

Call to Order: Chair Matt Morton called the meeting to order at 7:05 p.m.

Present: Chair, Matt Morton, Russell Cooke, Ralph Estes, Jill Newick, Edna Mosher, John Frink, Richard Ford and Town Planner, Tom Morgan.

Correspondence: None, however, Morgan stated that he had been approached by Henry Hyder and the company does want to set up beauty school in Newington.

Minutes: Edna Mosher moved and Jill Newick seconded to approve minutes for meeting of 9/20/04. Motion carried. John Frink moved and Edna Mosher seconded to approve minutes for meeting of 10/18/04. Motion carried.

Public Hearing: To consider a request from the Crossings at Fox Run to construct fifteen movie theaters, which would require the following:

- A) A variance from Article IV Section 10 of the Zoning Ordinance to allow more than one principal building on a lot. Attorney Bill Scott, representing Regal Theaters, Scott DeCoste, General Manager of the Mall and John Schupp, of Jones, Lang and LaSalle, representing the Mall. Mr. Schuss stated that Regal Cinemas represent 3700 sq. ft. with 12 screens in a 2300 seat format. None of these seats are of the new stadium seat format. Regal purchased the lease from Hoyt Cinema three years ago with the purpose of expansion into the market area. Regal came to the Mall with a request for expansion of their facility because of what they felt was market influence. Which means there are no stadium seating formats within 22-27 miles of the area. Salisbury and Saugus have this area as part of their demographic area. The area determines a theater's ability to be able to get first run movies. The Mall has been working with Regal for the past year trying to determine a way to expand the theater. They looked at a couple of areas that became problematic due to truck docks and utilities in the back and wetlands. Decision was to split the theater crowd and building to utilize both parking lots. Currently, back lot is underutilized. Split allows more traffic to egress to Woodbury Avenue instead of Gosling Road. Splitting building creates increase to 5900 sq. ft. of use with 2600 seats. They are not changing use, they are asking for approval to split into two buildings. Stadium seating requires taller building. Height of theater would go from some sections being 35 feet to 38 feet high. Mosher asked how many theaters they would have, Schuss responded that there would be 15 theater screens. Currently they have 12. Proposal would be to build new lobby and 5 screens around it first and then they would take down the old lobby and build the new theaters. Ford asked what the proposed time frame would be. Schuss said the plan was to start in February/March and would take approximately one year. Newick asked if the old theater would still be in

operation and the answer was yes. Morgan informed the Board that they had been before the Planning Board twice and that the Fire Chief had no objections. Ford felt it was an interesting proposal and that the Board needed to go through the hardship criteria. Morton felt that connecting two buildings or separating them would be expensive and that in itself created a hardship. Frink felt if Board could word variance to say one building had to be reconfigured to allow roadway to get to unused parking lot more efficiently. Cooke asked if they drew property lines would they be able to come up with conformity. Morgan said they would not be able to come up with setback requirement. Morton felt the expansion would benefit the public in that they would be able to use underutilized parking lot. There was discussion regarding the fact that the Mall buildings to include the theater building are owned by the same owner. Morton felt proposal was a benefit to the public and the owner. In order to be competitive they needed to upgrade the theater. There was discussion regarding the fact that the Planning Board thought they had convinced the applicant to have a canopy to connect the buildings. Cooke felt this would be a band aid effect. In discussing the criteria, the Board agreed that the actual proposal was to reconfigure the current building to allow traffic flow to the back parking lot. Attorney Scott said he felt it was a hardship issue. The area is unique; it's not like putting two houses on one piece of property. Felt the buildings would be far enough away to not have a detrimental impact on the public or property. Cooke made a motion to approve the building variance, Article 4 Section 10. Frink seconded. Frink felt that as the Board went through the hardship criteria for granting variance they could add things in the variance. As Cooke went through the criteria it was felt there was no decrease in value, felt it would increase value. Granting variance would benefit the public. It would allow more efficient use of back parking lot. Denial would restrict reasonable use of property. Granting would make theater more competitive with other theaters. Felt what applicant wanted to do was a reasonable use. Hardship would be to not be able to use parking unless variance was granted. Property is not single ownership. Granting variance would not injure the public rights of others. Reconfiguring an existing building for the benefit of traffic flow. Use is consistent with the intent of the ordinance. It was felt that the variance met the five criteria. Chair stated that a motion had been made and seconded; motion carried.

- B) A variance from Article VI and Article XI Section of the Zoning Ordinance to allow a sign to be higher than 35 feet. The theater sign would be approximately 50 feet high and would be located at the lobby point. The sign would be located 1000+ feet from Gosling Road. Cooke made a motion to approve as requested, Frink seconded. Attorney Scott advised the Board that in addition to the sign, part of the building is 3 feet higher than ordinance

allows. Schupp advised the Board that this would not be a flashing sign. There was discussion regarding criteria for signs. Reference was made to Section 3 on page 34 regarding signs, Table 11-3. Cooke went through the five criteria. No decrease in value will be suffered, no. Contrary to public's interest, will be to public's interest. Would result in unnecessary use to the owner. No relationship exists between zoning ordinance - ordinance is overly restrictive. Granting variance, substantial justice would be done. Use contrary to intent, easier to find theater. Cooke felt that the request met all five criteria. Motion carried.

Adjournment: Frink moved, Cooke seconded that meeting adjourn. Motion carried. Meeting adjourned at 8:30 p.m.

Respectfully submitted,

Sandra W. Sweeney
Secretary