

**TOWNSHIP OF WALL
ZONING BOARD OF ADJUSTMENT
MINUTES OF THE REGULAR MEETING
HELD IN THE MUNICIPAL MEETING ROOM
MARCH 17, 2004**

The Regular Meeting of the Wall Township Board of Adjustment was called to order by Chairman Clayton at 7:45 P.M. Members present were Chairman Clayton, Wilma Morrissey, Dominick Cinelli, Anthony Rembiszewski, Wayne Palmer, first alternate Bob Kerr, second alternate Ray Slocum, Attorney Hirsch, Planning Coordinator Roberta Lang, Recording Secretary Betty Schinestuhl, Engineer Gerken, Planner Bergailo, Planner Bernard, Engineer Swayze and Reporter Arnone.

SALUTE TO THE FLAG

Attorney Hirsch announced that all requirements under the Open Public Meetings Act had been complied with for this meeting and read the purposes of the Board of Adjustment.

Chairman Clayton announced there are three applications on for this evening. They will have about 50 minutes each. We will conclude by 10:30 P.M.

Mr. Cinelli and Mr. Palmer recused themselves on the DeFeo application.

CARRIED APPLICATIONS

CASE #BA36-2003 – Date application complete: October 1, 2004. Carried from December 3, 2003 and January 21, 2004

APPLICANT: SAM & CHRIS DEFEO

PROPERTY: 1726 Highway 35, Block 78, Lots 2 & 3, HB-40 zone

RELIEF REQUESTED: Use/Bulk/Site

Timothy B. Middleton, Esq. appeared for the applicant.

Attorney Middleton gave a brief overview. This application has been carried from December 3, 2003 and January 21, 2004. Testimony was presented regarding the history and prior use of the site. Tonight Joseph DeFeo will testify regarding operations. Tom Thomas will testify as a planner.

Sworn by Reporter Arnone:

Joseph DeFeo

Mr. DeFeo said he lives in Jersey City. He said he is a shareholder.

Attorney Middleton asked if he was involved as an owner and operator. Mr. DeFeo said he has been involved as an owner for 30 years. He also operates the business.

Attorney Middleton asked if he has a dealership in downtown Belmar. Mr. DeFeo said yes.

Attorney Middleton said you intend to relocate. Mr. DeFeo said yes.

Attorney Middleton asked how many years have you been in Belmar. Mr. DeFeo said 20 years. The dealership is Sea Coast. It is located on Main Street.

Attorney Middleton asked if they sell new cars. Mr. DeFeo said new and used. We also service cars on site.

Attorney Middleton asked if sales will include both new and used cars. Mr. DeFeo said yes. 60% new cars and 40% used cars.

Attorney Middleton asked when the dealership will be open and the hours. Mr. DeFeo said Monday thru Friday 9:00 A.M. – 9:00 P.M., Saturday 9:00 A.M. – 6:00 P.M.

Attorney Middleton asked how many employees. Mr. DeFeo said there will be four sales people, two managers and one finance expert.

Attorney Middleton asked how many cars will be on site. Mr. DeFeo said there is outside storage for 74 vehicles, both new and used.

Attorney Middleton asked how many customers you will expect per day. Mr. DeFeo said approximately 10 – 15. Attorney Middleton asked how Mr. DeFeo got that answer. Mr. DeFeo said over the years that is the approximate number of people that would visit the site.

Attorney Middleton asked about the delivery of cars. Will they be delivered by tractor trailer? Mr. DeFeo said yes. They will be delivered by car carrier three times a week. They will be delivered during working hours, 8:00 A.M. – 6:00 P.M. Delivery trucks will come in by the south driveway and drive around the building to the back. It takes about 20 – 30 minutes to unload.

Attorney Middleton asked if there will be deliveries during early morning hours. Mr. DeFeo said we will not receive deliveries in the early morning hours. We instruct the drivers to make deliveries only during working hours. Only when personnel are there. They check for damage.

Attorney Middleton asked if there will be any loudspeakers. Mr. DeFeo said no.

Attorney Middleton asked Mr. DeFeo to describe the service operation. Mr. DeFeo said they are mostly our sales customers. Occasionally we may have one that did not buy a car from us.

Attorney Middleton asked for hours of operation for the service department. Mr. DeFeo said 7:30 A.M. – 6:00 P.M. Mechanics start at 8:00 A.M., Monday thru Saturday. We do not do any body work or painting. Attorney Middleton asked if any of the work will be done outside. Mr. DeFeo said no. Attorney Middleton asked if there will be an air compressor. Mr. DeFeo said yes, inside. Attorney Middleton asked if the service department makes appointments. Mr. DeFeo said most do.

Attorney Middleton asked how will the service customers get to the service department. Mr. DeFeo said they would drive into the southerly driveway and go to the service entrance. The cars will be parked outside until they are ready to be worked on. Mr. DeFeo said there is a waiting area. About 20% of the customers wait. Attorney Middleton asked what is the approximate time to repair a car. Mr. DeFeo said about two hours, sometimes less sometimes more.

Attorney Middleton asked about employees in the service department. Mr. DeFeo said there will be about 14.

Attorney Middleton asked about parts. Mr. DeFeo said sometimes we have the parts and sometimes we have to order them. Attorney Middleton asked how parts are delivered. Mr. DeFeo said everyday, Monday thru Friday between 7:30 & 10:00 A.M. A truck delivers the parts to the side of the building.

Attorney Middleton asked if there was a procedure to dispose of coolant, oil, etc. Mr. DeFeo said we have a contractor and he takes it periodically and gives us proof that it was disposed of properly.

Attorney Middleton asked what the hours will be for dumpster pick-up. Mr. DeFeo said they will pick trash up any day we tell them to. It will be during working hours. Attorney Middleton said the trash should be picked up be after 8:00 A.M. Mr. DeFeo agreed.

Attorney Middleton said you are proposing a car wash inside. Mr. DeFeo said yes. There will be a stall that is designated as a car wash. The water will be recycled.

Attorney Middleton asked if some lights will be turned off when business is closed. Mr. DeFeo said yes.

Mr. Rembiszewski said your business has been in Belmar for 20 years. Mr. DeFeo said yes. Mr. Rembiszewski asked why move to Wall Township. Mr. DeFeo said he had been looking to move for a number of years. The trend is to move out of urban locations and onto the highway. You can service customers better.

Mr. Kerr said certain car dealers have car rental services. Mr. DeFeo said we have an agreement with a rental company which services our customers.

Mrs. Morrissey asked Mr. DeFeo to describe the visual impact of 74 cars outside and to describe the landscaping. Mr. DeFeo said the 74 spaces are for storage and display of vehicles. It is located on the north side of the property. There is a buffer to the east of those cars. Attorney Middleton said at the last hearing the applicant agreed to increase the width of the stalls from 7½' to 8'. Mr. DeFeo said the spaces went from 90 to 74.

Mr. Slocum said deliveries that come from up north will be coming south on Route 35. They will be going from the south to the north. Is that correct? Mr. DeFeo said yes. Attorney Middleton said the deliverers will be instructed to come from the south.

Mrs. Morrissey asked about signs. Mr. DeFeo said they are just the way the plans were submitted. Attorney Middleton said there will be a sign on Route 35 and on the building. There will be a sign for the service department over the doors.

Mr. Rembiszewski said you will have competition across the street. Mr. DeFeo said yes.

Chairman Clayton said there will be car carrier deliveries two to three times a week. Mr. DeFeo said yes. Chairman Clayton said deliveries will be during business hours. Mr. DeFeo said we can instruct the manufacturers to delivery during working hours. Employees have to check the cars for damage.

Chairman Clayton said other than the delivery of cars, will parts be delivered by tractor trailer. Mr. DeFeo said parts will be delivered by tractor trailer once a day between 7:30 – 10:30 A.M. We order on Tuesday for delivery on Wednesday. Chairman Clayton asked if there will be any other deliveries. Mr. DeFeo said no.

Chairman Clayton said it was stated the lights will stay on all night. Attorney Middleton said just security lighting. Chairman Clayton said the lights in the rear would go off at midnight. Attorney Middleton said they will go off when operation closes. Mr. DeFeo said the only lights on will be security lights after we close.

Chairman Clayton asked for the height of the poles. Attorney Middleton said 20'. Chairman Clayton asked for the height of the building. Attorney Middleton said 30'. The lights will be shielded.

Mr. Kerr said because of the frequency of parts being delivered can they come from the south. Mr. DeFeo said yes.

Mrs. Morrissey asked if there was an ordinance limiting signage to 150 s.f. Attorney Middleton said yes. There is a 20 s.f. service sign above the service door which would not be considered a sign but Mr. Gerken's office did consider it a sign so that would make our signage package over 150 s.f.

There were no questions from the public for Mr. DeFeo

Sworn by Reporter Arnone: Tom Thomas, Planner

Mr. Thomas gave his credentials which were accepted by the Board.

Attorney Middleton said Mr. Thomas was retained to give testimony regarding non-conforming use. Mr. Thomas said yes.

Mr. Thomas said there is a repair shop, rental and sale of cars on site now. There are approximately 40 vehicles on site now.

Mr. Thomas said the site is located in the HB-40 zone. It is 2.5 acres. Frontage is 200'. It is consistent with the Master Plan. He said he is familiar with the neighborhood. It is located on

the east side of Highway 35 south of 17th Avenue. To the rear of the site is a residential neighborhood. Along 18th Avenue there are single family homes. They stop at the point where the Food Town begins. At the corner is an Exxon station. There is a Dunkin Donuts to the south of the property. North of the site is a swimming pool store. Going from the south to the north there is a Burger King/KFC across the street. There is also Sea Breeze Ford.

Mr. Thomas said the subject property is a pre-existing non-conforming use. This site is 2.5 acres. It is very close to what is required. It will be consistent.

Mr. Thomas said improvements are being proposed to the site. This use is a pre-existing use. This application will have major improvements. It will provide a berm and buffering. The rear portion of the shopping center is in very bad condition. There is nothing esthetically pleasing about it. There is no landscaping. The fence is falling down. There is a dumpster in the rear which is not screened in. Carts are stored there. One of the improvements is that it will be screened. Water quality will be improved. There will be better traffic flow. The improvement to the building is going to have a major impact on the Wall Township Gateway. This will help improve the street scape.

Mr. Thomas explained once a use is there it can stay there. The esthetics proposed will be a major benefit. This will improve the neighborhood.

Mr. Thomas said this project is not going to have a negative impact to the zone scheme. This is an unusual site. This project meets almost all the requirements. The delivery of cars will not adversely impact Route 35. It will have a positive impact to the neighbors to the east. There will be a berm and fence. It will be a major asset to the neighbors.

Attorney Middleton said this application has given the Board the opportunity to clean up this site.

Chairman Clayton announced this application will be carried to May 5th and May 19th.

Attorney Middleton waived the time limits. Attorney Middleton said he may have one more witness.

Mr. Cinelli and Mr. Palmer returned to the meeting.

CASE #BA31-2003 – Date application complete: September 6, 2003. Carried from September 17, 2003, October 15, 2003, December 3, 2003, January 14, 2004 and January 21, 2004

APPLICANT: SPEEDWAY PROPERTIES, LLC

PROPERTY: 1803 Route 34, Block 922, Lot 3, OR-10 zone

RELIEF REQUESTED: Use/Site

Mark Aikins, Esq. appeared for the applicant.

Attorney Aikins stated we left off with Mr. Seymour. The engineer has agreed to submit revised plans showing drainage as the Board engineer requested.

Entered into evidence:

A-14 Amended Site Plan dated March 17, 2004

Mr. Seymour said he met with Mr. Gerken and discussed the drainage revisions. They came up with a smaller detention basin which goes to the man hole and then into the pipes on Route 34. We have also added two handicap stalls for a total of 12.

Attorney Aikins asked if any work will be done on Route 34. Mr. Seymour said no.

Attorney Aikins asked if there were any other engineering issues. Mr. Seymour said no. Mr. Gerken said he met with Mr. Seymour and at that point there were some swales. It needs to be much more than that. We discussed locations. I received the revised plans tonight. It looks like all the things have been done. The handicap parking has been addressed. They are all in one area.

There were no questions for Mr. Seymour.

Sworn by Reporter Arnone: Tom Thomas, Planner

Mr. Thomas gave his credentials which were accepted by the Board.

Attorney Aikins asked Mr. Thomas if he was familiar with the application. Mr. Thomas said yes. He said he has attended all the hearings except for the first one and he read the transcripts. Mr. Thomas said he has gone to the site several times starting in October 2003. It is a non-conforming site. It has been there since the original zoning ordinance. He said he passes the site day and night. The site is very interesting. You can drive by and not realize that there is anything of significance there. You can only see it during the winter months. The site is zoned CR. What is being proposed is CR and will be on a CR site.

Attorney Aikins asked if Mr. Thomas has reviewed the ordinance and Master Plan. Mr. Thomas said yes, they are consistent.

Mr. Thomas said when he was first contacted regarding this project he went on the internet for information. The first drive-in was in Camden and the last drive-in was in the town of Hazlet. There were two famous ones in Wall Township. One was the Shore Drive-In at Collingswood Circle and the other was the Fly-In Drive-In at the airport. It is a unique use. At one time there were more than 3,000 in the U.S. Now there are about 500. California has the most. Pennsylvania has 36. He listed the states that have drive-ins and how many.

Mr. Thomas said this is an unusual site. It is impossible to see the activities that are going on on the site. You cannot see any of the vehicles that are on the site. The screen will be at the rear portion of the site. The site slopes toward the screen. There is not going to be any sound impact at all.

Mr. Thomas said there were some concerns regarding traffic, noise, etc. On Martin Road you can hear the Garden State Parkway. Everything would have to be quiet to hear anything from this site. Traffic does not make a great deal of noise. The noise is usually from trucks. Noise would not be a problem. Air pollution will not be a problem. This project will be less intense than a permitted use. Those uses would have traffic at peak hours. The drive-in will not have traffic at peak hours. This will have no impact what-so-ever.

Mr. Thomas said this site is 50+ acres. This use will not be a type of use that will have long lasting permanent structures. It is basically a parking lot. The screen can be removed. It will have no negative impact on future development.

Attorney Aikins said the Board is concerned about retaining jurisdiction to review the status of things, such as, parking stalls, Police Department reports, drainage, etc. He asked Mr. Thomas if he had any objections. Mr. Thomas said that is an excellent idea. He said if a permitted use is developed on this site traffic will be much greater than what is being proposed here. You could put more than 700 vehicles on site.

Mr. Thomas said this is a CR site. He said in his opinion it meets all of the environmental requirements. He said he thought about other sites that could house a drive-in but almost every one of them would require clearing of land or change of use dramatically. There is nothing more suitable than this. Back in 1990 we never thought we would have drive-ins again. We have taken them out of the zoning ordinance because they were all being closed up.

Mr. Kerr said there were 3,000 drive-ins and now there are less than 500, why? Mr. Thomas said he can't say why.

Mr. Rembiszewski said New Jersey had 33 drive-ins, how many in Pennsylvania? Mr. Thomas said 36. Mr. Rembiszewski asked if the internet listed the towns and addresses of the drive-ins. Mr. Thomas said yes. You can go on "driveinmoive.com". You can also go into specific sites. Mr. Thomas said the drive-in off the parkway started showing X-rated movies, now it is a large theater.

Mr. Cinelli said Mr. Thomas undertook this project stating the positive out way the negative. He asked what the impact would be if this site became an office complex. Mr. Thomas said it is a 50 acre site. With 20% coverage you would have about 400 vehicles per acre. There could be 20 – 30 acres of parking.

Mrs. Morrissey asked where you expect the patrons to come from. Mr. Thomas said during off season from the north, east and south. In the summer time you will have people from the east. This will be an asset. This would be one more activity that you could go to.

Mr. Cinelli asked if Mr. Thomas' research came across what the normal months of operation are for these drive-ins. Mr. Thomas said California operates year round. Michigan operates from spring through early November, late October.

Mr. Thomas said this is a CR use even though this is a new use. It is still a CR use. It operates the same as the existing use. It will be in reverse the cars will be parked to the north instead of

toward the south. They will stay in their vehicles instead of going into the stands. It is a similar type of activity. It is not going to impair the zone. It will not impair the future development of the site.

Attorney Hirsch said you are trying to make the point that the failure of the Governing Body to add this in the zone was because this use was not going to exist anymore. Mr. Thomas said that is correct. Even though it is an old use it is a new use in respect to zoning.

Ms. Bergailo asked Mr. Thomas to provide testimony regarding the variance for the height of the screen. Mr. Thomas said he believes the engineer did that. Basically it will not impact the neighborhood or the people. The screen itself is shielded.

Attorney Hirsch asked what the proposed height is. Attorney Aikins said 52' from the present grade. Mr. Thomas said 40' is permitted.

Ernest Bongiovanni, 2008 Plymouth Couth, asked if Mr. Thomas would be available at the next meeting. Attorney Hirsch said he would have to come back.

Attorney Aikins said Mr. Thomas is the last witness.

Chairman Clayton said this application will be carried to April 7, 2004.

Mr. Bongiovanni asked what is on the agenda for that evening. Mrs. Lang said Omni Point, Sunnyside and Speedway.

Attorney Aikins said two of his professionals will not be in the area on April 7, 2004. What is the next meeting? Mrs. Lang said May 19th. Attorney Aikins said he will stay with April 7th.

9:35 P.M. the Board recessed.

9:50 P.M. the meeting resumed.

Case #38-2003 – Date application complete: December 22, 2003. Carried from February 18, 2004 and March 9, 2004

APPLICANT: SUNNYSIDE MANOR

PROPERTY: Ramshorn Drive and Lakewood Road, Block 876, Lot 16 & 44.01. R-30 zone

RELIEF REQUESTED: Use with variances

Michael Landis, Esq. appeared for the applicant.

Sworn by Reporter Arnone: Robert Nelson

Robert Nelson gave his credentials which were accepted by the Board.

Mr. Nelson said he is employed by Nelson Engineering. He said he did the traffic study. It is an analysis of the existing roadway on peak hours and if it will handle the additional traffic that may be put on as a result of this development.

Mr. Nelson said he took traffic counts on Ramshorn Drive. The study was done in 1998 and 2003. The level of those roads would be affected with or without this use.

Attorney Landis asked if Mr. Nelson reviewed the delivery schedule, employees, etc. Mr. Nelson said yes.

Mr. Nelson said traffic movements are very low. You are not getting very much driving from the residents. The majority of the traffic comes from deliveries, employees and visitors. The shifts are from 7:00 A.M. – 3:00 P.M. and 3:00 – 11:00 P.M. They are not occurring during the peak hours. Peak hours are from 8:00 – 9:00 A.M. and 4:45 – 5:45 P.M.

Mr. Cinelli asked what the increase was from 1998 to 2003. Mr. Nelson said the average delay increased by 1/10 of a second on the west, 2/10 of a second on the east. Levels of service would be 20.03 and 20.06. At evening peak hours the delays are 12.1 eastbound existing and 12.4 are proposed in the year 2006. Level of service is a B in the P.M. It went to level C on the westbound. There is a delay of 10.3 seconds in the A.M. and 11.1 in the afternoon. Chairman Clayton asked if these were the delays at the intersections. Mr. Nelson said yes.

Chairman Clayton asked if they took an actual count of vehicles per hour on site. Mr. Nelson said we took a count in 2003. Chairman Clayton asked for the number of cars coming out of there presently and proposed. Mr. Nelson said on the driveway A.M. peak hours we projected, eastbound, ten vehicles making a left turn. In the evening peak hours 13 making a left and six making a right out of the site. For Saturday we had nine making a left and 0 making a right.

Chairman Clayton asked how much will this increase because of this proposal. Mr. Nelson said the numbers he gave are the ones projected for 2006.

Daniel DiSario, Director of Transportation, was sworn.

Mr. DiSario said he went over the review letters and there were a number of traffic related issues. I have been in contact with Mr. Nelson and we spoke about a lot of issues. I would like to go through them. He referred to Mr. Swayze's report of February 18, 2004.

Mr. DiSario said he asked for a copy of the actual traffic count. He said he has reviewed them and they are satisfactory.

Mr. DiSario said there were some questions in trying to identify the changes. There is an increase with the number of beds and the existing facility. He increased those counts by 48%. Along those lines I would like Mr. Nelson to address 9C. It requests identification of visitation, number of employees per visit and number of visitors anticipated as well as deliveries. Mr. Nelson said we did not separate employees from visitors and deliveries. What we did was take all of the trips from whatever they may have been. Some were employees, salesmen, etc. As far

as evening there may have been a few visitors and office workers. We are not talking about very many vehicle trips.

Attorney Hirsch said the question was how many employees are there per shift. Attorney Landis said he does not recall that being put on the record. Mr. Nelson said we based it on a total of 37 employees when it is fully built-out. That would be maximum. They would probably operate with less.

Attorney Hirsch asked if he knew the number of employees and how many trips. Mr. Nelson said the way you can do that is to go and count the cars. I counted them at peak hours. Visitors do not change at peak hours.

Mr. DiSario, with respect to deliveries, said they are scheduled outside peak hours, very early in the A.M. or after 6:00 – 7:00 P.M. Mr. Nelson said they get three to four deliveries a day. At the new facility there will be less because there will be more storage. Mr. DiSario said you may want to limit the time of deliveries.

Attorney Hirsch asked if the traffic counts distinguished between delivery trucks. Mr. Nelson said they counted no trucks. Attorney Hirsch said during those counts no delivery trucks came in. Mr. Nelson said that is correct.

Mr. DiSario said, regarding 9D, Mr. Nelson has provided that information and Mr. DiSario concurs. He said he does agree with Mr. Nelson regarding the traffic along the road and at the driveway. This will not create an impact. With respect to the number of vehicles it is my opinion that this proposal will not create an impact.

Mr. DiSario said, regarding 9E, there is a crest in the curve along Ramshorn Drive. I would like Mr. Nelson to address that issue. Mr. Nelson said our study in 1998 did address that. It was a concern of one of the Board members. The sight triangle is adequate. It is safe. You would have 7 – 8 seconds to identify a vehicle that was coming and make your move. Attorney Hirsch said in doing your analysis you have to take the distance into consideration. Mr. Nelson said no you have to be able to see the car. The number of second's counts the distance does not. Mr. DiSario said he does measure distance. Mr. Nelson said there will be adequate sight distance.

Mr. DiSario said this driveway will get little if any use. (West driveway along Lakewood Road) Mr. Nelson said we went out and observed the traffic. We have a sight distance of about 488'. Mr. DiSario asked about the east. Mr. Nelson said he did not measure how far it is to the corner. It is close to 300'. Mr. DiSario said there is a vertical crust in the driveway. He asked Mr. Nelson if it was his testimony that there was adequate sight distance. Mr. Nelson said yes. Mr. DiSario said you did not measure looking to the east. Mr. Nelson said it is his testimony that you can see to the Ramshorn Drive intersection.

Mr. DiSario asked about the west driveway along Lakewood Road. Mr. Nelson said the over flow driveway is located about 250' to the west of where the proposed visitor driveway is. There is still adequate sight distance. Mr. DiSario said there is adequate sight distance to the east and west. Mr. Nelson said yes.

Mr. DiSario said, regarding 9G, we need a little more testimony regarding the east driveway along Lakewood Road. That was intended to be a visitor parking lot. They can't turn around. They would have to back out onto Lakewood Road. Mr. Nelson said the visitor's parking lot holds 11 vehicles. It also has handicap spaces. They can turn around or back out. This is not a negative thing.

Chairman Clayton said it is 10:40 P.M. He said there seems to be a lot of traffic issues. He suggested that Mr. Nelson come back and get in touch with our professionals so there are no concerns. Come up with a revised plan.

Mr. DiSario said, regarding 9H, the plans should be revised to show all the driveways with the stop signs and stop lines. Mr. Nelson agreed.

Mr. DiSario said the revised plans should show the sight triangle. Mr. Nelson said that will be done. We will also add the new sign for handicap parking, summons will be \$250.

Mr. DiSario said the next concern is how deliveries will function on site. Mr. Nelson said they will come in from Ramshorn Drive, go to the back of the building, use the area of the parking lot to go forward or back in and turn around and then come back out. Mr. DiSario asked if that would propose any safety concerns to other vehicles on the site. Mr. Nelson said no.

Mrs. Morrissey asked if the applicant can provide the room sizes. Attorney Landis said they will provide that.

Chairman Clayton said this application will be carried to March 30th at 7:00 P.M.

Attorney Hirsch said that is a special meeting. This will be the only application on for the evening. No further notice is required.

There being no further business to come before the Board, a motion was made, seconded, and unanimously approved to adjourn the meeting at 10:45 P.M.

Respectfully submitted,

Betty Schinestuhl
Recording Secretary