

**LeRoy Township Zoning Commission**  
**August 30, 2017**  
**Site Plan Review Minutes**

The meeting was called to order at 7:00 p.m.

**Members Present:** Dennis L Keeney, Anthony Falcone, Tom Gabor, T.R. Hach, Jr. and Secretary, Julie Himmelman

**Absent:** Rob Coulter

**Also present:** Zoning Inspector Myron Telencio, and Ron Graham, Township Attorney

**Guests:** Gopal Patel; David Novak, Consultant for Mr. Patel; Ryan Babcock, surveyor

**Audience:** Daniel Himmelman and BZA members Susan Hanna and Rudy Veselko

**Agenda Approval:** Ted Hach, Jr. made a motion to approve the agenda. Anthony Falcone seconded and all were in favor.

**Minutes:** The minutes of the July 25, 2017 meeting were read. Ted motioned to approve the minutes as read with correction. Tom Gabor seconded and all were in favor.

**Correspondence:** Chairman, Dennis L. Keeney read letters dated February and July 31, 2017 from JJJ Properties LLC to Mr. Patel. (see attached copies.) Dennis read his August 7, 2017 email to Carmen Carbone of JJJ and Mr. Carbone's email reply that same day (also, attached).

Dennis commented that per these letters of intent, a land swap is in process. He stated questioned whether the southern lot would be conforming. Anthony Falcone asked him who would make that determination. He answered that the Planning Commission would.

**Zoning Inspector:** Myron Telencio stated that in his review of the plans submitted by BP, he has found that all standards from Section 30 (of the Zoning Regulations) were met and that the plans do not adversely affect any future development of that property. He stated the purpose of Section 30 is to provide specific requirements for the design and construction of any new addition or building and that BP has met the intent of that purpose.

Myron shared that Dave Radachy of the Lake County Planning Commission stated that any township or corporation within Lake County has no power over the easement agreements reached between property owners. He stated that the Commission has not had any authority over easement agreement historically, and cannot consider the easement agreements between property owners as part of the decision process.

Anthony stated that as part of section 30.05f the Commission must consider the ingress/egress access. Myron replied that that section is concerning the BP/Subway site plan; not the easement agreements of others and stated that Lake County agrees with that. As far as the BP/Subway site plan is concerned, it is fine. Ron Graham agreed.

Myron reiterated that all easement access agreements are between the property owners and any issues between them would be decided by the county. Ron Graham stated that when the Trustees asked his opinion concerning the February 2017 letter from JJJ, he stated that it was not a matter of the Township's concern.

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Ron stated that the county engineer will review any easement access issues and it should not be part of the Commission's decision-making and Myron, as a representative of the township, has said he is confident that the site plan has covered the requirements.

Anthony wanted to confirm that the commission should not consider the access driveway in making the decision. Ron and Myron stated that it was not to be considered.

Dave Novak from Barrington Consulting Group stated the commission should only be concerned with the BP/Subway review and BP already has had two access point

Dave Novak submitted a copy of the email that the director of the Lake County Planning Commission, Dave Radachy's sent to Myron stating that the easements are not the township's concern. Dave stated that he feels and Myron stated that they have provided everything within the code. Dave feels that the commission has no choice but to approve.

Anthony asked if the commission should be concerned that if they approve the site plan, could the owners with access easements name the township in a lawsuit. Ron answered no.

Ron stated that the commission must only consider whether the BP/Subway site plan that were submitted conform to the regulations and the township's zoning inspector stated that he feels the plan is conforming. He stated that If the commission is in disagreement with that, they need to make a motion, in the affirmative to pass it, and then vote.

The chairman stated that the commission would proceed with the site plan review and no further comments from the audience will be taken.

The chairman then read the summary from the attached agenda.

The chairman then proceeded to read and address each section of the zoning code on the agenda and commented as follows:

17.01 E mentions pedestrian and traffic safety that is not in section 30.

17.04 G speaks of roof top mechanicals. Dennis would like full elevations for all four side within the site plan itself, and not just in the building plan, for the commission's purpose.

17.11 C speaks of lighting. Dennis admits it is over his head but must be complied with.

Dennis continued with 30.04 stating that all in subsections with a capital letter were in compliance and commented additionally on each of the following subsections as follows:

A – was okay (even though it was lower case on the plans).

b) Complete parcel is not shown and adjacent properties must be added or updated.

c) Boundary survey submitted is a lot split and is outdated.

d) On page 2 of the plans, existing topography complies but does not show the elevation for the entire property. Proposed grading on page 4 is acceptable.



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- e) Does not show minimum building side setback lines.
- f) Does not show dimensions for the existing building. Does not show side, rear or parking setback lines. Parking spaces at the north end of the property do not show dimensions.
- g) Not received.
- h) Dennis gave examples.
- I – Dennis stated it is not an issue, (though Dennis did not capitalize).
- j) Could not see dumpster on plans.
- k) No landscape plan was provided.
- l) Building elevations for all sides of the building, with labels, should be included in site plan.
- m) No dimensions of the access drives and parking spaces were provided.
- n) Dennis stated that no correspondence was received.

Dennis asked the commission if they had any questions thus far. Anthony asked if the commission should open the floor for responses. Dennis replied no.

***Dennis continued reading the agenda with 30.05 Design Standards with the following comments.***

E – Dennis states this does not apply to the Subway site plan.

f) Dennis voiced safety concerns for circulation of traffic.

Dennis continued reading the agenda with sections 30.06 through 30.08, and section 23.

Section 23 – seems to be within the 100' limit but signs should be dimensioned.

Anthony suggested opening the floor for comment.

Ron stated his concerns over the way the site plan review was handled. He stated that Myron is an employee of the township and not an audience member and should not have been cut off.

Dave Novak stated that he provided elevations and lighting on the plans. Myron concurred. Mr. Novak stated there are no existing parking spaces to put on the existing plan; The existing site may have a non-conforming canopy and other things, but they are existing; At the last meeting he asked what else the board wanted to see and complied even though he felt they were outside the bounds of the commission. Mr. Novak also stated that he has credentials as a professional surveyor in Ohio and the lot split is a boundary survey. Dennis stated that it was incomplete.

Anthony asked how wide are the parking spaces. Mr. Novak stated that he did not have a scale to measure with and that he would never scale off a drawing. He concedes that the dimension is deficient. Myron stated that the parking requirements are met. The number and scale were discussed. Dennis would like them to be dimensioned on the plans.

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Mr. Gopal stated that the EPA approval letter and the Land and Natural Resources approval letter were submitted to the township.

Mr. Novak stated that information was provided on the new set of drawings. There was some question as to which plans the commission was using. The secretary stated that the new plans were beneath the fire station mail slot as noted in the email notifying the members of their availability.

Myron stated that the focus of the review should not be what is currently there but the Subway addition. He stated that there was nothing adverse in the addition plan to the development of the area and in fact would be a significant improvement. The plans meet all the requirements of; the EPA, egress/regress of the county, and the size and standards of the building and parking is in compliance with our zoning. He stated that all of the standards in Section 30 have been gone through and he provided the same checklist sheet that has been provided at all site plan reviews.

TR asked why there was no landscaping. Myron replied that it is required only if it affects the adjoining property per section 26.

Mr. Novak asked where the site plan is deficient. Dennis cited the site circulation issues that would need further research. Myron asked for specifics where the deficient is. No answer was given.

Benefits to the township were discussed.

Mr. Novak asked to go over the plans with a board member other than Mr. Keeney. Mr. Keeney stated he would like to meet with Mr. Novak and another member.

TR made a motion to table the review. The motion was not seconded.

Ron stated that the commission needs to call the question: The zoning inspector has said the site plan meets the requirements; One member states that it does not. Concerns of litigation and the conduct of the chairman were discussed.

Mr. Patel expressed his concerns about the delays which adversely impacts his deadline of March 31. He stated that he has a paper trail for many of the items to prove things were provided on time. He questions why the current demands were not brought up at the last meeting.

Anthony made a motion to approve the site plan as submitted. Tom seconded. A vote was taken. Dennis declined to go first. TR Hach – no. Anthony - yes. Tom – yes. Dennis - no. Motion was denied.

Motion to adjourn the meeting was made by Dennis. Anthony seconded and all were in favor.

Respectfully submitted,



Julie Himmelman  
Zoning Secretary

# ***JJJ PROPERTIES LLC***

5585 Canal Road  
Valley View, Ohio 44125  
(216) 447-0814

February 23, 2017

VIA CERTIFIED US MAIL

LeRoy Township Zoning Board  
Zoning Inspectors Office  
6684 Paine Road  
Painesville, Ohio 44077

Attn: Myron Telencio

Re: BP Station Expansion Plans  
Vrooman Road

Dear Mr. Telencio and Zoning Board Members:

The Owner of the BP Station located on the northeast corner of Vrooman Road and Interstate 90 has submitted a zoning application to expand the operations of the BP Station situated in Leroy Township, Ohio. This potential expansion encroaches on a legal easement owned by JJJ Properties, LLC, for access to our Cedar Hills property. This easement cannot be revised or relocated without prior consent from JJJ Properties LLC.

This application cannot be approved as submitted, as it impinges on the legal access to our Cedar Hills property, and until all associated legal issues are resolved. Please be advised JJJ Properties will take all legal action necessary to protect our interests and associated easement for said property.

Sincerely,

A handwritten signature in black ink, appearing to read 'Carmen Carbone', written over a horizontal line.

Carmen Carbone

/cc

cc: John Allega, Managing Member JJJ Properties LLC



## Dennis Keeney

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**From:** Carmen Carbone <ccarbone@allega.com>  
**Sent:** Monday, August 7, 2017 2:48 PM  
**To:** Dennis Keeney  
**Cc:** Myron Telencio  
**Subject:** RE: BP easement agreement

Hello Dennis,

We met with the Owner of the BP Station and reached an agreement on the use of the property and associated easements; and we have a signed Letter of Intent by both parties. We have already hired Polaris Engineering to survey the parcels and create the legal descriptions for the property in question. Once those are completed, any new or existing easements will be revised and sent to Surety Title, along with the surveys and legal descriptions of the properties, for filing and recording with the County Recorder. We estimate the entire process can take anywhere from 30 to 90 days to complete. I hope this information is helpful. If you have any other questions do not hesitate to contact me.

Thank you,

Carmen

Carmen C. Carbone  
**J.J.J. Properties LLC**  
5585 Canal Road  
Valley View, Ohio 44125  
(216) 447-0814 Ext. 1314  
(216) 447-5016 FAX

**From:** Dennis Keeney [mailto:dlkeeney@windstream.net]  
**Sent:** Monday, August 7, 2017 11:50 AM  
**To:** Carmen Carbone <ccarbone@allega.com>  
**Subject:** BP easement agreement

Carmen,

We will need recorded documentation that the existing easement has been vacated or a recorded document allowing encroachment into the existing easement. The proposed construction of the BP expansion will eliminate the Vrooman Road access, ingress/egress, at the recorded easement location. A new recorded easement access location will be required in order for us to approve the proposed BP expansion. Please call if you have any questions.

Thank you,  
Dennis L. Keeney, Chairman LeRoy Twp. Zoning Commission  
440 417-4999

# ***JJJ PROPERTIES LLC***

5585 Canal Road  
Valley View, Ohio 44125  
(216) 447-0814

July 31, 2017

Gopal Patel  
Geetanjali Real Estate LLC  
5941 Vrooman Road  
Painesville, Ohio 44077

Dear Mr. Patel:

This letter shall set forth the terms and conditions of an agreement whereby Purchaser, **JJJ Properties LLC (JJJ)**, will acquire from Seller such real property referenced below. This letter will serve as the basis for the formal contract (Contract) to be executed and delivered by the parties, upon agreement of this letter, as set forth below:

1. **The Property:** JJJ shall acquire approximately **1.98+/- acres** located at or about 5941 Vrooman Road, Leroy Township, OH part of **Permanent Parcel Number 07A0340000090**, as noted below and defined specifically in the property deed.
2. **Purchase Price:** There shall be no cost (zero dollars) associated with acquiring the approximately 1.98+/- acres. However, in consideration for acquiring the defined land, JJJ will release and relinquish its rights to certain easements for access, ingress and egress as defined in the property deed and noted below.
  - 1) JJJ shall acquire 0.70+/- acres in the easternmost southern corner of the above noted parcel, being triangular shaped (see attached Exhibit A).
  - 2) JJJ shall acquire 1.28+/- acres, 80-foot-wide strip at the southern border of the above noted parcel for access roadway (see attached Exhibit A).
  - 3) JJJ shall release easement and rights of access associated with the 0.14+/- acres of land in the northwest corner of the above noted parcel, defined as "Parcel 6" on the attached Exhibit A.
  - 4) JJJ shall release easement and rights of access associated with the 1.03+/- acres of land on the eastern edge of the above noted parcel, defined as "Proposed Ingress and Egress Easement 50ft wide" on the attached Exhibit A.
3. **Conditions:** Upon execution of this agreement and proceeding as stated below,
  - JJJ grants Seller and/or future owner access for ingress and egress to their parcel from the proposed 80-foot-wide access roadway (see attached Exhibit A).
  - JJJ shall have use of the "Proposed Ingress and Egress Easement 50ft wide" until the proposed future roadway is installed.

- JJJ agrees to provide at no cost to the Seller, recycled #304 aggregate for the leveling of "Parcel 6" only, delivered to Parcel 6.
- JJJ agrees to not develop the adjacent property for use as a gas station or auto/truck fuel stop.

4. **Title:** Seller shall demonstrate to JJJ good and marketable title to the Property at closing evidenced by means of a general warranty deed, without liens, claims, encumbrances or other liabilities except for the Permitted Exceptions or appropriate deed.
5. **Costs:** JJJ and Seller shall agree to equally share costs for recording deeds, lot splits, or any other filings of record. JJJ shall have prepared, and pay 100% of the cost, by a Professional Engineer/Surveyor Registered in the State of Ohio, drawings, legal descriptions, or other documents required to record and file a lot split per Paragraph 2 above.
6. **Brokers:** JJJ and Seller mutually agree that no broker represents either party or other person concerning this transaction and no commission will be paid upon closing.
7. **Closing:** Closing of the proposed contract shall occur as soon as reasonably possible upon completion of the documents.
8. **Contracts:** This agreement shall be contingent on the preparation, execution and delivery of the Contract on a date (Contract Date) that is not more than ninety (90) days after Seller's acknowledgement of this letter agreement or a mutually agreed upon date. The Contract shall embody the terms of this letter and be acceptable to JJJ and Seller acting in good faith, with reasonably acceptable and customary terms and provisions.

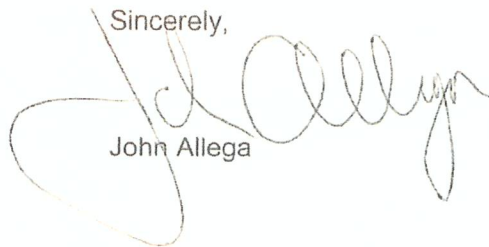
This letter of intent is not intended to impose a legally binding obligation on either JJJ or Seller, *except as separately stated in the next paragraph*. Any legal obligation regarding the final terms and conditions of this sale and purchase of Property shall be expressly contingent upon, and arise upon, the completion and execution of the Contract contemplated herein.

The Seller does further separately agree with JJJ that in consideration of the execution of this Letter of Intent and the reliance of each party upon the Letter's terms and conditions, that until the execution of the Contract contemplated herein, Seller shall not enter into any negotiations or agreements with other parties regarding any sale or disposition of the Property.

9. **Condition of the Property:** JJJ is acquiring the Property "as is" normal wear and tear accepted. Seller shall keep the Property in the same condition as on the date of this agreement, except for normal wear and tear, and shall not in any manner disturb the Property or remove any tangible assets or other items from the Property.



If the terms and conditions set forth above are acceptable to the Seller, please execute a copy of this Letter of Intent and return one copy to me for my record. Once Executed the Contract will be drafted.

Sincerely,  
  
John Allega

By:

Accepted this 4<sup>th</sup> day of August, 2017

Seller (s):  \_\_\_\_\_

Print Name (s): GOPAL PATEL

Seller (s): \_\_\_\_\_

Print Name (s): \_\_\_\_\_

15.97  
(FEE)

