

Township of South Hackensack
 PLANNING BOARD
 July 28 2011
 MINUTES

At 7:30 p.m. this meeting was Called to Order. Pursuant to the Open Public Meetings Act, adequate notice of this meeting was provided to The Record and The Herald News and by posting a copy of the meeting notice on the bulletin board in the clerk's office where notices are customarily posted.

The Chairman led the Flag Salute.
 The Secretary called the Roll.

Members Present

Darren Allen	Pat Spadavecchia
Frank Cagas	Ray DeRiso
Al D'Ambrosio	Leo Rossi
Anthony Vigilanti	Walter Eckel
Elliot Sachs, Boswell Engineering	John Schettino, Esq.

Members Absent

Frank Capolupo

Minutes

DeRiso **motioned**; Spadavecchia **seconded** to approve the Minutes of June 23, 2011. All in Favor.

Old Business

Memorialize Resolution

PB #2010-06 -Revision 5/09/11 Site Plan
310 Huyler Street - Bruno Block: 37 Lot: 1, 54
 Minor Subdivision, Site Plan, & Variances

Cagas stated that he felt this application was not the right fit for that part of town. He asked if the Fire and Police Departments commented on the new application and did not know if the green roof would be a fire hazard, especially during the hot dry months.

Schettino stated that since there was no response from the Fire and Police Departments, that there were no concerns. He also stated that the green roof would have to comply with all construction codes.

Rossi **motioned**; D'Ambrosio **seconded** to memorialize the resolution;
 Yes: Eckel, D'Ambrosio, DeRiso, Rossi, Allen No: Cagas, Spadavecchia.
 No Vote: Vigilanti; Absent: Capolupo.

Memorialize Resolution**PB2011-02**

636 Huyler Street – d/b/a Airport Motel

Block: 2.01 Lot: 13.02

Site Plan – Sign

Applicant did not provide revised site plan to the Board Members. The Resolution was tabled.

Rossi **motioned**; D'Ambrosio **seconded** to table the resolution;

Yes: Allen, Cagas, D'Ambrosio, DeRiso, Rossi, Spadavecchia, Vigilanti, Eckel.

Absent: Capolupo.

Memorialize Resolution**PB2004-04 - Extension of Approval****210 Green Street****Block: 58 Lot: 1**

Fratelli Beretta received Planning Board Approval under Case No. 2006-04 for preliminary and final plan with variances for parking, front yard, side yard, total side yard, rear yard, lot coverage, landscape coverage and parking in order to construction a two-story addition over an existing one-story portion of the building.

On September 17, 2007, the Planning Board granted a one-year extension of the approvals and variances due to the delay caused by additional architectural drawings and the time needed to review the revised drawings by the Township Engineer.

Applicant now seeks a second extension of the approvals granted on September 18, 2006. Pursuant to N.J.S.A. 40-55D-136.1, the Second Permit Extension Act allows for the extension of the building approvals through December 31, 2012.

DeRiso **motioned**; Spadavecchia **seconded** to memorialize the resolution;

Yes: Allen, Cagas, D'Ambrosio, DeRiso, Rossi, Spadavecchia, Vigilanti, Eckel.

Absent: Capolupo.

Township of South Hackensack – Ordinance No. 2011-07.

An Ordinance amending and supplementing Chapter 208 of the Code of the Township of South Hackensack entitled "Zoning".

DeRiso stated that he felt there were inaccuracies in the Kauker/Kauker report. He also felt that mixed residential use is not the right thing to do. The condos will end up being apartments.

There was discussion among the members whether additional police and fire will be needed.

Cagas **motioned**; D'Ambrosio **seconded** to memorialize the resolution;

Yes: Cagas, D'Ambrosio, Rossi, Eckel.

No: DeRiso, Spadavecchia, Vigilanti.

Abstain: Allen. Absent: Capolupo.

New Business

No new business.

Board Discussion

No Discussion.

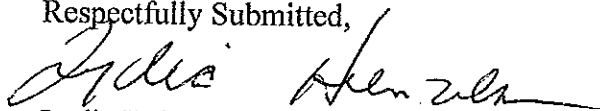
Open to Public

No Comments

Closed to Public

At 8PM, Eckel **motioned**; D'Ambrosio **seconded** to adjourn. **All in favor.**

Respectfully Submitted,



Lydia Heinzelman
Secretary

July 28, 2011

RESOLUTION

PLANNING BOARD OF THE TOWNSHIP OF SOUTH HACKENSACK

DATED: JUNE 23, 2011

APPLICATION NO.: 2010-06

APPLICANTS: Luigi Bruno
310 Huyler Street
South Hackensack, N.J. 07606

APPLICANT'S ATTORNEY: EMIL S. CUCCIO, ESQ.

PREMISES: 310 Huyler St. & 14-24 East Wesley St.
Block 37, Lots 1, 46 & 54

OWNER OF PREMISES: LUIGI BRUNO

DATE OF PRESENTATION: June 23, 2011

APPLICATION: Site application for preliminary and final site plan approval with variances for parking space size, front yard, lot coverage, rear yard, landscaped area, loading spaces and waiver for signage and minor subdivision in order to demolish the existing structure on Lot 1 and construct a retail store and 7-11 convenience store.

WHEREAS, Luigi Bruno, has applied to the Planning Board of the Township of South Hackensack for site plan approval and variances for parking stall size, front yard, lot coverage, rear yard, landscaped open space area, loading spaces, waiver for signage and minor subdivision in order to demolish an existing structure and construct a retail store and 7-11 convenience store on property located at 310 Huyler Street, Block 37, Lots 1, 46 & 54 in the Township of South Hackensack; and

WHEREAS, the applicant has by affidavit presented proof to the Board that all owners of property situate within and without the municipality and within 200 feet of the premises to be affected have been given notice pursuant to the applicable statute; and

WHEREAS, an affidavit of publication has also been submitted attesting to publication in The Record of a Notice of Hearing on June 4, 2011; and

WHEREAS, on June 23, 2011, the Board held a public hearing at which time it heard the testimony and considered the arguments on behalf of the applicant; and

WHEREAS, at said hearing the Board also heard and gave consideration to all other persons desiring to be heard; and

WHEREAS, on June 23, 2011, the Board, after due consideration and deliberation granted the applicant's request by a formal vote for site plan approval and

variances for parking stall size, front yard, rear yard, lot coverage, landscaped are, loading space, a waiver for signage and minor subdivision in order to demolish an existing building and construct a retail store and 7-11 convenience store; and

WHEREAS, the following members were present and voted to approve the application: Walter Eckel, Mayor, Al D'Ambrosio, Chairman, Leo Rossi and Darren Allen; with the following individuals voting to deny the application: Frank Cagas, Pat Spadavecchia and Ray De Riso; with Anthony Vigilante and Frank Capolupo recusing themselves; and

WHEREAS, pursuant to N.J.S.A. 40:55D-10(g) said decision must be reduced to writing and shall include findings of fact and conclusions based thereon; and

WHEREAS, on June 23, 2011, the Planning Board in open and public session, does hereby adopt, ratify and confirm the following as its findings of fact and conclusions of law:

1. The applicant is the owner of Lots 1, 46 & 54, in Block 37 more commonly known as 310 Huyler Street, South Hackensack, New Jersey. The property is a corner lot and is located on the northeasterly corner of Huyler Street and East Wesley Street in the "B" commercial zone with a small parcel in the "C" Industrial district abutting on "A" residential zoning district pursuant to Township Ordinances.

2. The applicant previously submitted an application for site plan approval with variances for parking space size, front yard, lot coverage, rear yard, landscaped area, loading spaces and waiver for signage and minor subdivision.

3. The Board denied the application at its March 24, 2011 meeting.

4. The applicant's property presently consists of a fully developed one-story restaurant with a parking lot for approximately 63 cars.

5. Subsequent to the denial of the application and prior to the memorialization of the decision, it was disclosed that two (2) Board members who participated in the hearing and decision had a conflict of interest.

6. The participation of the two (2) Board members rendered the decision void and invalid and, therefore, res judicata does not apply.

7. The applicant proposes to demolish the existing restaurant and construct a 5400 square foot one-story building; 3000 square feet of which will be for a 7-11 Store and 2400 square feet for retail space.

8. The application requires the following variances:

310 Huyler Street

	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>
Min.Front Yd.Setback	10'-1 story	1.40'	8.0'
Min.Rear	10'	50.90'	2.08'

Yd. Setback			
Max. Lot Coverage	50%	95.4%	89.6%
Min. Land. Open Area	30%	4.6%	10.4%
Parking Sp. Size	<u>Required</u> 10' x 20'	<u>Existing</u> 8' x 18'	<u>Proposed</u> 9' x 18'
Loading Spaces	1	0	0
<u>14-24 East Wesley Street</u>			
Min. Front Yd. Setback	35'	1.38' (ENC)	1.38' (ENC)
Min. Side Yd. Setback	20'	3.50' (ENC)	3.50' (ENC)
Min. Rear Yd. Setback	35'	2.07' (ENC)	2.07' (ENC)
Min. Lands. Areas	7.5%	1.1% (ENC)	1.1% (ENC)
Max. Lot Coverage	50%	98.9% (ENC)	98.9% (ENC)
Min. Lands. Open Areas	N/A	1.1% (ENC)	1.1% (ENC)
Planted Buffer Street Abut Residential	10'	2.07' (ENC)	2.07' (ENC)
Parking Sp. Size	10' x 20'	9' x 18' (ENC)	9' x 18' (ENC)

8. Gregory Polyniak, a licensed Engineer and Planner, testified as follows:

The property is located in the "B" District zone with a small parcel in the "C" district. There is an existing 150 seat restaurant with a second story office and 50 parking spaces, planter boxes and no landscaping. The property is worn and tired with a one end parking area which is unsafe. The existing structure has a preexisting nonconforming front yard, both side yards, landscaped area, lot coverage, loading area, space size, and parking aisle. The applicant proposes to demolish the restaurant and construct a 5400 square feet building; 3000 square feet will be for a 7-11 Store and 2400 square feet for retail space. The building will be constructed of precast fiber cement, brick panels, accent strips on the top and corners and cornices with crown molding. The existing structure is 6200 square feet, therefore, there will be a slight reduction in the footprint and a significant reduction in floor space. There will be a landscape buffer with shrubs and trees along the street with an 1800 square foot green roof. The landscaped area will have a sprinkler system. A minor subdivision of 437 square feet is necessary to eliminate the split zone and follow the zone boundary line. No variances are necessary for the minor subdivision. The zoning table depicts an overall density reduction of 800 square feet and either eliminates, minimizes or reduces the existing nonconformities. The site will have two (2) separate driveway accesses. One on East Wesley

Street will have dual access and one on Huyler Street with a right in and right out and left in, no left out. This access is subject to Bergen County Planning Board approval. The site triangle evidences no visibility issues. The site will allow for tractor trailer deliveries that will not block the entrances. These will be an access door on the side for 7-11 deliveries and in the rear for the retail space. Deliveries will be 1-2 times per week and off hours between 10:00 P.M. and 6:00 A.M. Emergency access for vehicles is provided along with a 5' to 8' wide walkway around the side and rear of the building. The drainage system will be improved for the Huyler Street parking area and the existing collection system cleaned out. The stormwater and utilities will connect to the existing infrastructure on East Wesley Street to Huyler Street. There will be two (2) catch basins for the parking lot with roof leaders emptying into three (3) underground seepage pits. The landscaping will be increased to 1065 square feet. There will be a streetscape with trees, mulch beds and low lying plants to block vehicle headlights. The sidewalks will be replaced along the entire frontage of the property and an ADA ramp installed. There will be a landscape buffer of arborvitaes and a fence along the northern property line for the residential properties. A partial green roof of 1800 square feet consisting of soil material, trees and seedum plants is proposed. The trees are

4" to 8" high and the plants 1' high. There will be three (3) pole mounted lights around the parking lot and six (6) wall mounted lights around the building. There will be no spillage to the adjacent lots. The garbage enclosure will be constructed of a blocks system similar to the building and location on the southeast back corner 20' from the East Wesley Street side yard and 5'17" from the rear property line and 4' from the building. Two separate enclosures of 10' x 10' for the retail store and 10' x 20' for the 7-11. There are three (3) wall signs proposed; one on East Wesley measuring 5' x 5'; and two on Huyler Street measuring 5' x 5' and a 28 square foot sign for the retail store. Waivers are required for the number of signs and a corner sign. There will be one pyle sign 5'.1 3/8" x 4'.10 1/2", 15' high and one 4' x 5'.1 3/8" for the wine store. The signage and waivers are necessary for identification and visibility. The pyle sign is 26 1/2" from the intersection and 16.5' from the property line at the closest point to the right of way. A waiver for area is required as only 16' is permitted. There will be a 4' high, 3.125 square foot direction sign located at the entrance driveway on the south side of Huyler Street and the eastern side of the driveway on East Wesley Street. The sign is 6.1' from the property line, 13'2" from the curb. The Huyler Street sign is 10'2" from the curb and 10' from the property line.

9. The following variances are required:

310 Huyler Street

	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>
Min. Front Yd. Setback	10'-1 story	1.40'	8.0'
Min. Rear Yd. Setback	10'	50.90'	2.08'
Max. Lot Coverage	50%	95.4%	89.6%
Min. Land. Open Area	30%	4.6%	10.4%
Parking Sp. Size	<u>Required</u> 10' x 20'	<u>Existing</u> 8' x 18'	<u>Proposed</u> 9' x 18'
Loading Spaces	1	0	0

14-24 East Wesley Street

Min. Front Yd. Setback	35'	1.38' (ENC)	1.38' (ENC)
Min. Side Yd. Setback	20'	3.50' (ENC)	3.50' (ENC)
Min. Rear Yd. Setback	35'	2.07' (ENC)	2.07' (ENC)
Min. Lands. Areas	7.5%	1.1% (ENC)	1.1% (ENC)
Max. Lot Coverage	50%	98.9% (ENC)	98.9% (ENC)
Min. Lands. Open Areas	N/A	1.1% (ENC)	1.1% (ENC)
Planted Buffer Street Abut Residential	10'	2.07' (ENC)	2.07' (ENC)
Parking Sp. Size	10' x 20'	9' x 18' (ENC)	9' x 18' (ENC)

The variances requested are appropriate pursuant to N.J.S.A. 40:55D-70(c)(1) and (c)(2) as there are practical difficulties due to the location of the property on a corner lot, the narrowness of the property, a split zone, and the Department of Transportation taking of property in 2006 for a traffic light installation. These conditions create extraordinary circumstances and an undue hardship with respect to the development of the site. The corner lot interferes and limits designs for the driveway. The variances requested will not result in a detriment to the public good and zoning code as the proposed development reduces, de-intensifies or eliminates existing nonconformities. There will be a substantial benefit as the proposed project advances the MLUL by providing adequate light, air and open space. A total of 2800 square feet of landscaped area will be provided with a 1800 square foot green roof. The area will be improved, creating a desirable visual environment through creative and good civic design evidenced by the storm water drainage system, landscaped area and green roof. The rear yard setback will have no impact on adjacent properties. The benefits outweigh the detriments based upon the de-intensification of the site, green roof and the elimination of unsafe parking spaces and circulation. There will be no substantial impairment to the zone plan or Master Plan.

9. Brian Intinidola, a traffic engineer, testified as follows:

The proposed project moves the building off the intersection greatly improving visibility. The proposed ingress and egress provides two driveway entrances improving access to the site. A traffic analysis indicates there will be 47 new trips in the morning peak hour and 52 in the evening weekday peak hour. Deliveries will have no impact as they will be scheduled during off peak hours between 10:00 P.M. and 6:00 A.M.

10. Asef Khalid, a senior real estate representative for 7-11, testified as follows:

Typically, 2 to 3 employees will be in the store at any one time including the manager. Each employee works an eight-hour shift.

WHEREAS, the Planning Board of the Township of South Hackensack hereby concludes that the proposal of the applicant is in accordance with the zoning and planning scheme of the Township of South Hackensack and, upon satisfaction of all the conditions hereinafter imposed, will not be detrimental to the general welfare; and

WHEREAS, the Planning Board of the Township of South Hackensack based upon the foregoing findings of fact, hereby concludes that:

1. The proposal of the applicant is in accordance with the zoning and planning scheme of the Township of South Hackensack and, upon satisfaction of all the conditions hereinafter imposed, will not be detrimental to the general welfare; and

2. The Planning Board has considered the site plan submitted by the applicant with reference to the objectives set forth in the South Hackensack Book entitled "The Site Plan Review Ordinance of the Township of South Hackensack"; and

3. The site plan, as approved by the Board, will be compatible with the aforementioned objectives of the site plan ordinance; and

4. The applicant's request for variances is justified pursuant to N.J.S.A. 40:55D-70(c)(1) which requires the applicant to demonstrate a hardship, such as "exceptional narrowness, shallowness or shape of a specific piece of property" or by reason of exceptional or unique topographic conditions, physical features or an exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.

5. The variances are also justified under N.J.S.A. 40:55D-70(c)(2), wherein an application or appeal relating to a specific piece of property is a deviation from the zoning ordinance but would advance the purposes of the zoning

ordinances of the Borough, and the benefits of that deviation would substantially outweigh any detriment, the Board may grant the requested variance relief.

6. The variances will enhance the site. The Planning Board finds that the granting of the variances for parking stall size, front yard, lot coverage, rear yard, landscaped area, loading space and waiver for signage are appropriate. Pursuant to N.J.S.A. 40:55D-70(c)(1) and 40:55D-70)c(2) given the size of the property, a corner lot with two (2) street frontages, the intersection which poses design limitations for ingress and egress and the irregular shape of the property with a jog. The conditions create practical difficulties with respect to the development and use of the site and the ability to comply with the municipal zoning ordinance.

7. The Department of Transportation taking of property from the site for a traffic light also creates a hardship on the applicant.

8. The variances are appropriate pursuant to N.J.S.A. 40:55D-70(c)(2) and (c)(1) as the proposed development represents a better plan than the existing use of the site.

9. The proposed variances will not be detrimental to the public good or zoning code as the proposed project is a de-intensification of the site and either reduces and/or

eliminates the existing variances and improves access to the site and safety for pedestrian traffic.

10. There would be no negative impacts and in balancing the positives with the negatives, the positives clearly outweigh the negatives as there would be a benefit to the public good. The proposed development advances the MLUL by providing adequate air, light, open space and increases the landscaping and provides for an 1800 square foot green roof. The project creates a desirable visual environment and utilizes creative design and good civic design for storm water and landscaping. The variances will have no impact on adjacent properties. There will be improved parking and safer ingress and egress.

11. There is no substantial impairment to the zone plan or Master Plan as the proposed development improves the site, enhances the neighborhood, is a de-intensification of the site and either eliminates and/or reduces the existing variances.

12. The proposed application will not be detrimental to the site or area based upon the surrounding uses. The proposed project will further enhance the business district and improve parking by providing additional onsite parking.

13. The minor subdivision is also appropriate as it eliminates the property's location in two zones.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of South Hackensack, that the plans submitted by Luigi Bruno for site plan approval and variances for parking stall size, front yard, lot coverage, rear yard, landscaped open space area, loading spaces, waiver for signage and a minor subdivision in order to demolish an existing structure and construct a retail store and 7-11 convenience store on property located at 310 Huyler Street, Block 37, Lots 1, 46 & 54 in the Township of South Hackensack are hereby approved and granted, subject to the following terms and conditions:

1. The applicant is to install new sidewalks and curbs along both front yards of the entire property.
2. The applicant shall secure the approval and/or a waiver from the Department of Transportation and County Planning Board and all other agencies having jurisdiction.
3. Applicant to comply with all federal, state and local laws, rules, regulations and obtain all other required governmental approvals in implementation of this subdivision.
4. If another governmental agency grants a waiver or variance of a regulation, affecting this approval or the conditions attached to it then this Board shall have the right to review that issue as it relates to this approval and these conditions and modify or amend the same.

5. The applicant shall comply with all recommendations set forth in the Township Engineer's letter dated May 28, 2011.

6. Submission to the Fire Safety Official of the Township of South Hackensack and receipt of written certification that the application complies with all of the applicable provisions of the New Jersey Uniform Fire Safety Act, all as provided in the Code of the Township of South Hackensack and complies with its requirements with respect to driveway widths, turning radii and emergency access.

7. Submission to the Police Department and written certification that it approves of the parking lot configuration, the proposed entry way and emergency access through the proposed gate facility.

8. Substantial completeness of the entire development within one (1) year of the date hereof, it being deemed that the conditions under which this application is approved may have changed by the expiration of that period.

9. The execution of a Developer's Agreement between the applicant and the Township of South Hackensack.

10. There shall be a provision in the Developer's Agreement for satisfactory completion of all municipal improvements, and the implementation of all improvements required on the plan, and the implementation of all conditions in this resolution. The Developer's Agreement

shall be satisfactory to the Planning Board and the Township Attorney. The developer shall have ninety (90) days upon receipt of the Developer's Agreement to execute and return same.

11. Applicant shall record a subdivision deed, after review and approval by the Attorney for the Planning Board, in the County Clerk's Office within one hundred ninety (190) days of approval as required by N.J.S.A. 40:55D-47.

12. Within thirty (30) days of the recording, the applicant shall submit to the Planning Board and the Building Department proof of said recording in the form of a deed or map.

The approval granted herein is further subject to the following:

1. Approval by all Township agencies having jurisdiction over this matter, including but not limited to, the Township Engineer.

2. Approval by the Bergen County Soil Conservation District.

BE IT FURTHER RESOLVED that this approval is specifically granted based upon the testimony of the applicant, his witnesses, the exhibits, and the application submitted to the Planning Board, all of which have been relied upon by the Board.

BE IT FURTHER RESOLVED that the relief granted to the Applicant is specifically made subject to any conditions referred to herein. In the event any condition is held to be invalid, unenforceable, or unlawful, the entire variance shall be unenforceable. It is the intent of the Board that the variance not be approved if any condition is invalid, and that the conditions are not severable from any variances or relief granted herein.

On July 28, 2011 according to the below indicated votes.

Name	Yes	No	Abstain	No Vote
Walter Eckel, Jr. Mayor	✓			
Al D'Ambrosio Chairman	✓			
Frank Capolupo				X Absent
Frank Cagas		X		
Pat Spadavecchia		X		
Anthony Vigilanti				X
Ray DeRiso		X		
Leo Rossi	✓			
Darren Allen	✓			

Attest: Lydia Heinzelman
Lydia Heinzelman
Secretary

Approved: Al D'Ambrosio
Al D'Ambrosio
Chairman

Motioned: Rossi

2nd: D'Ambrosio

I hereby certify the foregoing to be a true copy of a resolution adopted by the Planning Board at a meeting held on the 28th day of July, 2011.

Lydia Heinzelman
Lydia Heinzelman, Secretary

CERTIFICATION TO THE RESOLUTION
OF THE TOWNSHIP OF SOUTH HACKENSACK

DATED: JULY 28, 2011

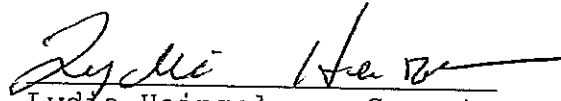
REGARDING THE APPLICATION OF:

LUIGI BRUNO

APPLICATION NO. 2010-06

I hereby certify that the foregoing resolution truly represents the resolution passed by the Planning Board of the Township of South Hackensack on July 28, 2011 4 members present voting affirmatively, 3 members voting in the negative, and 0 members abstaining.

1 members no vote


Lydia Heinzelman, Secretary