

Meeting was opened by **Jim LaValle**, Acting Chairman.

Mr. LaValle read a statement of compliance with the New Jersey Open Public Meetings Law as follows:

This is a regular meeting of the Zoning Board of Adjustment of the Borough of Tinton Falls and is being held in compliance with the New Jersey Open Public Meetings Law. Adequate notice of this meeting has been given by posting on the bulletin board of the Municipal Building and by publishing in the Asbury Park Press and The Coaster.

Mr. LaValle then led the meeting in a salute to the flag.

ROLL CALL

Present: Messrs. LaValle, Diamond, Lomangino, Moafi & Battista

Absent: Messrs. Palmieri & Slayzk

Also present: Mr. Hirsch, Board Attorney
Mr. Rauch, Acting Board Engineer
Mr. Gleitz, Board Planner
Mr. Gotfredsen, Board Secretary

Mr. LaValle then read a statement of procedural guidelines.

3230 SHAFTO ROAD ASSOCIATES	BA 2007 – 07
3230 SHAFTO ROAD	BLOCK 145 LOT 26.01
APPEAL OF ZONING OFFICER'S DECISION/USE VARIANCE & SITE PLAN	
CARRIED FROM AUGUST 16, 2007	
CARRIED TO OCTOBER 18, 2007	

BOROUGH PROPERTY, LLC	BA 2007 – 13
SHAFTO ROAD	BLOCK 138 LOT 2, BLOCKS 139.01-139.10, BLOCK 144 LOT 4.02 & BLOCK 145 LOT 26.01
MAJOR SUBDIVISION, USE VARIANCE & SITE PLAN APPROVAL	
CARRIED FROM AUGUST 16, 2007	
CARRIED TO OCTOBER 18, 2007	

4075 HIGHWAY 33 ASSOCIATES, LLC	BA 2007 – 18
4075 HIGHWAY 33	BLOCK 147 LOTS 2, 3.02 & 13
SIGN VARIANCE	
CARRIED FROM SEPTMBER 6, 2007	

Peter Falvo, attorney for the applicant, came forward on behalf of his client.

The Board had previously accepted service at the September 6th meeting.

Mr. Falvo said in order to expedite matters I want to mark into evidence some exhibits.

A-1 Mounted version of Sheet 2 of Jim Kennedy's sign variance plan

A-2 Sign variance plans prepared by Jim Kennedy dated 8/27/07 (2 sheets)

A-3 Before & after pylon elevation concept-only plan by Pattison Sign Group dated April 19, 2007

A-4 VW pylon twin pole 20 ft type B specification sheet by Pattison Sign Group also dated April 19, 2007

A-5 Graphic elevation and the structural elevation by Pattison Sign Group

Mr. Falvo stated I'd like to call Mr. Kennedy.

James Kennedy, Red Bank, the applicant's engineer, came forward and was sworn in by Mr. Hirsch. His credentials were accepted by the Board as he has testified numerous time before.

Mr. Falvo asked with regard to this sign application, you took the site plan and located thereon the proposed sign. Is that correct.

Mr. Kennedy stated well, we actually re-surveyed the entire site to update it for the asbuilt conditions of Phase I and then we super-imposed the new site on the asbuilt survey. The asbuilt survey is required by the checklist so that's why it was done.

Mr. Falvo asked and with regard to the asbuilt survey, you have located the proposed sign on the same.

Mr. Kennedy answered that's correct so A-1 indicates the area of the proposed freestanding sign. The freestanding sign is not only depicted in the exhibit Mr. Falvo entered but also not only on our plan set but on A-1 as well. It's a standard VW sign. What's out there now is really a refaced sign of some age and it's getting to the point where it negatively impacts the image of the car. So what we want to do is bring it up to date. Do a standard Volkswagen sign. It's going to be smaller, lower, and in a more conforming location than the existing sign. So, we can't completely conform with the setback because of where the parking is, where the pavement edge is but we can make it more conforming by moving it slightly in from the site. We can also make it smaller because it's a more efficient use of the signage and it's also lower than what exists. So we are seeking variances but we're moving to greater conformity.

Mr. Falvo asked alright, now with regard to the proposed new sign, we're asking for a variance for it to be at 20 feet whereas 15 feet is permitted. Is that correct.

Mr. Kennedy replied that's correct.

Mr. Falvo asked and the setback of the sign is proposed at 12 feet. The existing sign is 11.7 and the Ordinance requires 40 feet.

Mr. Kennedy said correct.

Mr. Falvo said now, with regard to the sign area, we're proposing 45.5 square feet and 40 square feet is permitted...but the existing sign is larger than 45.5 square feet. Is that correct.

Mr. Kennedy replied much larger, yes.

Mr. Falvo stated I believe it's somewhere in the area of 82 square feet.

Mr. Kennedy answered correct.

Mr. Falvo said this sign that is proposed, is this the sign that was supplied by Volkswagen as part of their new national marketing image.

Mr. Kennedy replied that's correct.

Mr. Falvo stated and in this situation the reason that World Volkswagen went to all of this trouble with the plans and the re-submission is that Volkswagen is requiring them to put up these Volkswagen signs as part of their franchise relationship.

Mr. Kennedy answered yes. That's what I understand from our client.

Mr. Falvo said with regard to the sign itself, this will be internally illuminated.

Mr. Kennedy replied correct.

Mr. Falvo stated we had a technical review committee meeting with the Planner and the Engineer and one of the requirements is that the freestanding signs have landscaping around the base. And you've been directed by the applicant to modify the plan to show a landscaping plan around the base.

Mr. Kennedy answered that's correct. Similarly there was an issue with display cars parking within the sight triangle.

Mr. Falvo said and those will be removed.

Mr. Kennedy replied yes. It was requested that the cars be removed from the sight triangle. I spoke to Mr. Lawson about that and he doesn't have an issue with relocating those cars further back to allow for safe access and egress.

Mr. Falvo stated there was also an issue raised in the fact that Phase I of the site plan which was developed to put an addition onto the existing building in the rear and also to create an area to the northeast on the site. There was also a requirement for some landscaping to be placed along the north-south edge of the existing paved area of the main showroom...and that hasn't been done.

Mr. Kennedy replied no. It is bonded. There's a bond in place but Mr. Lawson is, perhaps, going in for a revised plan. He's making that decision very shortly and will either have to install the landscaping per Phase I or come in for Phase II which would really pull out all that landscaping because it's a big change. So, it is bonded for the protection of the Borough's sake. It's a bond improvement so we'll either be compelled to place that landscaping...and that's the Planning Board application...but we'll either place that or come in with revised site plans.

Mr. Falvo said and that also is the situation with regards to the landscaping that runs in a generally east-west direction along the frontage...not of the site...but going back to where the sign is to the first parking area there.

Mr. Kennedy replied yes and some shade trees. But for the Board's comfort level, we did establish an evergreen buffer between us and the residential homes. We did establish non-glare shielded lighting. The improvements that impact our neighbors were placed, were inspected, and were installed. Because of this being kind of up in the air with Phase I vs Phase II, some of the improvements have not yet been installed, although they are bonded and we do anticipate either installing the improvements or coming back in for a revised plan.

Mr. Falvo stated and some of the delay in deciding whether the Phase II would be processed was due to the fact that the DEP permit was required from the State Department of Environmental Protection regarding the filling of isolated wetlands. Is that correct.

Mr. Kennedy replied and the DOT permit which actually, amazingly, took longer than the DEP permit.

Mr. Falvo said and that was regarding the drainage into the state highway storm system.

Mr. Kennedy answered that's correct. We had to show all sorts of things.

Mr. Falvo stated and both of those permits have now been received.

Mr. Kennedy replied yes.

Mr. Falvo said okay. I have no further questions of this witness.

Mr. Lomangino asked along Wardell Road where they're putting in the sewers and tearing that up right now, isn't that also where you're talking about for the shrubs and stuff.

Mr. Kennedy replied that's true. Some of our shade trees would actually have been taken out by the sewer construction.

Mr. Lomangino said they have that all dug up over there now.

Mr. Falvo said where we park the cars, just so you know, in order to satisfy the individuals north of it, there was a board-on-board fence put up and there was landscaping, evergreens put up in front of the board-on-board. That remains even despite what the Sewerage Authority did.

Mr. Lomangino stated right, right. I know they're tearing that all up now...that whole street on his side of the street. They got that all ripped up now...or did the other day. I don't know if they still do.

Mr. Falvo said I don't know what the plans are of the Sewerage Authority. I don't think they're going to plant trees over the sewer line...but those existing evergreens, fencing, and all that other stuff has been maintained.

Mr. Lomangino stated that's why I'm bringing it up because...

Mr. LaValle interrupted saying I have a question or two...you're permitted 15 foot high...you're going 20. How long is the light going to stay on. Is there timing on the light.

Mr. Falvo replied the timing on the other lights that you gave us was midnight and we'll coordinate with that.

Mr. Gleitz said in terms of the shade trees, I'm a little confused because we went back and went over prior site plans with Phase I, withdrawn Phase II, and I understand that the water lines and fire plugs and all that going in are in the right-of-way but the shade trees were on your property. So I don't know that they necessarily would have been torn up because I thought the shade trees were on the property owner's side of the property line.

Mr. Kennedy stated it's right on the right-of-way.

Mr. Falvo said the sewer line is only on the north side of the property though.

Mr. Lomangino stated they tore that whole thing up, Paul.

Mr. Gleitz said yes, I know. I was out there. I saw them putting the big pipes in and everything else. I had just thought that all that work was being done within the right-of-

way and that the proposed landscaping and the shade trees were on your side of the property.

Mr. Kennedy stated they are. And they are bonded. It's just one more thing that, without getting tangled into the Planning Board application, it's one more thing that is delayed for a variety of reasons. The main reason being that we might come in with a revised application for Phase II that changes that whole frontage area.

Mr. Gleitz said okay, I can understand that. I understand the interior landscaping and that will be a Planning Board type of issue when you either come in or you don't. I had just thought that perhaps the shade tree part, that furthest exterior of your property line, might be something we could move forward with sooner than not because that's more of a public benefit than your interior and everything else. It helps really add more shade trees on that corner. So I don't know if it's possible or not but I just thought the Board might want to ask for that.

Mr. Kennedy replied well, the only thing I hesitate in saying is that we might have to pull them up, because of the driveway location, because of the Phase II improvements in that area.

Mr. Gleitz said okay.

Mr. Kennedy went on to say it's a good idea. It's already bonded so they're either going to get done or we're going to have to come back with a suitable revised plan. And I think we have to look at this in a big picture, from the Phase II standpoint. While I have no problems installing the shade tree, I just won't want to get something established for a couple years and then have to go in there and pull...and it might just be two of them...but I couldn't tell you which two it would be.

Mr. LaValle asked can we move them in closer towards the property.

Mr. Gleitz replied well, no because...

Mr. Kennedy interrupted stating we might have to have an alternate access for DOT.

Mr. Gleitz said one of their concepts is for an expanded parking area. So that if you pulled them in, you might be getting into where their parking area would be.

Mr. Lomangino asked are you talking about along Wardell Road.

Mr. Gleitz replied Wardell and there's a small section of #33 and then up along Wardell. There was indicated on the Phase I plan, the approved plan, to put in a number of shade trees in compliance with the standard shade tree ordinance, you know, the 40 foot on center...that kind of a thing.

Mr. Kennedy stated it is wooded. There are woods so when we we remove those woods, obviously the shade trees would probably be a more...it would look...if we just do that now and put in the shade trees, we're actually planting in front of the wooded area...

Mr. Lomangino said I got it.

Mr. Gleitz stated in terms of...you will comply with the planting area on the base of the sign. That's something you can submit to our office for a quick review.

Mr. Kennedy said if you want. Sure. Otherwise, I'll tell you. It's going to be a mix of perennials and annuals. Something that will look nice.

Mr. Gleitz stated yeah. Just so we can take a quick look at it. We did it for the last two. We did a quick checkoff and they sent it in. Subsequent I sent a letter back to Doug for the file and that was the end of it.

Mr. Rauch said I have a question. With regards to the sight triangle, you had given testimony that you were going to remove the display cars out of the sight triangle. Is there anything that you can do...like maybe on the inside edge of the sight triangle...maybe a low evergreen shrub or something to mark that line so that in the future the cars won't encroach back into that sightline. It would also allow the Borough, if it does encroach, it lets them show where that actual easement is, especially on Route 33, at that location there with the bend. It's very difficult for a car leaving that site to look down that road.

Mr. Kennedy replied that's a good idea. I think we talked about curb stops at the TRC meeting but I think even something soft. I know that when this is done, we'll actually have curbing and that won't be a factor anymore...but temporarily we could do something there, whether it be shrubs as kind of a landscape bed or...

Mr. Gleitz said planters.

Mr. Kennedy stated planters. That's a good idea too.

Mr. Gleitz said maybe a couple barrel planters. (Inaudible)

Mr. Hirsch stated guys, let's not have a conversation outside the record.

Mr. Kennedy said so what we'll do is...considering the discussions from the Planner and Engineer...that makes sense to provide some sort of temporary planters on the inside edge of that sight triangle so that cars will have a physical barrier from parking within the sight triangle.

Mr. Hirsch stated alright, so instead of hedges, some kind of planters, we're talking about.

Mr. Falvo said yes.

Mr. Kennedy stated we'll submit a shop cut to your Planner and Engineer, if that's acceptable to the Board.

Mr. Gleitz said in light of the fact that the applicant may be moving forward with Phase II at some point, it doesn't make sense to tear up and put in landscaping if it's not going to be the final...whereas a landscape planter has the same effect.

Mr. Hirsch asked so what do we want to say "temporarily there'll be planters to be a demarcation from the right-of-way area..."

Mr. Kennedy said sight triangle.

Mr. Hirsch continued saying with permanent landscaping depending on...sorry, I can't hear.

Mr. Rauch stated it will be the demarcation of the sight triangle easement.

Mr. Kennedy said it's not the right-of-way. It's the actual Borough sight triangle.

Mr. Gleitz stated it shall remain until the applicant comes before the Planning Board with revised site plans under Phase II. Would remain in place...

Mr. Kennedy added unless modified by subsequent approvals.

Mr. Gleitz said yes.

Mr. Hirsch asked does anybody have any idea when you're going to make a decision here and get this over with. I mean, are you going back to the Planning Board. Are you not. Is there going to be two years we're still going to be wondering what's going on.

Mr. Falvo stated I think that decision is going to be made within the next 6 to 8 weeks. Part of it's being driven by Volkswagen.

Mr. Hirsch said I know it's bonded but the idea of just to have a bond there forever...the idea is to get it done or get it changed.

Mr. Kennedy stated well, there's also a condition, as you'll recall in the resolution, that puts certain time limits on the applicant to either do or not. So, I have a feeling that the applicant will be getting a letter from Lori anytime now with regard to that. So, I think there'll be some Borough pressure as well from the Planning Board.

Mr. LaValle asked if there were any more questions.

Mr. Battista said I just had a question and this comes from the Engineer's report about "It appears that the applicant has not complied with all the conditions of past approvals. The applicant should provide testimony regarding completion of all the conditions associates with the previous approval for the site."

Mr. Kennedy replied that's for this Phase II discussion.

Mr. Battista said oh, it was. Sorry. Just connecting the dots.

Mr. Falvo stated just one quick witness, from the applicant.

Keith Lawson, Wayside, was sworn in by Mr. Hirsch. Mr. Lawson's position is he is the owner of World Volkswagen.

Mr. Falvo asked with regard to the proposed sign, is this something that Volkswagen, as your franchisor, is requiring all of its dealers to do and you as well.

Mr. Lawson replied yes, it is.

Mr. Falvo said not to compare competitors but is the requirement that was imposed upon Shrewsbury Motors with regard to their sign package.

Mr. Lawson answered as far as I know, yes it is.

Mr. Falvo stated alright and with regard to this freestanding sign, was it your intention to ultimately not put this up until the remainder of the site was developed.

Mr. Lawson replied yes.

Mr. Falvo asked but Volkswagen wants it up now.

Mr. Lawson said Volkswagen is insisting on it.

Mr. Falvo asked is it my understanding from our conversations that if you don't put it up, that Volkswagen can impose financial penalties upon you for not it up for your operation.

Mr. Lawson replied correct.

Mr. Falvo said and you heard all the stipulations by Mr. Kennedy regarding putting the planters in the sight triangles so the cars can't go in there...and about designing a landscaping area for around the base of the sign...and also that the sign will go off at the same time as your other signs...that's agreeable to you.

Mr. Lawson replied yes, it is.

Mr. Falvo said okay. I have no further questions of Mr. Lawson.

Mr. LaValle asked the Board members if they had any questions. There were none.

Mr. LaValle stated that, for the record, there is no public.

Mr. Hirsch stated this would be the time if the Board needs any information. If not, Mr. Falvo, do you have anything else.

Mr. Falvo replied I have nothing more. I believe that we've established by the preponderance of the credible evidence the need for the sign and the fact that it will be better than what is there.

Mr. Hirsch stated so if there's no other information being sought, there will be a motion to close the public portion.

A motion to close the public portion of the 4075 Highway 33 Associates hearing was offered by Mr. Battista and seconded by Mr. Lomangino.

ROLL CALL

Yes: Messrs. Battista, Lomangino, LaValle, Diamond, and Moafi

No: None

Abstain: None

A motion to approve the sign variances as proposed in the 4075 Highway 33 Associates application was offered by Mr. Lomangino and seconded by Mr. Diamond.

ROLL CALL

Yes: Messrs. Lomangino, Diamond, LaValle, Moafi, and Battista

No: None

Abstain: None

A motion to accept the August 2, 2007 meeting minutes was offered by Mr. Diamond and seconded by Mr. Lomangino. A voice vote in favor was unanimous.

A motion to accept the August 16, 2007 meeting minutes was offered by Mr. Diamond and seconded by Mr. Lomangino. A voice vote in favor was unanimous.

A motion to accept the September 6, 2007 meeting minutes was offered by Mr. Diamond and seconded by Mr. Battista. Mr. Lomangino was ineligible to vote. A voice vote in favor by the remaining members was unanimous.

A motion to adjourn was offered by Mr. Lomangino and seconded unanimously.

Respectfully submitted,

Doug Gotfredsen
Board Secretary