseph Russo
 Planning Board Planner Gary Paparozzi
 Planning Board Engineer Thomas Solfaro
 Planning Board Secretary Marlene Muska

Members Absent: Mr. Vakharia
 Mr. Luna

There was a motion by Mr. Carrasco, seconded by Mrs. Fiduccia to approve the minutes of December 9, 2009. All members present voted in favor of the motion with the exception of Mr. Palumbo who abstained.

Application: 123009P
 European Auto Expo
 91 Route 46 West

The applicant for this application is Daniel Marchelle, and Edward Easse the architect, this application is for a C.O. and a C.C.O. Mr. Easse submitted a revised site plan, showing the correct parcel on the key map, and to also show the corrected numbered space for the handicap space. Mr. Easse also handed out numerous Lease Agreements and the History of 91 Route 46 West.

Mr. Russo stated Mr. Paparozzi, Mr. Easse and Mr. Russo have had during the past couple of days many discussions between them because of issues raised in Mr. Paparozzi's report. Mr. Russo stated the applicant is going to have to by way of testimony and documentation how the property was previously used, so that it will be a pre-existing use, and the two variances Mr. Paparozzi has listed will go away. That is the purpose of what we are doing, and if by chance the evidence does not support what the applicant believes is the facts then the variances will be required.

Mr. Russo stated we will mark the site plan A-1, prepared by Edward A. Easse dated 11/10/09 revised 1/13/10.

Mr. Daniel Marchelle gave a brief history of the property from when it was first purchased by his family in 1946. (the history is attached)

Mr. Russo questioned that Mr. Marchelle's family has owned the property since 1946.

Mr. Marchelle stated his parents, along with his aunt and uncle owned the property since 1946 and now through the years it belongs to him and his sister along with his two cousins.

Mr. Russo would like some history going back to Royals Cars (which leased the property from April 1980 to March 1991) and Roles Cars (which leased the property from April 1991 to January 2008).

Mr. Marchelle stated it was basically a hands off operation. The tenants have done what they wanted and in terms of placing cars, but he believes there were approximately 45 and 50 cars for each.

Mr. Easse stated he had had a meeting with Mr. Corso from the fire prevention department and Mr. Corso observed 54 cars on the site. Mr. Corso has given Mr. Easse a parking pattern. This pattern brought the parking down to 43 spaces, 7 designated as 1 employee and 6 customers, along with 36 vehicles that will be for sale.

Mr. Paporozzi stated the handicap space is not to code. The minimum spot should be 8 X 18 with and 8 foot aisle. This is 9 X 18 with a 3 foot aisle. It is not ADA approved.

Mr. Easse will switch space #4 with space #5 and this will be acceptable.

Mr. Paporozzi also stated the customer and employee parking spaces had cars that were for sale in these spots, as resent as Saturday.

Mr. Easse stated they will sign and stripe the designated spots. Mr. Easse stated they can clean up the lot, they can have a policing plan, and they will work with the fire prevention office. It is a good situation and a good plan. The applicant has painted the building, and done much work to make the building and property look so much better already.

Mr. Russo questioned if the striping will be done upon the approval, being part of the resolution.

Mr. Easse agreed.

Mr. Paporozzi stated the striping should have been done when it first became a used car lot back in 1980. He has a letter saying the lot should have been lined according to the plans submitted.

Mr. Russo stated well it will now be a condition upon approval to stripe.

Mr. Paporozzi stated the aisles and walkways are sufficient. The 43 proposed parking spaces should be adhered to. On Saturday there were 50. All the issues must be met and adhered to.

Mr. Norieka questioned who calls the shots with the parking – the fire prevention department, the planner, or the engineer.

Mr. Pappozzi at this time made the call and Mr. Solfaro will submit a report.

Mr. Solfaro stated all three will get together and come to a solution suitable for everyone.

Mr. Russo stated as of right now we are going to carry it right now with the following:

1. The plan has to be revised to make the handicap space ADA compliant
2. The resolution will be conditioned on signage and striping
3. The dumpster should be enclosed per ordinance
4. You stipulated 43 spaces – 7 customers and 36 for sale.
5. Verify the number of employees to determine the number of spaces required for the employees.

Mr. Palumbo questioned the entrance and exit is only on Route 46.

Mr. Easse stated the gate is a break away gate for fire trucks only.

Mr. Russo stated that will also be part of the resolution.

Mr. Palumbo questioned if the extra cars will be removed within the 24 hours.

Mr. Easse also agreed that that can be put in writing.

Mr. Palumbo questioned the dumpster location is not on the site plan.

Mr. Easse stated they will put it in the revised plan.

Mr. Norieka questioned if anyone from the audience wished to be heard.

Mary Christiano - 41 John Street – started to complain about the used car lot.

Mr. Norieka stated this is the other side of the highway to please wait for the next application.

There was no one from the audience wished to be heard for or against the application.

Mr. Russo advised the board to carry this application to the February 10, 2010 meeting to confirm the information and to have Mr. Melfi continue the temporary Certificate of Occupancy.

Mr. Carrasco questioned that there will absolutely be no repairs done to any of the cars on the lot.

Mr. Russo stated that will also be part of the resolution.

There was a motion by Mrs. Breitwieser, seconded by Mr. Ingenito to carry this application to the February 10, 2010 meeting. All members present voted in favor of the motion.

Application: 123109P
Salvatore Enea
70 Route 46

Mr. Toronto is the attorney for this application, also present Salvatore Enea the applicant. The applicant is here for a site plan approval. There were here a couple of months ago for a Certificate of Occupancy. There was a discussion at the Certificate of Occupancy meeting as to a trailer that was on the property. The board decided as part of the resolution to remove the trailer, he said he would like to replace it with a garage, and the board granted him a one year time frame in which to do that. Mr. Enea not having the knowledge of the Land Use, thought that he can remove the trailer and start building the garage. The work was stopped as there were no permits issued, however plans were submitted for the permit, but he did not receive the permit before construction was started. He was fined, since that time the corners were dug out and Mr. Lavin approved the footings. Mr. Toronto has a letter from the building department, which Mr. Russo put into evidence a letter dated 1/12/10, from the construction official this will be marked A-1. The inspection was done 12/23/09.

Mr. Toronto stated Mr. Enea has complied with all the permit requirements for the building of the structure. Drawings were submitted and it was to replace that what was there and make it more pleasing. The site plan, the property is undersized, and variances are required for lot area, side yard, rear yard, lot coverage and minimum lot area. All 5 variances are pre-existing variances.

Mr. Russo stated that it is not accurate with regard to the rear, because the building was not there. So the rear yard set-back of 625 is a new variance.

Mr. Paparozzi stated the side is also a new variance.

Mr. Toronto stated the addition is an attachment to the existing building. The existing building is in violation of the rear yard. So when I said even if we did not have the addition we would still have a rear yard deficiency. The side yard would probably be the same.

Mr. Paparozzi stated he disagrees; the construction is new and should conform. The pre-existing building has been there for years, the construction is so new just the footing is there. Which means, adding on to the existing building he is requiring a variance because he did not hit the 4000 square feet minimum requirement by adding on to the building. Which is a new variance. The side set back and the rear set back on the new portion not the pre-existing portion is a new variance. Then you also have, unless Mr. Toronto can prove, the amount of cars that were sold on there prior, because is more then 30% which is allowed, he is at about 95% which is a new variance, and parking within 10 feet of the right of way line or property line, which is also a variance which was created. I would also like to note there were 13 parking spaces on the site plan and on inspection on Saturday there were 47 cars parked on the lot, which did not provide

for access for pedestrian, did not provide access for customer parking. There are conditions because of the new construction that are creating new variances.

Mr. Russo stated they recognize there are variances that are requested and they are advertised for.

Mr. Toronto stated the building replaces the trailer, had it not come up at the C.O. Meeting, where all the things were met about parking, they were inspected by the fire department at that time. All those things were met. The only problem was the discussion of replacing the trailer that the board thought was unattractive, with something more pleasing. Had that not come up, we would not be here, we would have our C.O. and life would be going on. As a result of Mr. Enea's urgency to replace the trailer he started the construction. As of two months ago we were in compliance for the C.O. that was granted with the proviso that he had a year to replace the trailer, not remove the trailer without replacement, because he stated on record that he had to get the money to build the building. It was always in the boards mind and Mr. Enea's mind that he was going to replace what existed there for storage purposes with a new structure. I was not attempting to appease the board, but we will never meet the square footage, with or without the addition, the rear yard would be the same and the extension on to the building is conforming with what presently exists.

Mr. Russo stated whether or not the board agrees or disagrees with what Mr. Toronto is saying. This building is replacing the prior trailer.

Mr. Paporozzi stated if the trailer is not the exact size of the extension, it does not replace it.

Mr. Toronto stated he believes it is pretty much the exact size.

Mr. Palumbo stated he remembers talking to Mr. Enea and we gave him a year to get the trailer off the property because it was not a lovely looking site. A trailer is 18 X 10, which is 180 square feet. How big is the addition, Mr. Toronto? How big was the trailer? A trailer can not be any bigger then 12 feet wide it can not fit on the road. We just asked him to clean it up. I don't recall any discussion on building a future garage.

Mr. Solfaro stated the construction is 739 square feet.

Mr. Norieka questioned what trailer are we talking about. It was a truck body. In front of the original garage, there was a house trailer which was used as their office. Behind the garage was a truck body with junk that people complained about it was not a trailer. Let's get it straight for the record.

Mr. Toronto stated it was referred to as a trailer; it was some storage facility that is pretty close to what he is replacing.

Mr. Norieka stated it was a truck body. He did the right thing; the trailer he took away was his office, not the truck body behind the building. What he did was fine, we told him in the future get rid of the truck body with the tires, batteries, and chargers and building a garage. If that is

what you want to do, come back to the board get permits. But that wasn't a trailer it was a truck body back there.

Mr. Toronto year to year I don't recall. It was some storage facility

Mr. Palumbo stated there were tires, battery chargers, used batteries.

Mr. Toronto stated he needed it for storage, we had this discussion, and you said you would give him a year to get the money together and move the trailer and build something to replace it. Unfortunately he did not do it properly, he did it without permits and as I said earlier he paid his fines and we are now in conformance and we are here to approve the site plan so he can finish this.

Mr. Paparozzi has to comment on the site plan and the engineer just saw the plan this evening. There are 13 parking spaces, 8 of which are in variance conditions. The lot is not striped at all, there has to be painted spaces for customers, employees and cars. There were 47 cars on the lot and 43 cars were for sale. I don't know how Mr. Toronto feels this was addressed. Then this site plan is totally wrong, as it is now it is 60% wrong and if Mr. Toronto is correct then it is 90% wrong, because the parking has to be striped (it is a variance condition). You can only sell used cars on 30% of your lot. If you are only going to cover 13 spaces then the variance is much smaller, if you are going to cover the entire lot then the variance is going to be much bigger. On top of that the zoning department needs to have on file the number of cars that are going to be on the lot, whether they are customers, employees or cars for sale. There are suppose to be 13 not 48, so there is a condition here that has to be addressed. Then also, the other condition that has to be addressed is whether the cars were parked prior up to the property line and up to the right of way line on Money Street, because that is another variance condition that has not been met. I don't see anything that will let me tell the board members how to correctly vote.

Mr. Paparozzi also feels the site plan should be resubmitted because the entire zoning table is wrong. The zoning table is wrong – it says minimum lot area required is 10,000 square feet where 2 acres is required, it says minimum lot width required 75 feet, where 150 feet is required, it says minimum lot depth existing is 100 feet, where the existing is 94.16 feet. You have variances for minimum floor area because you have a proposed addition that does not come up to the 4000 square feet required. The minimum side yard on a new building is not a pre-existing condition. The notes that all construction be in accordance with borough standards and ordinances – that is wrong. The lot is going to be striped – that is wrong. This plan can not be reviewed by the planner and engineer, do you want us to fill in the blanks. There are variances that are requested and they are not taken care of, like Mr. Toronto said.

Mr. Toronto stated the site plan could have been critiqued by the engineer and supplied to the applicant prior to the hearing. As far as the paving is concerned, the entire lot will be paved by the State of New Jersey when completion of the work is done on Route 46. The striping and lining will go when the paving is complete. With regard to the number of cars, when we were here for the C.O. it was approved by the inspectors of the Borough of Lodi. Now I am hearing different numbers. If I was given the courtesy of a report on the site plan I would have had the engineer in here.

Mr. Paparozzi stated he received the report on the 5th of January giving him 4 working days to do a site inspection, check the files and do a report. The borough had it on Monday. I did the review in 3 days. Mr. Toronto's remarks for the record are incorrect. If the board approved parking on the site plan, well then he should only have 13 cars on the lot. I did not tell Mr. Toronto how many cars to put on the site plan, but if that is what was submitted and if that is what the board approved, he is in violation of the old parking plan by 4 times the amount.

Mr. Toronto stated that is not the case. The site plan was submitted 3 weeks ago.

There was a discussion between Mr. Paparozzi and Mr. Toronto about when things are given to the building department and when they are distributed to the planner, the engineer and the board members.

Mr. Toronto stated it looks like the application must be carried to next month, and he needs to receive a copy of the planners report to see what is wrong with the application.

Mr. Paparozzi gave Mr. Toronto another copy of his report, which the original was faxed by Sharon.

Mr. Russo stated we need to agree on what the variances are that are going to be required. The bigger problem is the number of cars on the lot. Will there be testimony has to how many cars where on the lot and was it every striped and things of that nature?

Mr. Toronto stated they will provide that. The parking lot was striped at one time, we are not striping now because of the DOT. As I said before, we passed all the requirements by the borough.

Mr. Palumbo stated you were here during the summer. That was the last inspection. If Mr. Corso walked on to the property within two months after he purchased the building prior to the removal of the trailer, yes the cars were parked this way. You can not walk to his office today. I would like to ask Mr. Enea if he would have a hard time getting a fire truck to your office with the amount of cars that are in your lot today. Not yesterday, or when you had the fire inspection.

Mr. Enea stated there are 42 cars on the lot, and there were 40 cars on the lot then.

Mr. Palumbo questioned that there were 40 cars on the lot 3 weeks after you were here.

Mr. Enea stated the lot was full.

Mr. Palumbo questioned again, when was the fire inspection?

Mr. Toronto stated it was inspected; they could not have gotten the C.O. without the fire inspection

Mr. Borelli stated we should get the inspection report from the fire department, to find out how many cars were on the lot.

Mr. Solfaro stated whatever the number of cars were 30 or 40, the new plan shows 13 parking stalls, so your intent is not to have 13 cars, but to carry the 30 or 40 that had the prior inspection from the fire official.

Mr. Toronto stated whatever the fire official conforms, that is what he is going to have to do.

Mr. Solfaro questioned will the lot be striped for 30 or 40 cars?

Mr. Paparozzi stated the site plan has to show how many cars will be maintained on the property.

Mr. Carrasco questioned there is no dumpster on the property; there are tires and trash all over the property.

Mr. Palumbo stated there is no location on the site plan for the dumpster.

Mr. Toronto stated there was never a dumpster on the location, and as far as the tires, if there was a garage the tires would be in the garage. There is no trash. The tires outside is temporary.

Mr. Palumbo questioned detailing supplies. You were not detailing cars, you were only selling cars.

Mr. Toronto stated he is not detailing cars for the public; he has to clean the cars that are on the lot.

Mr. Palumbo stated you have a letter dated January 12, 2010 that on December 23rd Mr. Lavin was there and inspected footings. Mr. Enea where you there when Mr. Lavin did the inspection?

Mr. Enea was there.

Mr. Palumbo questioned if holes were dug for him.

Mr. Enea said yes.

Mr. Palumbo questioned the piece of property between the two buildings that when you first put the garage up it was not adjoined, and then all of a sudden a wall was put in. There is a 3 foot wall between the existing building and the new building. Was there a footing hole dug there too. It doesn't interlock.

Mr. Enea stated yes.

Mr. Palumbo questioned how Mr. Lavin got a footing inspection done between the fence and the exterior part of the building. I will talk to Mr. Lavin.

Mr. Russo suggested we carry this matter for next month. Mr. Russo advised Mr. Toronto to revise the plans to show how many cars your client wishes to carry. You need to show customer, employee and cars for sale. You need to show a dumpster location. You need to check Mr. Pappozzi's report. That would be my suggestion to you. We also need to verify the amount of cars there when the fire inspection occurred.

Mr. Toronto requested he not have to re-advertise.

Mr. Norieka questioned if anyone from the audience was here for the application.

Mr. Russo advised the audience that this application is being carried to the February 10, 2010 meeting. There will not be any further notice.

Mr. Borelli questioned if permits were issued?

Mr. Russo stated there was a stop work order and fines were issued.

Mr. Borelli asked why there was a footing inspection.

This application will be carried to February 10, 2010.

Mr. Russo stated the Marcus litigation is carried to the end of March.

Resolution: 110209P
Scheral - Shang Café
220 Garibaldi Avenue

Everyone received a copy of the resolution, there were no changes. There were several conditions to the resolution. The revised plans were submitted. There will be no outdoor dining, there will be no liquor license, there will be seating for 30, there will be 12 parking spaces and 1 handicap space, the location of the loading area, the location of the dumpster. There will be some greenery placed. Weather permitting, but no later than May 1 the 13 parking spaces will be striped. The letter was received from the landlord giving permission to use the spaces. Between the last meeting and this meeting the applicant has complied with the conditions from this board. The vote tonight will be for a site plan waiver and certificate of occupancy.

Mr. Pappozzi stated the dumpster was not enclosed, but it will be now. You will be going down to 12 spaces, because parking space number 7 was designated as the loading area. The applicant provided a letter from the owner granting permission to use the additional parking behind one of the buildings. The letter was notarized and in the file upstairs in the building department.

There was a motion by Mr. Ingenito, seconded by Mrs. Fiduccia. All members present voted in favor of the motion, with the exception of Mr. Palumbo who abstained.

Resolution: 112409P
Glamorous Cuts
114 Kimmig Avenue

Everyone received a copy of the resolution. Just a change in tenant.

There was a motion by Mr. Borelli, seconded by Mr. Carrasco. All members present voted in favor of the resolution.

Resolution: 101909P
Pan Graphics
339 Main Street

There were three primary conditions all of which were revised. The plans needed to be revised to reflect no remarks or notations regarding renovations or removal to the building, they showed a location of the dumpster and they did show the five parking spaces.

Mr. Paparozzi stated the plans showed enclosed dumpster if required. I put in my report and it was sent to the applicant the dumpster should be there and enclosed per borough ordinance. The applicant had his engineer put a bumper stop on parking space number 4; it would create too many problems. I asked that parking space number 4 be removed. Because of the limited parking the property is what is it.

Mr. Russo stated the resolution shows 5 parking spaces, and space number 4 be removed, and the location of the dumpster be enclosed as per the ordinance.

There was a motion by Mr. Borelli, seconded by Mr. Carrasco. All members voted in favor of the resolution, with the exception of Mr. Palumbo who abstained.

There was a motion by Mr. Borelli, seconded by Mrs. Breitwieser to adjourn.

Respectfully submitted,

Marlene Muska

