



**Application Hearing #1**

**Marseppe, LLC**

687 Elm Street  
Block 56, Lot 19

**Calendar #2021-05**

**Minor Subdivision Application**

Requesting an extension of approval

Allyson Kasetta of Connell Foley represented the Applicant, Marseppe, LLC. She is covering for Andrew Cimiluca who had a conflict with tonight's meeting. She stated that the Applicant is requesting an extension of a minor subdivision that was previously approved by the Board. She explained that the approval was granted subject to certain conditions including satisfying the Board Engineer's review comments. While the Applicant was revising the site plans, the statutory time period for recording the subdivision deed expired. Since the approval, she advised that the Applicant submitted revised plans and the Board Engineer issued an updated review dated 11/30/22 which she believes confirms that the Applicant has satisfied nearly all of the comments. There are some comments that she felt that she should respond to:

- Comment #1 under Subdivision Comments: The proposed lot designations shall be approved by the Tax Assessor.
  - Mr. Cimiluca advised her that the Tax Assessor has approved the lot designations.
- Comment #2 under Grading, Drainage & Utility Comments: The Applicant shall illustrate the location of the proposed roof leaders associated with the new dwelling. The leaders shall not direct any runoff to adjacent properties and shall connect to a stormwater management system.
  - Ms. Kasetta said that the Applicant agreed to comply and requested that it be a condition for the issuance of building permits.
- Item #4 under Resolution Conditions: All issues contained in the Engineering Letter issued will be addressed by the Applicant, except as otherwise clarified or set forth herein, including but not limited to those requiring that the sewer line shall be replaced with Schedule 40 PVC as opposed to SDR35, that a note shall be added to the subdivision plan reflecting that there are no easements on the Property and that Item 12 shall remain and be implemented.
  - Mr. Cimiluca believes that this item has been addressed but requested that it be a condition for the issuance of building permits or the certificate of occupancy (CO).

Board Engineer Greg Polyniak confirmed that Ms. Kasetta addressed all of the outstanding comments and agreed that they could be part of the building permit review. Board Attorney Kara Kaczynski confirmed that Board Engineer Polyniak recommended that the Board deem the application as complete. Derek Eisenberg recused himself from the hearing as he has a business dealing with Mr. Cimiluca. Thomas Anzevino made a motion to deem the application complete and John Gargagliano seconded the motion. All eligible members present voted in favor of the motion. Board Attorney Kaczynski advised that the Borough ordinance for minor subdivision permits the Board to waive the notice and publication requirements. Board Engineer Polyniak advised that this application would be considered a minor subdivision. Douglas Herrick made a motion to waive the notice and publication requirements and Chairperson Charlotte Panny seconded the motion. All eligible members present voted in favor of the motion.

Board Attorney Kaczynski invited the Board to ask questions of Ms. Kasetta but no one came forward. Board Attorney Kaczynski explained that the statutory requirement does not allow the Board to grant an extension, however, the Board could grant a new subdivision approval and she will prepare a resolution for adoption at the next Board meeting. She advised that the subdivision deed has been prepared and

could be signed along with the resolution at the next meeting. She recommended that the Board impose the same conditions that were listed with the prior approval should the Board vote to approve the application.

Board Attorney Kaczynski invited the public to ask questions of Ms. Kasetta or comment on the application but no one came forward.

Chairperson Charlotte Panny made a motion to approve the application with the conditions of the previous approval. Secretary Gary Neumann seconded the motion and all eligible members voted in favor of the motion.

**Application Hearing #2**

**217 Realty, LLC**

217 Hergesell Avenue  
Block 122, Lot 1

**Calendar #2022-11**

**Variance & Site Plan Applications**

Variances:

- 1-Maximum Number of Sign Colors (3 colors maximum permitted vs. 10 colors proposed)
- 2-Minimum Rear Yard Setback (20' minimum required vs. 11.45' proposed/existing)
- 3-Maximum Lot Coverage (40% maximum permitted vs. 68% proposed/existing)
- 4-Limited Light Industrial Parking (58 parking spaces minimum required vs. 36 parking spaces proposed)

Stephen Sinisi represented the Applicant, 217 Realty, LLC. He introduced the Applicant's professionals; planner Bridget Bogart, engineer William Page and architect Robert Murphy. Mr. Sinisi explained that Mr. Page has responded in writing to Board Engineer Polyniak's review letter. Board Attorney Kara Kaczynski confirmed that Board Engineer Polyniak recommended that the Board deem the application as complete. Secretary Gary Neumann made a motion to deem the application complete and John Gargagliano seconded the motion. All eligible members present voted in favor of the motion. Mr. Sinisi introduced the Applicant, Rose Terkel-Taub who is a principal of 217 Realty, LLC. He then described the property as being in the Limited Light Industrial (LL) zone and is considered a permitted use.

Mr. Sinisi called his first witness, Applicant Rose Terkel-Taub. Board Attorney Kaczynski suggested swearing in all of the witnesses at one time and proceeded to do so. Ms. Terkel-Taub said that she is the owner of 217 Realty, LLC which is the entity that owns the subject property. She is also the owner of GCS Imaging which is tenant of the subject property. She explained that GCS Imaging is an office supply wholesaler for printers, copiers, computers and paper. She stated that business operates Monday-Friday 8:30am-5:30pm and is closed Saturday and Sunday. She said that there are 12 employees. She noted that the business controls the dates and times of deliveries to and from the property. She said that there are deliveries from FedEx and UPS daily and they own a box truck that makes their deliveries. She stated that larger deliveries to them occur about 2-3 times per week. If the proposed loading dock was approved, she approximated that trucks could be loaded or unloaded in 15-20 minutes. She said that she schedules the deliveries and would not schedule them too closely together. Mr. Sinisi showed

Ms. Terkel-Taub the sign renderings provided by Majestic Signs dated 7/13/22 which was submitted with the application and plans. Board Attorney Kaczynski suggested marking the following exhibits:

- Exhibit A-1: Application, plans and supporting documents submitted with the application
- Exhibit A-2: Public notice and publication

Ms. Terkel-Taub explained that she worked with Majestic Signs in designing the signage. She said that the signage depicts the company name, company logo and the address and is necessary as some delivery drivers cannot locate their building. Mr. Sinisi described the signage as wayfinder. He noted that the proposed signage consisting of 10 colors which does not comply with the Borough code of 3 colors maximum. Ms. Terkel-Taub explained that the logo on the signage will help delivery drivers with locating the business. Regarding the signage locations, she participated in the decision with the sign company.

Mr. Sinisi invited the Board to ask questions of Ms. Terkel-Taub. Rick DeHeer asked if the sign was illuminated and she replied that it was not illuminated as they are not open at night. Chairperson Panny confirmed that there are no deliveries at night. John Gargagliano inquired if any of the larger delivery vehicles were articulated like a tractor trailer. Ms. Terkel-Taub answered that most deliveries are using a box truck but tractor trailers deliver 1-2 per week.

Board Engineer Polyniak confirmed that the business is wholesale only with no retail sales. He asked if she ever needed the 36 parking spaces that are provided given that there are only 12 employees. She answered that they don't need 36 parking spaces and typically have only 10 cars parked on-site.

Board Attorney Kaczynski invited the public to ask questions of Ms. Terkel-Taub but no one came forward.

Mr. Sinisi called his next witness, engineer William Page who was qualified and accepted. He summarized the existing conditions and believes that the parking lot and the building are in good condition. He then described the proposed loading dock which was there previously but was filled in by the prior owners of the adult day care. He stated that the proposed loading dock could accommodate two trucks at a time. Mr. Page created the site plan dated 9/30/22 revised 11/21/22 and displayed them for the Board. He described each of the 6 pages of the site plan:

- Page 1: Cover Sheet
- Page 2: Existing Conditions Plan
- Page 3: Proposed Site Plan
- Page 4: Grading & Utility Plan/Vehicular Maneuverability Plan
- Page 5: Erosion & Lighting Plan
- Page 6: General Details and Landscape Plan

Mr. Page prepared an 11/22/22 written response to Board Engineer Polyniak's 11/4/22 review letter which was marked as Exhibit A-3. Mr. Sinisi highlighted several points of the response letter specifically that the Applicant agreed to replace damaged curbing, clean and patch the parking lot instead of milling and repaving, clean all on-site stormwater drainage system pipes and structures, and clean and televise the sanitary sewer lateral. Additionally, Mr. Page included in Exhibit A-3 a list of the materials being used in the proposed loading dock and confirmed that the proposed improvements would conform to ADA requirements. Mr. Page confirmed that his final plans would include the existing final pipe plans if the application is approved. Also, he agreed that the final plans would reflect the location and connection of all roof leaders to the underground stormwater drainage and detention system. Regarding the lighting, he believes that the lighting plan will illuminate the parking lot and eliminates the 0.0 footcandle level. He added that per the Applicant's testimony, the business closes at 5:30pm.

Regarding the landscaping, he agreed that the final plan will reflect the precise vegetation. Regarding traffic, he has analyzed the vehicular maneuvers and loading templates for potentially the largest truck that may be utilized and believes that a 51' trailer would not fit in the loading dock but smaller vehicles would fit. Regarding the parking demand, Mr. Page considers the existing 36 parking spaces to be sufficient for the Applicant's needs during the peak hours of operation. He does not believe that the granting of the requested variances would negatively impact the intent of the Borough ordinances, the site or the surrounding properties.

Chairperson Panny invited Board Engineer Polyniak to ask questions of Mr. Page. Board Engineer Polyniak confirmed that a private company would collect trash which eased his concern about the narrow area near the guide rail and trash enclosure. He then clarified that the property has no easements or encumbrances. He has concerns that the length of the loading dock would be insufficient for the largest tractor trailer. He does not want to see any truck encroaching into the right-of-way or the roadway. He confirmed that the Applicant would accept the condition of approval that they would only use tractor trailers that fit on the property. He clarified that the roof leaders on the northern side of the property would be directed to the new drainage system. Board Engineer Polyniak asked about the installation of electric vehicle (EV) charging stations but acknowledged that it was not required. Mr. Sinisi deferred this question to the Applicant's planner.

Chairperson Panny invited the Board to ask questions of Mr. Page. Thomas Anzevino inquired about how often Mr. Page anticipates that the largest tractor trailer would be delivering to the property. Mr. Page answered that it would be infrequent. Derek Eisenberg confirmed that the stormwater would drain to the detention system by gravity. He then asked about milling and paving the parking lot since there will be trench cut and patched to accommodate the drainage piping. Mr. Page believes that the Applicant will seal coat the parking lot to make the paving look more consistent. Rick DeHeer asked for clarification about larger trucks being required to fit on the property and Board Engineer Polyniak also requested clarification since the Applicant agreed to the condition of approval. Discussion ensued. Board Attorney Kaczynski summarized the condition of approval as "The Applicant agrees to only use vendors that utilize tractor trailers that fit within the loading dock area and not extend into the right-of-way. Should a vendor only utilize the larger sized trucks, the Applicant will select another vendor that utilizes the smaller sized trucks." Ms. Terkel-Taub agreed to the condition. Mr. Page suggested that the larger tractor trailers could be loaded and/or unloaded within the parking lot and not utilize the loading dock. Mr. Sinisi agreed to this suggestion.

Chairperson Panny invited the public to ask questions of Mr. Page but no one came forward.

Board Attorney Kaczynski marked Board Engineer Polyniak's 11/28/22 review letter as Exhibit PB-1.

Mr. Sinisi called his next witnesses, architects Robert Murphy and Frank Brancato. Mr. Murphy was qualified and accepted. He introduced his associate Frank Brancato who he believes was more involved in the project. Mr. Brancato was familiar with the previous occupant of the subject property which was an adult day care that had the loading dock removed. Mr. Sinisi asked Mr. Brancato to display his 2-page architectural plans dated 3/8/22. Mr. Brancato described the proposed loading dock as 2 side-by-side garage doors at dock height (approximately 4' off grade). He confirmed that the proposed loading dock was good civic design and would be compatible with the design of the surrounding buildings.

Chairperson Panny invited Board Engineer Polyniak to ask questions of Mr. Brancato. Board Engineer Polyniak confirmed that Mr. Brancato would be able to work with the existing roof leaders in the back

of the building that will be connected to the stormwater retention system. Board Engineer Polyniak had a follow-up question for Mr. Page. He then asked Mr. Page if the side parking lot would need to be cut to bring the roof leader to the catch basin. Mr. Page believes that some excavation would be needed. Board Engineer Polyniak noted that this would be another trench in the asphalt that would need to be patched. He repeated his recommendation that the Applicant mill and pave the parking lot and suggested that it be listed as a condition of approval.

Chairperson Panny invited the Board to ask questions of Mr. Brancato. Rick DeHeer confirmed that the proposed loading dock would be in the same location and would be the same size as the loading dock that was there previously. Derek Eisenberg asked where the stormwater piping would lead and Mr. Brancato answered that the piping would be connected to the storm drain on-site. Mr. Brancato added that the piping trench would run adjacent to the building and not across the center of the parking lot.

Chairperson Panny invited the public to ask questions of Mr. Brancato. Maywood Fire Official Thomas Tuttle asked that the 2 roof leaders in the rear of the building be tied into the stormwater management system. Mr. Brancato replied that all of the leaders will be tied in.

Mr. Sinisi called his final witnesses, planner Bridget Bogart who was qualified and accepted. Ms. Bogart explained that she appeared before the Board previously for the adult day care application at this location. She added that the occupant prior to the adult day care utilized the loading dock. In preparation of this hearing, she reviewed the application materials, the Borough zoning ordinance and Borough master plan. She then described the property existing conditions and surrounding uses. She noted that the property is zoned Limited Light Industrial (LL) so this use is permitted. Ms. Bogart summarized that the Applicant is seeking to reinstall the loading dock which she considers beneficial for this property and the surrounding area since deliveries will go directly into the building. Currently, she said that the deliveries are unloaded in the parking lot and transferred into the building which may block parking spaces and is visually cluttered. Regarding the proposed signage, she believes that directing delivery drivers to the correct location is beneficial and supports one of the benefits of the Municipal Land Use Law (MLUL) allowing for improvement of off-site traffic congestion and traffic circulation. She stated that 2 signs are proposed and she listed the 10 colors on the signage. She summarized that the application satisfies the C(2) positive criteria which includes promoting the intent and purpose of the MLUL and furthering the goals and objectives of the local master plan. Additionally, she explained that the Applicant needs to prove that the benefits of granting the variance relief outweigh the detriments. She added that the Applicant needs to address the negative criteria. She thinks this application satisfies prong 1 of the negative criteria of no substantial detriment to the public good since the proposed loading dock solves the problem of loading and unloading materials in the parking lot and the proposed signage directs delivery drivers to the site. She believes that the application addresses prong 2 of the negative criteria of no substantial impairment to the intent and purpose of the master plan and zoning ordinance since it supports 2 goals of the master plan; (1) establish a well-defined commercial, office, industrial and mixed-use area to encourage economic growth for continued source of employment and strengthen the tax base and (2) preserve and promote a balanced variety of uses including commercial. She summarized that she believes that this application satisfies both the positive and negative criteria. She added that the design promotes good civic design and would not be substantially detrimental to the public good or surrounding properties.

Chairperson Panny invited Board Engineer Polyniak to ask questions of Ms. Bogart. Board Engineer Polyniak asked about the potential installation of EV charging stations. Ms. Bogart answered that the Applicant is not required to install EV charging stations and does not plan to do so.

Chairperson Panny invited the Board to ask questions of Ms. Bogart. Douglas Herrick asked how the additional signage colors benefit delivery drivers. She believes that there are several primary colors and most of the colors are shades of those colors. She believes that the signage should include all of the colors of the logo since the tenant offers printing and advertising services. Derek Eisenberg considers the signage to in good taste and looks professional. Board Attorney Kaczynski asked if having a sign that matches the business branding would assist drivers more safely and Ms. Bogart agreed. Board Attorney Kaczynski inquired where the 2 signs would be installed. Ms. Terkel-Taub answered that 1 sign would be on Brook Avenue and the other sign would be on Hergesell Avenue. Chairperson Panny inquired about the material board and color renderings mentioned in Exhibit PB-1 Board Engineer Polyniak's 11/28/22 review letter. Mr. Sinisi indicated that the Applicant did not create this item. Chairperson Panny confirmed that Board Engineer Polyniak was satisfied with the responses to Exhibit PB-1 Board Engineer Polyniak's 11/28/22 review letter.

Chairperson Panny invited the public to ask questions of Ms. Bogart and comment on the application but no one came forward.

Board Attorney Kaczynski summarized the conditions of approval agreed to by the Applicant:

1. Standard conditions regarding payment of escrow, etc.
2. Applicant will comply with all the comments raised in Exhibit PB-1 Board Engineer Polyniak's 11/28/22 review letter except as otherwise noted
  - a. Applicant will patch the parking lot and not mill and pave it entirely provided that the roof leaders remain inside the building
    - i. If there would be an exterior trench on the side parking lot, the Applicant will mill and pave the entire parking lot
3. Applicant will tie the rear roof leaders into the existing stormwater drainage system
4. Applicant will utilize vendors that employ tractor trailers that fit the loading dock area without encroaching into the right-of-way
  - a. Should a larger tractor trailer be used, the parking area will be used to unload and/or load the truck
5. Applicant will use a private hauler for trash collection to stipulate the size of the garbage truck

John Gargagliano made a motion to approve the application with the conditions listed and Rick DeHeer seconded the motion. All eligible members present voted in favor of the motion.

**Informal Hearing**                      None

**Closed Session**                      None

### **Old Business**

- Review of Application Requirements Checklist (Schedule C)
  - Board Attorney Kaczynski asked that Board members email her changes to the checklist by Thursday, 2/23/23 and she will have a draft list of changes prepared for the Thursday, 3/2/23 meeting

### **New Business**

- Adopted Borough Ordinance #18-22 Amending Chapter 140A Cannabis
  - Chairperson Panny advised that the Board will review the cannabis business application

- Board Attorney Kaczynski advised that the amendment details licensing and application requirements
  - She explained that the ordinance requires cannabis businesses to come before the Board mostly to evaluate parking
- Rick DeHeer asked about receiving an updated zoning map since it was last updated in 2014
  - Board Attorney Kaczynski instructed Recording Secretary Grunstra to request an updated zoning map from Board Planner Michael Kauker

### **Open Meeting to the Public**

#### **Adjournment**

A motion to adjourn the meeting was made by Harry Hillenius. Councilperson Ryan Ullman seconded the motion. All eligible members present voted in favor of the motion. The meeting was adjourned at 9:17pm.

Respectfully submitted,

Tara Grunstra  
Planning Board Recording Secretary